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Human trafficking involving marriage and partner migration to Australia

Samantha Lyneham
Kelly Richards

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Foreword

In this report, what is known about human trafficking involving marriage and partner migration to Australia is described, drawing on primary information obtained from victim/survivor testimonies, stakeholder knowledge and expertise, and reported cases that progressed through the Australian justice system. While past research has focused on commercial labour and sexual exploitation, this report draws attention to trafficking that can occur in non-commercial contexts.

Although forced marriage has increasingly gained attention over the past three years and a small number of legal proceedings have substantiated attempted or actual cases of forced marriage involving girls and young women, less attention has been paid to the exploitation of migrant brides in other ways. This research is the first in Australia to confirm that marriage has been used to recruit or attract women to Australia for the purposes of exploitation as domestic servants, to provide private or commercial sexual services and/or to be exploited in the home as wives.

The lack of data and information on human trafficking generally, and on human trafficking involving marriage and partner migration specifically, has implications for the way the problem is

conceptualised, measured and responded to. While current knowledge in related areas, such as violence against women in general, violence against migrant spouses, domestic violence and sexual violence, can provide information on the context and environment in which human trafficking involving intimate partner relationships can occur, this research provides the first evidence of this form of human trafficking in Australia.

Although exploratory in nature, this research makes a significant contribution to the limited body of knowledge on exploitative marriages in the context of human trafficking, providing an initial insight into the nature of this crime. Further, more detailed assessment, is required to understand the extent of the problem and to inform prevention, detection and enforcement strategies.

Adam Tomison
Director

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Acronyms

ACRATH	Australian Catholic Religious Against Trafficking in Humans
AFP	Australian Federal Police
AIC	Australian Institute of Criminology
ALRC	Australian Law Reform Commission
AMEP	Adult Migrant English Program
CALD	culturally and linguistically diverse
DIAC	Department of Immigration and Citizenship
DIBP	Department of Immigration and Border Protection (formerly DIAC)
IMB	international marriage broker
NGOs	non-government organisations
UNODC	United Nations Office on Drugs and Crime

Definitions

Arranged marriage	Distinct from forced marriage, an arranged marriage is organised by the families of both spouses, but consent is still present and the spouses have the right to accept or reject the marriage arrangement.
Debt bondage	The status or condition that arises from a pledge by a person to repay a debt using their labour or services, but where that debt is deliberately excessive and the value of those services is not applied toward reducing the debt or the nature and length of the person's services are not defined.
Forced labour	The condition of a person who provides labour or services because of the use of coercion, threat or deception, or where the person is not free to leave or cease providing labour.
Forced marriage	Marriage without the free and full consent of one or both parties to the marriage.
Human trafficking	The recruitment, harbouring or receipt of persons through coercion, threat or deception, for the purpose of exploitation (ie slavery and conditions similar to slavery; see Introduction for full definition).
Related exploitation	The exploitation element of human trafficking, which may be a standalone crime without the action and means elements being present or proven.
Servitude	The status or condition of a person who is not free to cease providing labour or services, or is significantly deprived of personal freedom. Includes sexual servitude and domestic servitude.
Servile marriage	The status or condition of being sold, transferred or inherited into marriage.
Slavery	The status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised, including where such a condition results from a debt or contract.
Slavery-like practices	Includes servitude, forced labour, forced marriage, servile marriage, and debt bondage.

Executive summary

The Australian Institute of Criminology (AIC) is an active member of the Australian Government's Interdepartmental Committee on Human Trafficking and Slavery which coordinates the National Action Plan to Combat Human Trafficking and Slavery (Australian Government 2004). As part of this response the Australian Government funds the AIC to undertake timely research that can inform policy and programs that aim to combat this crime. To this end, the AIC has undertaken research to investigate various aspects of human trafficking, slavery and slavery-like practices.

This report explores the links between partner migration to Australia and human trafficking, and how marriage and other intimate relationships are involved in the trafficking of persons to Australia. This research is the first primary study to examine this issue and the first Australian study to engage potential or confirmed victim/survivors of human trafficking as research participants. As such, it responds to concerns raised in the literature as well as by stakeholders and addresses an important gap in the existing research on human trafficking and slavery.

In undertaking research on the nature of human trafficking involving marriage and partner migration, interviews were conducted with eight migrant women where marriage played a role in their exploitation or related victimisation. This analysis was supplemented by case file analysis and analysis of Australian immigration and Partner visa data supplied by the Department of Immigration and Border Protection (DIBP; formerly the Department of Immigration and Citizenship) together with consultations conducted by the AIC with government and non-government agencies, law enforcement representatives and relevant victim service providers.

Key findings

This study confirms what some stakeholders in the human trafficking area have long suspected—that marriage and partner migration have been used to facilitate the trafficking of people into Australia. While the issue of forced marriage has received some government and academic attention, this research reveals that marriage relates to human trafficking in another critical way—it can be used as a means to traffic women into Australia for exploitation. This suggests that although human trafficking is usually categorised as being for the purpose of labour or sexual exploitation (ILO 2005), the problem of human trafficking is broader than this. Although some of the cases examined in this report could be classified as trafficking for the purpose of labour or sexual exploitation, in many cases, the experiences of victim/survivors would be better understood if framed as a different form of human trafficking.

The findings of this study suggest that a separate category of human trafficking exists, one in which the 'exploitation' element is neither considered sexual exploitation nor labour exploitation but the exploitation of the very personhood of the victim/survivor. This distinct form of human trafficking involves the exploitation of the victim/survivor's:

- labour (in the form of domestic servitude, forced labour outside the home, or both);
- body (in the form of sexual servitude to their intimate partner and/or lack of control over childbearing); and
- self (in the form of loss of freedom and psychological bondage).

Victim/survivor characteristics and the nature of their marriages

The eight victim/survivors who were interviewed for this research were aged between 18 and 49 years at the time of entering their exploitative situations and originated from a range of countries within:

- Asia (particularly southeast Asia);
- the Pacific;
- the Middle East; and
- Eastern Europe.

They met their partners in a variety of ways, including through arranged marriages, family connections and online introductory or dating services.

The victim/survivors had complex motivations for migrating to Australia for marriage. While the literature often depicts women from developing countries marrying Western men to improve their economic situation, those interviewed for this research reported more varied and complex motivations, including:

- the desire to travel and experience other cultures;
- to start a family;
- to escape war; and
- to honour the marriage that was arranged for them by their family.

Importantly, some of the victim/survivors in this study were motivated to leave their home country after meeting their husbands through chance occurrences. The range of motivations and circumstances that led to the women's migration challenges the limited construction of migrant women as motivated to migrate primarily by their economic situation, which has important repercussions for the measures used to identify and respond to victim/survivors of human trafficking involving marriage.

All of the victim/survivors interviewed for this study consented to their marriages. While this may be at odds with the traditional view of passive human trafficking victims being forced or coerced into situations of exploitation, it does not mean that the women were not trafficked, as consent to the crime of human trafficking is irrelevant where coercion, threat and/or deception has been used to obtain

consent (Article 3(b) Trafficking Protocol). As Vijayarasa (2010) has argued, understanding the processes by which trafficked people reach consent is critical to understanding the drivers of human trafficking and what can be done to prevent it. The women in this research were deceived about the men they were to marry, the nature of their marriages and what was expected of them once in Australia.

No particular 'type' of marriage (eg arranged marriages, 'choice' marriages, marriages formed over the internet) emerged as particularly vulnerable to human trafficking in this study. Rather, each of these 'types' of marriage featured in the research. However, not all the marriages examined were genuine; the research highlights the use of 'sham' or fraudulent marriages being used to facilitate trafficking and related crimes. Further, the research indicated that human trafficking could occur regardless of whether the migrating 'partner' was complicit in the fraudulent marriage or had been duped into believing the marriage is genuine.

Experiences of victim/survivors

In addition to a wide range of abusive behaviours that characterise violent relationships (eg violence or threats of violence if the woman considers leaving the relationship; sexual, physical, psychological and financial abuse; surveillance; and isolation from family and friends), the exploitation described by stakeholders and experienced by victim/survivors interviewed for this study included a number of human trafficking indicators (see ILO 2009). These included:

- assertions of ownership;
- debt bondage;
- deprivation of liberty;
- threat of deportation;
- labour exploitation (commercial and domestic);
- confiscation of passports and identifying documentation; and
- domestic servitude.

While in some cases extreme violence occurred, in others, victim/survivors were controlled through psychological bondage, whereby the level of control by their husbands or his extended family, coupled

with their own heightened vulnerability as migrants (eg due to limited English and extreme isolation) appeared to render physical violence redundant.

Sexual violence was also found to be a common feature of the small number of marriages examined for this study and commonly involved sexual assault, indecent assault, forced exposure to pornography and coerced pregnancy. The research therefore confirmed the use of sexual violence as a control tactic in human trafficking scenarios, including those involving exploitation outside of the sex industry (see IOM 2007).

Victim/survivors also reported the serious abuse and exploitation of their children (both children of a previous relationship who migrated to Australia with their mother, as well as children of the exploitative marriage that were born in Australia). It is therefore important that appropriate assistance and support not only be provided to victim/survivors, but also to children who witness and experience abusive and exploitative behaviours.

Help-seeking behaviours of victim/survivors

The victim/survivors who participated in the study were more likely to seek help from informal sources, such as neighbours and people in the community, than from formal sources, such as the police. Most commonly, mainstream and migrant community organisations and education providers played a primary role in assisting women to leave their exploitative or violent situations. These help-seeking behaviours illustrate the importance of community and educational centres in assisting migrant women experiencing abusive and exploitative marriages. It further highlights the need for these sources to be aware of the indicators of human trafficking and related exploitation involving marriage to assist with correctly identifying victim/survivors and referring them to the appropriate services and authorities.

In responding to the help-seeking behaviours of victim/survivors, both formal and informal sources of help reported that they often misidentified the situation as domestic violence. However, even when cases were identified correctly as human trafficking, they were most likely to still be treated as cases of domestic violence for a number of reasons, including that:

- it is unlikely that police will be able to gather evidence to begin an investigation and to pursue a prosecution;
- the victim/survivors may not wish to prosecute members of their family;
- support services may be more accessible to victims of domestic violence than to victims of human trafficking; and
- the victim/survivor may obtain a better criminal justice outcome as a victim of assault, domestic violence or other violent offence, with a greater chance of successful prosecution and incarceration of the perpetrator.

What are the lessons for preventing and responding to human trafficking involving partner migration?

This study has shown that in many instances, cases of human trafficking are misidentified as domestic violence and are responded to as such. Victim/survivors of human trafficking are, however, likely to have needs beyond those that domestic violence service providers are equipped to address (eg if an individual has experienced labour exploitation).

Correctly identifying trafficked people is also the first step toward protecting their human rights and '[f]ailing to identify a trafficked person correctly "is likely to result in a further denial of that person's rights"' (UN Office of the High Commissioner for Human Rights cited in Simmons & Burn 2010: 714). Further, correctly identifying human trafficking incidents, offenders and victim/survivors has important implications for detection, enforcement and monitoring.

A number of recommendations have emerged from the research and should be considered when developing strategies to prevent and effectively respond to human trafficking involving marriage and partner migration:

- Improve provision and delivery of information to migrating partners by:
 - enhancing the content of the *Beginning a Life in Australia* booklet produced by DIBP to include information on intimate partner violence in the *Family* section and reference to the Family Violence Provisions;
 - enhancing the content of Partner and Prospective Marriage visa grant letters to

include information about the availability and content of the *Beginning a Life in Australia* booklet;

- improving the dissemination of information by distributing the *Beginning a Life in Australia* booklet and other important information at key places visited by migrant partners, for example Centrelink, educational institutions and migrant community centres.
- Improve community awareness of human trafficking and slavery through government and non-government initiatives as part of existing community education campaigns on domestic violence. Awareness campaigns should include information on what human trafficking and slavery are, how to report these crimes, who can provide assistance and how to contact them, and the role of government, non-government organisations (NGOs), law enforcement and immigration authorities. All community awareness campaigns should be evaluated to examine their impact on improving community knowledge, reducing the incidence of human trafficking, improving victim detection and improving access to victim support.
- Educate government, law enforcement and domestic violence service providers about human trafficking and slavery to improve detection and correct identification. This can be achieved through enhanced training for immigration officers and state/territory policing agencies, and presentations to domestic violence and refuge annual meetings.
- Enhance education and training for migration agents by including a component on human trafficking in their professional development and training program. This component should identify indicators of human trafficking and provide information about how to report suspected cases.
- Enhance immigration policy by:
 - interviewing migrant visa applicants separately from their sponsoring partner before a visa is granted;
 - conducting welfare checks several months after arrival;
 - mandating that eligible newly arrived migrants attend the Adult Migrant English Program (AMEP) with the requirement to report course completion to DIBP;
 - limiting a person's eligibility to sponsor a migrant partner if they have been convicted of a serious violent offence, in addition to registrable offences against children;
 - amending the Family Violence Provisions to allow Prospective Marriage visa applicants to remain in Australia after the breakdown of their relationship due to family violence; and
 - amending the Migration Regulations 1994 to limit Partner visas being granted to spouses who have been married without first meeting in person as adults.
- Regulate international marriage brokering agencies and online dating websites, and consider broadening prevention measures that address romance scams to assist in the prevention of exploitative relationships.
- Respond using a multiagency approach as best practice that involves the development of multiagency guidelines to respond to cases of trafficking involving marriage, including how to identify cases, how to respond to cases and appropriate referral pathways.
- Undertake further research that enhances knowledge of the nature and extent of human trafficking and slavery in Australia.



Introduction

When I'm asked what makes someone vulnerable to trafficking, I talk about poverty, political instability, natural disasters, lack of education and employment opportunities... Then, when I've listed all these factors, I'll say, 'And there's love as well' (STOP THE TRAFFIK case worker cited in Hayes 2012: 300).

Human trafficking has been identified by the Australian Government as a serious crime and a breach of human rights (Parliament of the Commonwealth of Australia House of Representatives 2012). This report describes exploratory research undertaken by the AIC into an aspect of human trafficking that has recently been identified as requiring further consideration—the role of marriage and partner migration.

Defining the problem: What is human trafficking?

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Trafficking Protocol), supplementing the United Nations Convention Against Transnational Organized Crime (also called the Palermo Convention) is the first and the primary international agreement to universally define and address the phenomenon of human trafficking

(Bevan & Schloenhardt 2011). Article 3 of the Trafficking Protocol defines human trafficking as:

- the recruitment, transportation, transfer, harbouring or receipt of persons (*action*);
- 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 (*means*);
- 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 (*exploitative purpose*; see Gallagher (2004) for a discussion of the defining characteristics of human trafficking).

For child victims of trafficking (ie those aged under 18 years), only an *action* and *exploitative purpose* must exist for trafficking to have occurred, since the age of the child makes the *means* element redundant to proving the crime.

Australia's legislative framework relating to human trafficking and human trafficking involving marriage is outlined in Box 1.

Terminology

The terms ‘trafficking in persons’, ‘people trafficking’ and ‘human trafficking’ are used interchangeably in the relevant literature to refer to the United Nations definition outlined above. Recently, the Australian Government made a determination that the terminology of ‘human trafficking, slavery, and slavery-like practices’ should be used in order to capture the spectrum of offences related to human trafficking (AGICHTS forthcoming). This report similarly uses this terminology since it adopted a broad definition of human trafficking and sought to explore related offences, as well as the ‘breeding

ground’ of human trafficking (David 2010: 45; see *Methodology*). However, as indicated by the definition above, human trafficking and slavery are distinct offences that intersect when the exploitative purpose of human trafficking is to enslave the victim. Therefore, a person can be subjected to conditions of slavery without having been trafficked. This report only examines cases where a person has been trafficked into a situation where they have been subjected to various forms of exploitation that meet the international definition.

Box 1 Legal frameworks

Australia became a signatory to the United Nations Trafficking Protocol on 11 December 2002 and passed legislative amendments to the *Criminal Code 1995* (Cth) that culminated in Australia’s ratification of the Trafficking Protocol on 14 September 2005. Although previous amendments in 1999 and 2002 criminalised a number of offences relating to human trafficking and slavery, the 2005 amendments provide for a specific legislative framework for combating human trafficking and debt bondage (David 2010; Debeljak et al. 2009; OSCE 2008; ICCLR 2011).

The Criminal Code 1995 (Cth)

In Australia, human trafficking, slavery and slavery-like offences are prohibited under Divisions 270 and 271 of the *Criminal Code 1995* (Cth).

Division 270 of the Criminal Code criminalises slavery, which is defined as the condition of a person over whom any or all of the powers attaching to the right of ownership are exercised. Slavery-like practices, including servitude, forced labour and deceptive recruiting are also criminalised in Division 270. These offences can apply to the exploitation of a person’s labour or services in any industry, or to exploitation within intimate relationships. Forced marriage is also considered a slavery-like practice and is criminalised under Division 270. The forced marriage offences apply where one or both parties do not fully and freely consent to the marriage because of coercion, threat or deception. For the offence of slavery (s 270.3), Australian courts have jurisdiction over an offence irrespective of whether the perpetrator was within or outside Australian territory at the time the offences were committed. The slavery-like offences in Division 270 have extended geographic jurisdiction and can apply where the conduct occurred in Australia, or where the conduct occurred outside Australia but the offender was an Australian company, citizen or resident. None of the offences in Division 270 require the victim to be subject to an element of movement.

Division 271 of the Criminal Code contains specific offences for human trafficking, fulfilling Australia’s obligations under the United Nations Trafficking Protocol. Division 271 provides for:

- human trafficking offences that criminalise organising or facilitating the transportation of the victim into, out of, or within Australia, using coercion, threat or deception, or by being reckless as to the exploitation of the victim;
- child trafficking offences that criminalise organising or facilitating the transportation of a child into, out of, or within Australia, intending or recklessness as to whether the child will be used to provide sexual services or will be otherwise exploited;
- organ trafficking offences that criminalise organising or facilitating the transportation of the victim into, out of, or within Australia, reckless as to whether the victim’s organ will be removed;
- an offence of harbouring a victim that criminalises harbouring, receiving or concealing a victim to assist or further the purpose of another person’s slavery, slavery-like or human trafficking offence; and,
- an offence of debt bondage, to prevent offenders from using unfair debt contracts or other similar arrangements to force victims into providing services to pay off large debts.

Box 1 Legal frameworks (cont.)

In 2013, the Australian Parliament passed the *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013* (Slavery Act) amending the Criminal Code. Key amendments to the Criminal Code made by the Slavery Act include:

- the introduction of new offences of forced marriage and harbouring a victim, and standalone offences of forced labour and organ trafficking;
- the expansion of the definition of exploitation to include a range of slaverylike practices;
- amendments to existing definitions to capture more subtle forms of coercion, including psychological oppression, the abuse of power or a person's vulnerability;
- the expansion of the existing offences of sexual servitude and deceptive recruiting for sexual services to apply to all forms of servitude and deceptive recruiting, regardless of industry;
- amendments to ensure the slavery offences apply to conduct that reduces a person to slavery, as well as conduct involving a person who is already a slave;
- an increase to the penalties applicable to the debt bondage offences to ensure they adequately reflect the seriousness of enforcing an unfair debt contract; and
- the insertion of provisions to allow a judge or jury to consider factors such as the economic relationship between the victim and the offender, and the personal circumstances of the victim, in determining whether the victim was coerced, threatened or deceived, consented to organ removal, or entered into debt bondage.

The Slavery Act also amended the *Crimes Act 1914* to improve the availability of reparation orders to individual victims of Commonwealth offences, including human trafficking and slavery.

Application to forced marriage

The Slavery Act defines a forced marriage as a marriage that is not freely and fully consented to because of the use of coercion, threat or deception. A person can be coerced through obvious means such as force, detention or duress, or through more subtle means like psychological oppression, abuse of power or taking advantage of the person's vulnerability. The offences apply to a range of marriage and marriage-like relationships, including registered relationships and those formed by cultural and religious ceremonies. The offences also apply to both onshore and offshore marriages (ie marriages solemnised within Australia as well as those solemnised outside of Australia that involve Australian citizens). The new offences relate to adults, as well as minors, who are forced into marriage by either their prospective spouse or another person, such as a parent (Australian Human Rights Commission 2012; Gartrell 2011).

The Criminal Code captures causing a person to enter into a forced marriage, as well as being a party to a forced marriage. The latter offence only applies where the person is not a victim of the forced marriage and does not have a reasonable excuse. The offences can therefore apply to any person with a role in bringing about the forced marriage, including families, friends, wedding planners or marriage celebrants.

The forced marriage offences carry a maximum penalty of four years' imprisonment, or seven years' imprisonment for an aggravated offence. An offence may be aggravated in several circumstances, including where the victim is under the age of 18 years.

Arranged marriages are not captured by these offences. While an arranged marriage involves the spouse being chosen by a third party or family member, it requires the full and free consent of both parties, who have the right to accept or refuse the marriage arrangement. Servile marriage (where a person is sold or inherited), or circumstances where a spouse is subjected to ongoing exploitation within the relationship are also not captured by the forced marriage offences, but are separate crimes akin to slavery.

In addition to the human trafficking and slavery legislation, the *Marriage Act 1961* (Cth) describes offences related to marriages obtained by duress, and the *Migration Act 1958* (Cth) that describes offences relating to sham or contrived marriages. Several international instruments also provide specific protections against forced and servile marriage. These include the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 1956, the Universal Declaration of Human Rights 1948, the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages 1964, the International Covenant on Civil and Political Rights 1968, the Convention on the Elimination of All Forms of Discrimination Against Women 1979, the Convention on the Rights of the Child 1989, as well as other international documents such as the Beijing Platform for Action 1995 (Stepnitz 2009).

The relevance of marriage to human trafficking

The term *marriage* is used throughout this report for convenience; however, the issues that are raised may apply to other intimate partner relationships, including *de facto* relationships, same sex partnerships and engagements.

Humans are known to be trafficked for a wide range of exploitative purposes (eg sexual exploitation, labour exploitation, domestic servitude; David 2010, 2008) and via a wide range of means (eg force, coercion, deception, abuse of power; David 2010). The recent focus on how marriage and other intimate relationships may be involved in the trafficking of persons reflects growing concern regarding the recruitment, deception and exploitation of humans in new and emerging ways (Immigration and Naturalization Service 1999; Stepnitz 2009). While various modern forms of human trafficking, exploitation and slavery have been identified in many countries including Australia, forced labour and exploitation in the sex industry are most commonly examined in academic studies and research (Cullen & McSherry 2009; David 2010, 2008; Ming Zhao 2003). This is most likely due to the difficulty of detecting forms of human trafficking that occur in the private sphere (ACRATH 2011; GAATW nd; Ray 2006; Stepnitz 2009).

Broadly, there are two ways in which marriage and partner migration relate to human trafficking. First, forced marriages and servile marriages are considered slavery-like practices and therefore may comprise the 'exploitation' element of the definition of human trafficking. Second, partner migration can be used as a vehicle to recruit individuals for exploitation that amounts to human trafficking. In these instances, marriages may comprise the 'action' element of human trafficking. For example, a marriage visa (Partner or Prospective Marriage visa) may be used by traffickers to bring a person to Australia for exploitation (such as domestic servitude, forced labour or commercial sexual exploitation).

While forced marriage has been the focus of some academic (Burn et al. 2012; Quek 2012) and government (AGD 2010; Parliament of the Commonwealth of Australia House of Representatives 2012) attention, this study reveals that partner

migration has been used as a method of recruiting or receiving women into Australia, by means of deceiving the women about the nature of the marriage for the purpose of exploiting them as domestic servants, to provide private or commercial sexual services and/or to be exploited in the home as wives. This form of human trafficking is the focus of this report and is examined in detail in the following sections.

Why research the role of marriage in human trafficking?

While the human trafficking literature has predominantly focused on labour trafficking and the trafficking of women and children into the sex industry (David 2010, 2008; Cullen & McSherry 2009), recently the role of marriage and partner migration has been raised as an important issue to consider and one requiring further research (AGD 2010; AIC 2012; ICCLR 2011; Joudo Larsen et al. 2012; Schloenhardt & Jolly 2010). Research undertaken outside of Australia has demonstrated that marriage and partner migration has been used to facilitate human trafficking into the United States (Hughes, Chon & Ellerman 2007), Europe (Surtees 2008) and Asia (Dinan 2002).

A search of the United Nations Office on Drugs and Crime's (UNODC) international human trafficking case law database (<http://www.unodc.org/cld/index.jsp>) also reveals that intimate partner relationships have been used to traffic women and girls into other Western destination countries (see Box 2).

Box 2 International case studies

In the case of *United States v Francisco Cortes-Meza and Juan Cortes-Meza*, the defendants and a number of other men recruited teenage girls with limited education from rural parts of Mexico to enter the United States, ostensibly to earn money and enjoy a better standard of living. In some cases, the men enticed the girls by 'acting as if romantically interested in them or promising marriage' (*United States v Francisco Cortes-Meza and Juan Cortes-Meza*: 1). Upon arrival in the United States through illegal means, the girls were forced to work as prostitutes to repay the costs of entering the country. The girls were monitored during the day and subjected to physical violence if they refused to obey.

In the case of *R v Prasert Decha-lamsakun*, a Thai national brought a Thai woman to Auckland, New Zealand 'under the pretence of being his wife' (*R v Prasert Decha-lamsakun* 1993 1 NZLR 141). The victim's passport was confiscated and she was sent to work in a massage parlour and then a bar. Most of the victim's earnings were confiscated and the defendant offered to sell the victim to the owner of the bar, who notified authorities (*R v Prasert Decha-lamsakun* 1993 1 NZLR 141)

Other relevant cases include *United States v Lynda Dieu Phan, Justin Phan & Duc Cao Ngyen*, *United States v Louisa Satia Criminal Case* no. 00 590, R v Ng 2007 BCPC 0204.

While no research has been undertaken on the role of partner migration in human trafficking to Australia until now, the issue has been raised in a range of forums. For example, the serious exploitation of migrant spouses and fiancés was raised as an issue of concern at a series of human trafficking information sessions held by the AIC in both metropolitan and regional locations around Australia in 2011. Similar concerns have been raised in the media and demonstrated through a small number of legal proceedings that show that

Australia's Partner visa system has been misused for the purpose of human trafficking or related exploitative scenarios (see Box 3). Although *R v Kovacs* is the only case prosecuted using slavery and human trafficking legislation under the *Criminal Code 1995* (Cth), these cases nonetheless demonstrate how marriage and partner migration can be misused to enable the trafficking of humans and similar exploitative scenarios to occur in Australia.

Box 3 Australian case studies

In a case reported in the Australian media, a 24 year old woman moved from India to Canberra to enter into a marriage arranged by her parents after spending about one week with her fiancé, 'all the time closely chaperoned by his parents' (Hand 2010: 13). The woman arrived in Australia on a Prospective Marriage visa and was married within two months. Once married, the woman discovered that her husband 'was not the man she thought he was and his parents, with whom they were living, turned on her' (Hand 2010: 13). She became a victim of domestic violence and reported that she 'was kept in the dark and used as a slave' (cited in Hand 2010: 13).

R v Kovacs

The case of *R v Kovacs* [2008] QCA 417 is frequently cited in the human trafficking literature (David 2010; Schloenhardt & Jolly 2010; APTIC 2009) and is usually considered a case of labour trafficking (David 2010). As Schloenhardt and Jolly (2010: 671–672) argue, however, *R v Kovacs* also highlights 'how the institution of marriage can be used to facilitate [human trafficking]'.

In *R v Kovacs*, heard in the Supreme Court of Queensland, the Crown alleged that Zoltan and Melita Kovacs arranged and paid for an Australian citizen to travel to the Philippines to marry a woman with the intention of bringing her to Australia to work in their takeaway shop and in their residence as a child minder and domestic helper. Once in Australia, the woman worked in the shop for 12 hours each day for five and a half days per week. For this she received very little pay. When not working, she was required to provide child care for three small children and perform household duties (APTIC 2009). She tried to escape her situation, but was effectively enslaved by the Kovacs through 'a combination of unpaid labour, continuing sexual assaults, verbal threats and abuse, exploitation of her situation of vulnerability, control over her movement and confiscation of her passport' (David 2010: 19). Following a retrial in the Supreme Court in 2010, Zoltan and Melita Kovacs were found guilty of slavery offences under s 270.3(1) of the *Criminal Code 1995* (Cth) (APTIC 2011), and were sentenced to four and eight years of imprisonment, respectively (Schloenhardt & Jolly 2010).

R v Foad Ali Solaiman

In the case of *R v Foad Ali Solaiman* [2008] NSWDC 53, a 20 year old Egyptian woman was brought to Australia following an arranged marriage in her home country to an Egyptian-born Australian citizen. The man and woman did not know each other prior to the marriage. The woman had never travelled outside of Egypt, could not speak English and had no family, friends or contacts in Australia. By virtue of Islamic law and customs in Egypt, the victim considered herself bound to obey her husband. Within two weeks of her arrival in Australia, the husband 'made arrangements for her work and to be recruited into the services of a brothel' (*R v Foad Ali Solaiman* [2008] NSWDC 53). The victim stated her opposition to the work and expressed her fear of being arrested by the police as prostitution is illegal in Egypt; however, it was alleged that he forced her to work at the brothel for a period of nearly two years to repay the cost of her visa. She 'continued to work in the brothel in response to physical threats her husband made against her, and her fear that she would be deported to her home country where she would face Islamic law' (David 2008: 6). The offender, who had sponsored her travel to Australia, also kept her passport and Medicare card. She was made to give her earnings to her husband and did not have access to bank accounts or ATM card to access the money. The judge conceded 'she did not have those funds for her own use but rather they seem to be for either the offender's use or for onward transmission to his family in Egypt' (*R v Foad Ali Solaiman* [2008] NSWDC 53). The offender was convicted of procuring the victim, by threat, for the purposes of prostitution, but was acquitted of causing the victim to remain in sexual servitude and intending to cause, or was reckless as to causing, that sexual servitude. He was sentenced to three years imprisonment.

Columbia & Columbia

Although the case of *Columbia & Columbia* [2009] FamCA 311 was dealt with as a custody matter in the Family Court, it raises concerns relevant to human trafficking. Mr Columbia travelled to Thailand where he met his sixth wife. Once in Australia, Ms Columbia was forced to carry out a 'tremendous amount of labouring work' in their market garden due to her husband's immense size and immobility (*Columbia & Columbia* [2009] FamCA 311). For this she was given \$40 to \$50 a month. Ms Columbia also carried out 'onerous, personal and perhaps somewhat disgusting tasks' relating to his physical care (*Columbia & Columbia* [2009] FamCA 311). There was also evidence of violence perpetrated upon their children by Mr Columbia and of verbal violence towards Ms Columbia (*Columbia & Columbia* [2009] FamCA 311).

Box 3 Australian case studies (cont.)

Yap & MIMIA

In the case of *Yap & MIMA* [Minister for Immigration and Multicultural Affairs] [2006] AATA 510, Mr Yap, an Australian citizen, appealed to the Administrative Appeals Tribunals of Australia after his fiancée, a Thai national, was refused a visa to enter Australia after being deemed to be of 'bad character'. Mr Yap's fiancée had previously lived in Australia and worked in the sex industry in Sydney and Melbourne. Initially, she had voluntarily entered Australia to work in the sex industry, but once in Australia, found herself in a position of debt-bondage, under which she was 'enslaved to a number of sinister people who withheld her passport, kept her detained and exploited her for their financial gain' (*Yap & MIMA* [2006] AATA 510). Mr Yap's fiancée was deemed to be of 'bad character' as she had entered Australia 'by making false declarations and upon a false premise'. Part of this false premise involved a sham relationship with a Singaporean man, which Mr Yap's fiancée had been instructed by her 'travel agents' (known as Mr Tik and Aa) in Bangkok, would improve her chances of gaining entry to Australia (*Yap & MIMA* [2006] AATA 510). In her evidence, Mr Yap's fiancée stated:

Aa arranged for a Singaporean man to be included on my visa application as my boyfriend. I was told by Mr Tik that if it was said on my application that I had a Singaporean boyfriend it would assist grant of my visa. About two to three weeks before lodging my application, I travelled to Singapore for a holiday. I was told... this man's name was Stewart Tan. We spoke together on a number of occasions to prepare for any questions we may be asked about my application. I first met the Singaporean man in Bangkok after I had known Mr Tik and Aa for a short time. We talked about our interests and personal details and took photos to give with the visa application (*Yap & MIMA* [2006] AATA 510).

For reasons that are not made clear in *Yap & MIMA*, Mr Yap's fiancée was accompanied by a Thai man, not her sham boyfriend Stewart Tan, when she travelled to Australia. It is unclear from the transcript of this case how the fabrication of a Singaporean boyfriend may have assisted her application to enter Australia. Nonetheless, this case again highlights an attempt to use an intimate partnership to facilitate what ultimately appears to be a case of human trafficking.

Research on violence against migrant spouses

Finally, the broader literature on violence against migrant spouses, particularly those without permanent residency, suggests that the topic of human trafficking involving partner migration is an important area to research. While the literature generally identifies violence against migrant spouses as a gendered phenomenon, it should be recognised that men may also be victim/survivors.

Research has demonstrated that women who are sponsored to enter Australia as wives or prospective spouses are more likely to be at risk of violence, including lethal violence, than women who are Australian citizens or permanent residents (Constable 2003; Cunneen & Stubbs 2000; Iredale 1995; NCRVAVC 2009). Quek (2010: 2) argues that migrant wives are especially vulnerable because they are:

commonly placed in a position of dependency on their husbands due to their tenuous legal status once they have migrated, which usually requires the continuation and success of their marriage (see also Orloff & Sarangapani 2007).

Such circumstances:

create conditions in which women have little choice but to submit to the will of their husbands, and are made especially vulnerable to sexual and physical abuse, particularly if they should refuse men's demands (Quek 2010: 2; see also Poljski 2011).

In Australia, research by Cunneen and Stubbs (2000) found that Filipino women were six times more likely to become the victims of homicide compared with all women in Australia. In documenting all known deaths or disappearances of Filipino women and their children in Australia over the 1980 to 1995 period, Cunneen and Stubbs (2000: 6) identified 27 cases of homicide, which they acknowledge is 'likely to underestimate the total number of [suspicious] deaths of Filipino women'. In all but one of the cases for which information about the offence was available, homicides of Filipino women were committed by their intimate partner, who in almost all cases was an Australian male citizen (Cunneen & Stubbs 2000). In several of these cases, evidence showed that there had been escalating domestic violence perpetrated against the women in the period leading up to their death. Importantly, Cunneen and

Stubbs' (2000: 8) study highlighted that in many cases the perpetrators of these homicides had alleged histories of violence and abuse:

In two cases there was evidence that the man's previous wife had sought legal protection due to his domestic violence. In another case, the man convicted of murder had also faced previous allegations of the attempted rape of two girls aged 13 and 14 years. In a further two case studies, the same suspect emerged in the deaths of two Filipino women. This suspect also has a de facto relationship with a third non-Filipino woman who had disappeared. His two children also alleged that he abused them. In two further cases, men in the study had previously been married to non-Filipino women who had died or disappeared in suspicious circumstances.

In another case, an Australian man with an outstanding domestic violence order by a previous wife and whose two children had been removed by child protection authorities had been able to sponsor and marry a young Filipina girl (Cunneen & Stubbs 2000).

Similarly, Quinn's research (cited in Quinn 2009: 1–2) found that

between 80%–85% [n=403] of Russian speaking female settlers who came to Australia for romance [between January 1997 and January 2007] found themselves in violent relationships and/or in a position of exploitative domestic and/or sexual servitude.

Similar issues have also been identified in other Western countries such as the United States, where there have been 'cases of women being abused and/or murdered after marrying a man they met through "marriage agency" correspondence' (Hughes 2004: 50).

Instances such as these, in which partners migrate to Australia and experience violence at the hands of their Australian sponsor/partner are not in and of themselves human trafficking (Schloenhardt 2009b) and many such cases do not meet the United Nations' definition of human trafficking. This broader context of violence against migrant spouses is nonetheless important to understand, as it forms part of the 'breeding ground' for human trafficking and related exploitation.

Research objectives

Within this context, the current research project sought to understand:

- whether and how marriage and the Partner visa system are used for the trafficking and related exploitation of migrant women to Australia;
- the risk factors that increase vulnerability to human trafficking for migrant women entering Australia under the Partner Migration program;
- the protective factors that reduce vulnerability to human trafficking for migrant women moving to Australia under the Partner Migration program; and
- possible implications this criminal activity has for Australia, including for prevention, detection, legislation, prosecution and victim services.

The findings are intended to assist relevant government and non-government agencies prevent, identify and respond to human trafficking involving partner migration by providing a preliminary insight into this crime.



Methodology

A number of methodologies, both qualitative and quantitative, were used in this study to explore the role of marriage in human trafficking. These are outlined below.

Analysis of quantitative data on Partner visas

Two de-identified datasets were provided to the AIC by DIBP. These datasets contained information on:

- all individuals who obtained a Partner visa during the period 2001–02 to 2010–11, by age, sex, country of citizenship, applicant type (principal or secondary) and Partner visa subclass (ie permanent and temporary fiancé, spouse and interdependent (same sex) visa subclasses); and
- all individuals on Partner visas who received permanent residency as a result of being recognised as a victim of family violence committed by their sponsor, for the period 1 July 2006 to 31 December 2011, by age, sex, country of citizenship, visa subclass and applicant type.

DIBP also provided information on the total number of Australian citizens or permanent residents who have sponsored a second or subsequent partner to migrate to Australia between 1 July 2005 and 30

June 2011 (ie following changes to the Migration Regulations 2004 (Cth) that limit the number of partners any individual can sponsor).

These data were analysed to provide important background and context on partner immigration to Australia, as well as specific information on domestic violence within relationships between Australian sponsors and their immigrant partners, and the prevalence of 'serial sponsorship'.

Analysis of case files of victim/survivors of human trafficking and related exploitation involving marriage

De-identified case files of a small number of victim/survivors of human trafficking or related scenarios involving marriage (n=8) were provided to the AIC for qualitative analysis. Victim/survivors were recruited for this study via the AIC's existing relationships with agencies that provide support for victim/survivors of human trafficking and related forms of exploitation, such as domestic violence. In all cases, victim/survivors were invited to participate in the study by the agency from which they had received support.

All victim/survivors had completed any legal processes relating to their exploitation and any subsequent legal processes (eg processes relating to custody of children, visas and residency), and had not been receiving support in relation to their exploitation for a period of at least six months.

Victim/survivors were asked permission for a de-identified copy of their case file to be provided to the AIC for analysis and to participate in an interview. All victim/survivors who consented to a copy of their case file to be analysed also agreed to be interviewed (see below).

The nature and extent of material contained in victim/survivors' case files varied substantially. In general, however, documents contained in case files included case management notes, records of court matters and other legal matters, police reports, referral letters to other support services, statements of facts by victim/survivors and affidavits by relatives or community service providers who had contact with the victim/survivor.

In this study, the analysis of case file material had a number of purposes, including:

- informing interview questions and in particular, enabling the researchers to tailor questions to each participant's individual circumstances and experiences;
- providing broad background material and an insight into the context of each victim/survivor's experience; and
- providing an insight into victim/survivors' processes of help-seeking and responses to this help-seeking by relevant agencies.

Perhaps most importantly, case file analysis is a form of 'unobtrusive' research (Kellehear 1993). In this study, it provided an important insight into a very sensitive topic while limiting the potential for distressing the victim/survivors who agreed to participate. Although these victim/survivors all agreed to be interviewed once their case file material had been analysed, the information obtained from case files meant that these interviews could be less confronting for participants than they may otherwise have been.

Qualitative interviews with victim/survivors of human trafficking and related exploitative scenarios

Eight victim/survivors of human trafficking or related exploitative scenarios involving marriage or Partner visas were also interviewed for this study between September and December 2011. The purpose of the qualitative interviews with victim/survivors of human trafficking and related exploitative scenarios was:

- to gain insight into victim/survivors' experiences of exploitation related to marriage, including relevant risk and protective factors;
- to seek victim/survivors' views on available support services;
- to seek victim/survivors' views on how similar scenarios might be prevented in future; and
- to clarify information contained in victim/survivors' case files (described above).

Few studies of human trafficking have involved qualitative interviews with victim/survivors. This study therefore addresses a key gap in the research literature on human trafficking. As Hannah-Moffat (2010: 208) argues

we must continue to listen to, and learn from, the voices of individuals experiencing the [criminal justice] system as victims, offenders, and practitioners rather than claiming to 'know what is best'.

Interviews with victim/survivors were semi-structured and consisted primarily of open-ended questions. Participants were asked a series of questions about a number of key themes, including:

- their background and the process of their immigration to Australia;
- their motivation(s) for immigrating to Australia on a Partner visa;
- their experiences of life, including their intimate relationship, once in Australia;
- how they exited the exploitative situation for which they later received support or assistance;
- their experience of assistance and support services, including criminal justice services; and

- the risk and protective factors relevant to their own situation of human trafficking or related exploitation.

Some of the interview questions for victim/survivors were based on the International Labour Organization's (ILO 2009) *Operational Indicators of Trafficking in Human Beings*. As the UN Special Rapporteur on Trafficking in Persons explains, these operational indicators of trafficking in human beings were developed from the findings of a Delphi survey carried out by the ILO and the European Commission in March 2009 and are designed to enable the identification of victims of human trafficking (Ezeilo 2009; see also ILO 2009). Further, the indicators were developed to 'provide guidance to researchers and practitioners on the evidence that should be gathered when interviewing possible victims' (ILO 2009: 2). According to the ILO (2009), the indicators can be used to assess the situation of potential victims of human trafficking in relation to each of the six primary elements of the definition of trafficking in human beings (as outlined in the United Nations Convention Against Transnational Organized Crime):

- deceptive recruitment (including transfer and transport);
- coercive recruitment;
- recruitment by abuse of vulnerability;
- exploitation;
- coercion at destination; and
- abuse of vulnerability at destination.

In this study, these indicators were not used to identify whether cases of exploitative marriages met the definition of human trafficking (although some participants had already been identified through existing governmental processes as victim/survivors of human trafficking), but rather to gain an understanding of the risk and protective factors related to these indicators.

While forced marriage and deception through promises of marriage are considered indicators of coercive recruitment and deceptive recruitment respectively (and therefore indicators of both labour and sexual exploitation; ILO 2009), no indicators have been developed specifically to identify cases of human trafficking involving marriage exploitation. This report may provide a preliminary basis for the development of such indicators in the future.

Interviews with victim/survivors lasted between 30 minutes and three-and-a-half hours, and were recorded for accuracy. Interpreters were used when necessary. All victim/survivors were invited to have a support person present during their interview; most opted to have a case worker present throughout the interview from the service they had been supported by. All the victim/survivor participants had finished receiving direct support (ie being sheltered in supported accommodation) for at least six months prior to their interview.

Demographic characteristics of victim/survivors

All of the eight victim/survivors interviewed for this study were female. This is at least partly a result of the recruitment strategy used for this research (outlined above). It should be noted, however, that males may also be the victims of human trafficking and related scenarios involving marriage.

For example, the United Kingdom's Forced Marriage Unit processed 220 complaints from males about situations of forced marriage in 2009 (UK Foreign and Commonwealth Office 2010; see also Hill & McVeigh 2010). The participants were aged between 18 and 49 years at the time of their exploitation and were citizens or residents of a range of countries prior to their immigration to Australia, including those in Asia (particularly southeast Asia), the Pacific, the Middle East and Eastern Europe.

Qualitative interviews with stakeholders

Qualitative interviews with a range of key stakeholders (n=17) were also undertaken for this research between April and December 2011. Stakeholders came from a range of agencies, including:

- relevant Australian government departments, including law enforcement; and
- NGOs that provide assistance and/or advocacy to victims of human trafficking and related exploitation and abuse, such as domestic violence.

Participants were initially identified via the AIC's existing contacts in the human trafficking area. A

strategy of 'purposive' sampling was used, whereby individuals and organisations deemed to have experience and/or knowledge relevant to the project were invited to participate in an interview. As these interviews progressed, 'snowball' sampling was also used. That is, interview participants sometimes identified other potential participants who they thought could contribute to the research. These individuals and agencies were subsequently invited to participate in an interview.

The purpose of stakeholder interviews was to:

- obtain information on the role of marriage in human trafficking from professionals working in diverse organisational contexts and from diverse perspectives on the issue of human trafficking;
- seek the views of these professionals on the risks and protections related to marriage in human trafficking, and any recommendations stakeholders may have about addressing these factors;
- seek clarification on relevant legal, operational and technical issues; and
- seek information on any relevant cases of human trafficking or related exploitation in which marriage played a role.

Interviews with stakeholders were therefore semi-structured, consisting primarily of open-ended questions. Stakeholders were asked a number of questions on the following key themes:

- their understanding of the role of marriage and other intimate partnerships in human trafficking;
- their experience with cases of human trafficking in which marriage played a role;
- the detection and identification of cases of human trafficking involving marriage;
- their views on support and assistance services for victim/survivors of human trafficking and related exploitation involving marriage;
- the prevention of this form of human trafficking; and
- their understanding of and experience with offenders of this form of human trafficking and related exploitative scenarios.

Interviews with stakeholders lasted between 30 minutes and three hours. All stakeholders were

invited to review a summary of their interview and to clarify material and make further comments.

Limitations of the research

This research study has a number of limitations that should be taken into account when interpreting its results. First, it is a preliminary exploration of an emerging issue rather than an attempt to provide a definitive account of this issue. As such, the findings presented in this report are not generalisable and should therefore be considered part of an emerging conversation around the role of marriage in human trafficking scenarios and as providing a preliminary foundation for further examination of this problem. Second, this research was primarily qualitative in nature. No attempt was made to quantify the issue, although the research findings may be helpful to those wanting to do so in future research. Third, the sampling strategy adopted for this research (outlined above) inevitably meant that it was likely that most victim/survivors invited to participate would be female. It should be recognised that although exploitative marriages have been identified as a gendered phenomenon, men may also be victim/survivors (UK Home Office 2010).

This sampling strategy also meant that the cases examined for this research came from two metropolitan locations in Australia. The findings are not necessarily reflective of the situation in other locations in Australia. Findings may have been different if regional and/or remote areas were sampled; certainly, it is the case that previous AIC research has indicated that human trafficking and related exploitative scenarios have occurred in non-metropolitan areas in Australia (see David 2010, 2008). While this metropolitan bias is a limitation of the current study, the study findings demonstrate that human trafficking scenarios can occur in economically stable, 'middle class' urban communities in Australia (see eg Hand 2010). This important finding is discussed later in this report.

Finally, all the victim/survivors interviewed for this study had exited their exploitative marriages. While this was necessary both practically and ethically, it may mean that some of the characteristics of the victim/survivors and their situations may be unique to those who escaped their situations and may not be

representative of exploitative marriages from which victim/survivors are unable or unwilling to escape.

A note on terminology

The eight women interviewed for this research are referred to throughout this report as ‘victim/survivors’ in line with conventional practice and in order to highlight the extreme exploitation suffered by each of the women. No distinction is made between individual victim/survivors throughout the report (eg by designating each victim/survivor a number) in order that their identities remain anonymous and so the chronological account of their stories cannot be pieced together). Importantly, however, this does not mean that all the women have been formally identified as victim/survivors of human trafficking, in accordance with the United Nations definition and Australian

legislation. Rather, this terminology reflects that the women were all victims/survivors of a range of serious crimes that comprise the breeding ground for human trafficking, slavery and slavery-like practices. That said, as discussed elsewhere in this report, some have indeed been identified as victims of human trafficking by the relevant Australian authorities, or meet the Australian and United Nations definitions of trafficked people.

Referring to the women generically as ‘victim/survivors’ also ensures that elements of the women’s stories cannot be assembled and therefore that the women’s identities remain confidential.

Partner migration to Australia: Background and context

The following section outlines the current partner migration framework, specifically detailing:

- the process of obtaining a visa to enter and remain in Australia as a spouse, de facto partner (same sex and opposite sex), or fiancé (see Box 4);
- sponsorship arrangements; and

- the provisions that are available to an immigrant spouse if they experience family violence perpetrated by their sponsoring partner.

Analysis of a selection of partner migration data, supplied by DIBP, is provided as background and context to the exploitative experiences described by stakeholders and victim/survivors.

Box 4 The Partner Migration visa framework

Intimate partners (ie spouses, de facto partners and fiancés) of Australian citizens or permanent residents do not have an automatic right to permanent residency in Australia (DIBP 2013c). Intimate partners of Australian citizens or permanent residents must apply for either a Partner visa (for spouses, same and opposite sex de facto partners) or a Prospective Marriage Visa (for fiancés) to enter and remain permanently in Australia.

Partner visas

Partner visas allow migrants to move to Australia based on their spousal or de facto relationship with an Australian citizen or permanent resident (ALRC 2011: 490). Partner visa applicants must go through a two-stage process to obtain permanent residence. The first stage involves granting the migrant spouse or de facto partner a temporary Partner visa based on an assessment that the couple:

- have a mutual commitment to a shared life as husband and wife to the exclusion of all others; and
- are living together or, if not, that any separation is only temporary (DIBP 2013c).

De facto couples are also required to have been in a relationship for at least 12 months immediately prior to lodging an application.

In most cases, the permanent visa is decided after two years and the visa is granted if the couple continue to satisfy the requirements above. When assessing the genuineness of a relationship, DIBP will also consider the couple's financial arrangements, household/living arrangements, social context of the relationship (ie do others recognise the applicant and sponsor as being in an intimate relationship) and the nature of the commitment to each other and how they met (DIAC 2012).

Box 4 The Partner Migration visa framework (cont.)

Prospective Marriage visas

A Prospective Marriage visa allows a non-citizen to enter Australia to marry an Australian sponsor. The visa is valid for nine months, during which time the visa holder must travel to Australia and marry their sponsor (DIAC 2012). After the marriage, the migrant spouse must apply for permanent residence as per the two stage Partner visa process described above (ALRC 2011). For a Prospective Marriage visa to be granted the couple must satisfy certain criteria, including that both the applicant and sponsor must be:

- at least 18 years of age at the time of visa application;
- known to each other personally and have met in person as adults (even if it is an arranged marriage or the relationship was formed on the internet);
- genuine in their intent to marry and live together as spouses; and
- intending to enter into a marriage that is recognised under the Marriage Act 1961 (DIAC 2012; DIBP 2013c).

On 1 June 2013, the Migration Regulations 1994 were amended so that couples must have met in person since turning 18 to satisfy the Prospective Marriage visa requirements. Changes were also made to remove the ability for a parent or guardian to sponsor an applicant for a Prospective Marriage visa on behalf of the prospective spouse who is less than 18 years of age (DIBP 2013a). These changes do not apply to applicants and sponsors of Partner visas.

How does the Department of Immigration and Border Protection assess applications for Partner and Prospective Marriage visas?

As stated above, partners of Australian citizens do not have an automatic right to permanent residency in Australia. DIBP assesses all applications for Partner visas and Prospective Marriage visas, as described below.

DIBP's visa application system is a risk-based system where the Department scrutinises visa applicants' risk profile, reason for travel and individual characteristics to determine what kind of visa application process is undertaken (DIBP 2014b). All visa applicants must meet health and character requirements, including police checks from previous countries of residence and/or an Australian police check (DIBP 2013c).

DIBP implements a number of measures, at the time of application as well as during processing of the visa application, to assess the genuineness of a visa application, including an assessment of country- and culture-specific risk matrices, document verification, interviews with sponsors and applicants, and home visits (DIAC 2012). As part of the visa application process, DIBP checks all applicants against the Movement Alert List, a computer database containing information about individuals' identities and travel documents, which is contributed to by security, law enforcement and Commonwealth agencies (DIBP 2014b). Since 2011, DIBP has also used statistical risk models built on data from the Department to evaluate every traveller for risk (DIBP 2014b).

How many people migrate to Australia as partners of Australian citizens/permanent residents?

Between 2001–02 and 2010–11, 337,127 people migrated to Australia on a Partner Migration (Partner

or Prospective Marriage) visa as a fiancé, spouse (including de facto partnerships) or interdependent (same sex) partner (ie a principal applicant). A further 42,288 people migrated to Australia as a child or dependent of the migrating partner (ie a secondary applicant; see Table 1). The number of persons granted a Partner Migration visa to enter or reside permanently in Australia each year has remained stable over this period.

Table 1 Partner Migration visa grants by applicant type and relationship type, 2001–02 to 2010–11

Applicant	Spouse/de facto partner	Fiancé	Interdependent (same sex)	Total
Principal ^a	278,387	53,819	4,921	337,127
Secondary ^b	36,117	6,071	100	42,288
Total	314,504	59,890	5,021	379,415

a: Includes fiancé, spouse, de facto partner, same sex partner

b: Includes child, dependent

Note: Interdependent and spouse visas were combined as of 1 July 2009

Source: Department of Immigration and Border Protection

Two-thirds of principal applicants were female (66%; n=222,313; see Table 2). There were approximately equal proportions of male and female secondary applicants.

Table 2 Partner Migration visa grants by applicant type and sex, 2001–02 to 2010–11

	Principal ^a	Secondary ^b	Total
Male	114,814	21,353	136,167
Female	222,313	20,935	243,248
Total	337,127	42,288	379,415

a: Includes fiancé, spouse, de facto partner, same sex partner

b: Includes child, dependent

Source: Department of Immigration and Border Protection

Principal applicants who were granted a Partner Migration visa to enter and/or remain in Australia arrived from a wide variety of countries. The five most common countries of citizenship were the United Kingdom, China, India, the Philippines and Vietnam. Spouses, de facto partners and same sex partners were most likely to arrive from the United Kingdom, and fiancés most commonly arrived from the Philippines (see Table 3).

Table 3 Top 20 countries of citizenship of Partner Migration visa holders, 2001–02 to 2010–11

Country of citizenship	Spouse/de facto partner	Fiancé	Interdependent (same sex)	Total
United Kingdom	42,526	4,138	1,255	47,919
China	27,161	4,386	145	31,692
India	23,515	1,495	30	25,040
Philippines	11,446	6,222	192	17,860
Vietnam	12,144	5,145	61	17,350
USA	13,705	1,826	575	16,106
Thailand	9,221	3,050	424	12,695
Lebanon	6,256	3,663	9	9,928
Indonesia	6,950	1,418	167	8,535
Japan	7,200	1,042	145	8,387
Canada	6,921	954	155	8,030
Germany	5,321	583	132	6,036
Republic of Korea	5,714	202	77	5,993
Republic of Ireland	5,209	403	121	5,733

Table 3 Top 20 countries of citizenship of Partner Migration visa holders, 2001–02 to 2010–11 (cont.)

Country of citizenship	Spouse/de facto partner	Fiancé	Interdependent (same sex)	Total
Malaysia	4,224	414	189	4,827
Fiji	4,119	677	21	4,817
Sri Lanka	4,320	287	12	4,619
South Africa	3,494	788	100	4,382
Pakistan	3,803	254	4	4,061
Cambodia	2,938	913	4	3,855

Note: The number of visas cited is for those granted to principal applicants. It excludes visas granted to secondary applicants; that is, the children or dependents of principal applicants

Source: Department of Immigration and Border Protection

Who can sponsor an overseas partner to enter and/or remain permanently in Australia?

Partner visa and Prospective Marriage visa applicants must be sponsored to enter Australia by an Australian citizen, permanent resident or eligible New Zealand citizen. Sponsors must ordinarily be adults aged 18 years or older to sponsor a partner; however, if the sponsor is aged 16 or 17 years and the application is made on the basis of a married relationship, their parent or guardian must be the sponsoring person. Prior to 1 January 2012, sponsors were required in some cases to provide an Assurance of Support. An Assurance of Support was ‘a commitment to provide financial support to a partner category visa applicant so that they will not have to rely on any government forms of support’ (DIBP 2013c: 29). With the removal of the Assurance of Support requirement for partner category visas, sponsors can no longer be asked to provide an Assurance of Support, however sponsors still agree to financial obligations by undertaking the sponsorship. The migrating partner may also be eligible for social security payments (Special Benefit) if they can prove they are in financial hardship and have experienced a substantial change in circumstances beyond their control since arriving in Australia (DIBP 2012a).

There are, however, limitations placed on Australian sponsors in relation to sponsoring migrant partners to enter and/or remain permanently in Australia. Restrictions relate primarily to serial sponsorship and to sponsoring minors.

Limitations on serial sponsorship

Sponsorship limitations apply to people who have previously sponsored a partner to enter and/or remain permanently in Australia or been sponsored as a partner to enter Australia themselves. A person can only sponsor or be sponsored a maximum of two times, with a five year interval between sponsorships. Placing limitations on sponsorship is intended to ‘prevent abuse of the partner migration provisions’ (DIBP 2013c: 16). These limitations may be waived if there are compelling circumstances affecting the sponsor, for example, the migrating partner dies or abandons the relationship leaving young children, if the current relationship is longstanding, or if there are children from the relationship (DIBP 2013c). Legislative amendments were made in 2005 to prevent a sponsor, whose relationship had broken down as a result of the sponsor perpetrating domestic violence against their partner, being exempt from sponsorship limitations. Prior to this, ‘visas granted following cessation of the relationship as a result of domestic violence committed by the sponsor were not counted against the sponsor’ (Vanstone 2005: np). This meant that ‘serial sponsors’ with ‘an unfavourable record from their previous relationship’ (Schloenhardt 2009b: 5) were not subject to restrictions on the number of times they could be a sponsor.

The issue of ‘serial sponsorship’—that is, of Australian citizens/permanent residents sponsoring more than one partner to enter Australia on Partner or Prospective Marriage visas—has been raised as problematic in the literature (see eg Cunneen & Stubbs 2000; Quinn 2009). In some cases it

suggests the 'commodification' (Quek 2010: 5) and expendable nature of migrant wives.

Little has been documented about the prevalence of serial sponsorship in Australia. Research by the then Department of Immigration, Local Government and Ethnic Affairs between 1990 and 1992 revealed that during that period there were 110 repeat sponsors. Of these, all but nine sponsored women from Asia and 80 (73%) were known to have perpetrated some form of domestic violence (Schloenhardt 2009b).

Data supplied by DIBP for this study show that during the six year period between 1 July 2005 and 30 June 2011, there were a total of 288 repeat sponsors in Australia. All 288 persons sponsored one partner on two separate occasions; none had sponsored more than two individual partners on a Partner or Prospective Marriage visa. This is a potentially concerning figure, as there must be a five year interval between sponsorships unless compelling circumstances affecting the sponsor exist.

Future research on serial sponsorship is vital given the extreme nature of exploitation of some migrant women documented in the available literature (see eg Cunneen & Stubbs 2000).

Limitations on the sponsorship of minors

In 2009–10, the Australian Government made changes to strengthen the policies around the sponsorship of minors. The purpose of introducing stronger measures was to:

ensure that children seeking to enter Australia under partner and child visas are protected from being sponsored by people with convictions for child sex offences or other serious offences indicating that they may pose a significant risk to a child in their care (DIBP 2013b).

The first change, introduced in September 2009, requires sponsors of Child visa applicants and Partner or Prospective Marriage visa applicants that include a minor to undertake an Australian Federal Police (AFP) National Police Check (NPC) as part of the process of assessing the application. Sponsors must provide an NPC if they have spent a total of 12 months or more in Australia since turning 16 years of age and police certificates from each country in which they have spent 12 months or more in the last 10 years since turning 16 years of age.

In March 2010, the Migration Regulations were amended to include 'mandatory refusal of sponsorships when a child is included in the visa application and the sponsor has a conviction or an outstanding charge for a registrable offence' (DIBP 2013b: np). A registrable offence is

an offence against a child, most notably of a sexual or violent nature, which would lead to registration on the Australian National Child Offender Register' (DIBP 2013b: np).

There are exceptions to mandatory refusal of sponsorship, to be approved at the discretion of the Minister, if five years have passed since completion of the sentence for the last relevant offence committed by the sponsor, the sponsor has not been charged with a registrable offence since the sponsor completed that sentence and there are compelling circumstances affecting the sponsor (Migration Regulations 1994 Regulation 1.20KB (9) (10)). Conversely,

if a police check or other source of information reveals the sponsor has been convicted of an offence, other than a registrable offence, which raises concern that visa grant may put the child at risk, the visa application may be refused under the public interest criteria relating to the best interests of the child (DIBP 2013b: np).

This study nonetheless raises serious concerns about the exploitation of children as a result of human trafficking involving partner migration. These are discussed later in this report.

Special provisions relating to family violence

The Family Violence Provisions allows for a person seeking to migrate to Australia on a Partner Migration visa to continue their application for permanent residence if their relationship with their Australian partner breaks down and the applicant, or a member of their family unit, has suffered family violence.

The *Migration Regulations 1994* (Cth; Division 1.5, Regulation 1.21) defines family violence as conduct, whether actual or threatened, towards:

- (a) the alleged victim; or
- (b) a member of the family unit of the alleged victim; or

(c) a member of the family unit of the alleged perpetrator; or

(d) the property of the alleged victim; or

(e) the property of a member of the family unit of the alleged victim; or

(f) the property of a member of the family unit of the alleged perpetrator;

that causes the alleged victim to reasonably fear for, or to be reasonably apprehensive about, his or her own wellbeing or safety.

Family violence is not limited to physical harm, but may also include other forms of abuse, such as psychological and/or financial abuse. Notably, the violence must be perpetrated by a spouse and does not include violence by the spouse's family, which is frequently the case in situations of human trafficking where the exploitation occurs in a domestic setting (as discussed later in this report).

The Family Violence Provisions:

were introduced in response to community concerns that some partners might remain in an abusive relationship because they believe they may be forced to leave Australia if they end the relationship (DIBP 2012b: np).

However, there is still concern that Prospective Marriage visa holders will be forced to marry their abusive partners to be able to access the provisions (ALRC 2011), as holders of a Prospective Marriage visa who experience family violence may only seek access to the family violence provisions if they have married their sponsor (DIBP 2012b). This has prompted the Australian Law Reform Commission (ALRC 2011) to recommend that amendments be made to the Family Violence Provisions to allow fiancés on a Prospective Marriage Visa to remain in Australia if they suffer family violence despite not marrying their abusive partner. As Prospective Marriage visa holders may remain in Australia for up to nine months prior to the marriage

there is a risk that some visa applicants may be manipulated and forced to remain in an abusive relationship. Such amendments [as proposed by the ALRC] would ensure that Prospective Marriage visa holders have a legal basis for having their claims heard by the Department (ALRC 2011: 494)

and would be able to access family violence services and have time to apply for another visa.

Partner visa holders who satisfy the Family Violence Provisions

While the percentage of Partner visa cases in which the Family Violence Provisions have been used has steadily increased since 2005, the provisions are only invoked in a small percentage of claims (approximately 1.5% of all Partner visa cases; ALRC 2011). Analysis of data supplied by DIBP for this study shows that between 1 July 2006 and 31 December 2011, 3,654 Partner visa holders (1.6% of all Partner visa holders over the same period) met the criteria as victims of family violence. This number reflects holders of Partner visas and their children. It does not include holders of Prospective Marriage visas (for fiancés) as they are ineligible to access the Family Violence Provisions. There were 2,932 females, 697 males and 25 persons of unknown sex who successfully accessed the family violence provisions as either principal (intimate partner) or secondary (child or dependent) visa holders (see Table 4). Those who successfully access the family violence provisions and wish to remain permanently in Australia are able to do so under a different visa category.

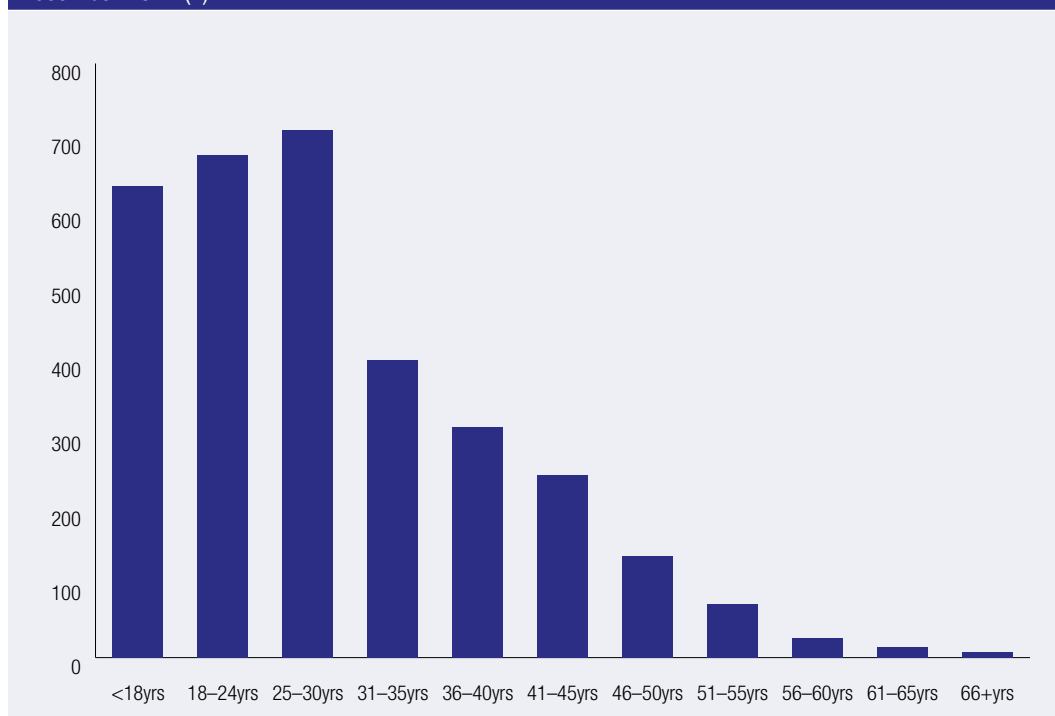
Table 4 Successful Family Violence Provision applicants by sex and applicant type, 1 July 2006–31 December 2011

	Principal	Secondary	Total
Male	284	413	697
Female	2,489	443	2,932
Unknown	20	5	25
Total	2,793	861	3,654

Source: Department of Immigration and Border Protection

Partner visa holders who accessed the Family Violence Provisions were aged between less than 12 months and 72 years (see Figure 1). Of the 3,233 successful applicants whose age was known, 20 percent were children (under 18 years).

Figure 1 Partner visa holders who accessed Family Violence Provisions by age, 1 July 2006–31 December 2011 (n)



Note: Includes principal and secondary Partner Migration visa holders

Source: Department of Immigration and Border Protection

Those who successfully accessed the Family Violence Provisions (n=3,654) most commonly immigrated on a Partner Migration visa from China (12%), the Philippines (10%) and Vietnam (8%; see Table 5). The top five countries of citizenship for Partner Migration visa holders that successfully accessed the Family Violence Provisions also comprise the top five countries of citizenship for Partner Migration visa holders who successfully migrated with no problems after arrival.

Table 5 Top 12 countries of citizenship for Partner Migration visa holders who successfully accessed Family Violence Provisions, 1 July 2006–31 December 2011

Country of citizenship	n	% ^a
China	441	12.1
Philippines	378	10.3
Vietnam	302	8.3
United Kingdom	188	5.1
India	177	4.8
Thailand	155	4.2
Fiji	145	4.0
Lebanon	112	3.0
Indonesia	92	2.5
United States of America	88	2.4
Republic of Korea	82	2.2
Cambodia	79	2.2
Other country	1,415	38.7
Total	3,654	

a: Percentages may not total 100 due to rounding

Note: Includes principal and secondary Partner Migration visa holders

Source: Department of Immigration and Border Protection

Data on Partner visa holders who have been granted permanent residency after experiencing family violence are a limited proxy measure of human trafficking cases involving marriage. Although there is some overlap between migrant partner violence and human trafficking involving intimate relationships, particularly since this form of human trafficking is often identified as domestic violence, this measure is limited since these scenarios are different crime problems that require different responses. Moreover,

data on cases in which the Family Violence Provisions were used are an under-representation of family violence, which is often unreported, particularly in migrant communities (Taylor & Putt 2007). Therefore, while these data provide important contextual information, the following analysis must be read with caution and should not be considered to reflect the number of potential people trafficked to Australia on a Partner Migration visa.

Experiences of human trafficking and related exploitation: Victim/survivors' stories

Drawing on interviews with eight migrant women who were identified as victim/survivors of exploitative marriages, as well as analysis of these women's case files, this section describes the women's experiences. This section is divided into four parts. The first part begins with case studies that demonstrate some of the ways in which a person can be trafficked and exploited through marriage. The subsequent parts cover the victim/survivors' backgrounds and how they entered their exploitative situations, victim/survivors' experiences of abuse and exploitation and how victim/survivors exited their exploitative situations. In particular, these parts provide information about:

- the demographic characteristics of the women;
- the women's lives prior to migrating to Australia as fiancés or wives;
- how the women met their Australian partners;
- the women's journeys to Australia;
- the women's motivations for migrating to Australia for marriage;
- the women's experiences of exploitation; and
- the help-seeking strategies employed by victim/survivors.

Throughout this section, the women's experiences are compared and contrasted with information provided by stakeholders, which includes knowledge

and perceptions of the experiences of additional victim/survivors as well as the particular victim/survivors interviewed for this research.

Case studies

The case studies described below are intended to show what human trafficking and associated exploitation might look like in the context of a marriage. The information used in the case studies is accurate and based on the evidence provided by the victim/survivors who participated in the research; however, in order to protect the women's identities, each case study combines different elements of a number of women's stories. To this end, the ages and nationalities used in the case studies have been changed and for the purpose of the case studies only, a pseudonym has been assigned to the 'victim/survivor' in each story.

Case study 1: Kanya's story

Kanya was 17 years old when her parents told her that they had found a husband for her in Australia. Kanya had lived in India her whole life, had never travelled outside her country and could not speak much English. Her future husband was a family friend that was born in India but moved to Australia

when he was a child. Kanya's family believed that if Kanya married their family friend in Australia she would have better opportunities and bring honour to the family. Her parents would also receive a large dowry and if she got a job, she would be able to remit money back home. It is traditional in her culture for parents to arrange marriages for their children.

After one year of talking on the phone, Kanya's future husband travelled to India when she was 18 years old to meet her in person. Kanya's future husband told her that he would be able to take care of her in Australia and that someday they would start a family. After three days Kanya was married. Kanya's husband then returned to Australia for several months while her visa application was approved. Once her visa was granted, Kanya travelled to Australia to live with her husband.

When she arrived, her husband picked her up from the airport, took her passport and drove her to his mother's house. Kanya's husband told her that his parents were getting older and they needed someone to look after them as well as his brother's three young children. Kanya's husband was not living at the house, but promised that if she cooked, cleaned and cared for his family then one day they could share a house together.

Her husband's family were very demanding of her. She was made to cook, clean and take care of everything in the house. She never had any time to rest, but she knew that if she did not do as she was told she would not get food and would be not be allowed to sleep in the house. Kanya felt like a servant. She was not allowed to go out of the house by herself or talk to her family back home. Her husband and his family would verbally abuse her and threaten to harm her if she did not do as they said. They regularly threatened to send her back home. Kanya knew that she could not go back home because of the shame it would bring to her family.

Case study 2: Alina's story

When Alina was 40 years old she joined an internet dating site to try and find a partner. Alina lived in the Ukraine and had previously been married to a Ukrainian man with whom she had two teenage children. Alina thought that if she married a man in Australia she could bring her children over once

she had settled. She had read many books about Australia and believed it would be a good environment for her and her children.

Alina met a man who she talked to via email for a few months before he travelled to the Ukraine to visit her in person. The man met Alina's children and told them that he would be able to take care of them once they moved to Australia. Alina and the man spent one month getting to know each other before they became engaged. Her fiancé then travelled back to Australia to sort out the visa paperwork to bring her to Australia as his fiancé to be married. When Alina's visa was granted she travelled to Australia and they held the wedding six months later.

Shortly after the wedding, Alina's husband became abusive towards her. He made her take lessons to improve her English and made her get a job. Alina's husband took all the money she earned from her job and only gave her \$20 per week to live off. When she was not at work, he made her do all the cooking, cleaning and housework. He forced Alina to have sex every day even though she did not want to and threatened her with a knife if she did not do what he said. Alina was too scared to seek help because she did not want her children to find out what was happening to her. She was also scared that she would be deported because she had not been married for two years and did not have permanent residency. Her husband told her that as her sponsor he could send her back home.

Case study 3: Farrah's story

Farrah was 20 years old and living in Egypt when she saw a family friend while she was out shopping one day. Her family friend was with another woman who was introduced to her. This woman started talking to Farrah and said she thought she was very beautiful. She told Farrah that she had a son in Australia and was looking for a suitable wife for him and suggested that Farrah might be a good match.

Farrah had always wanted to travel to Australia and had seen lots of documentaries about Australian cities and wildlife. Farrah had not really thought about marriage before, but she thought she would talk to her parents about it. Her parents thought it was a good idea, especially as Australia appeared to be a safer country to live in than Egypt and was not

experiencing war. Farrah agreed to the marriage and an engagement party was held for her in Egypt without her future husband.

On her wedding day two weeks later, she met her husband for the first time. He was the same age as Farrah and did not seem very interested in marrying her. In fact, he did not know that his mother had arranged a wedding for him until he arrived in Egypt from Australia. Despite his protests, his mother told him that it was her decision that he was to be married and she would be shamed if he did not go through with it.

Once Farrah and her husband were married they moved to Australia. In Australia, Farrah lived with her husband and his mother, as well as her husband's brother, his wife and their two small children. She was made to care for the whole family, was not allowed to communicate with her own family back in Egypt and was not allowed to leave the house by herself. Her husband sexually abused her and because her mother-in-law wanted her to have children she was not allowed to use contraception. Farrah eventually became pregnant, but throughout her pregnancy she was only allowed to see the doctor on a few occasions and was still made to do all the housework, cooking and cleaning. Farrah was forced to have three children by her husband and her mother-in-law. Farrah was entitled to social security payments, however, these were directed into her husband's bank account, which she did not have access to. Farrah's husband was very violent and would threaten to hurt Farrah and the children. On several occasions he hit Farrah and would break things in the house in front of the children. Farrah wanted to go home to her parents, but knew that if she left she would have to leave her children behind.

Victim/survivors' backgrounds and how they entered their exploitative situations

The eight victim/survivors interviewed for this study were female. The participants were aged between 18 and 49 years at the time they entered their exploitative situations and were citizens or residents

of a range of countries prior to their immigration to Australia, including those in Asia (particularly southeast Asia), the Pacific, the Middle East and Eastern Europe. Most participants were educated, with a small number undertaking tertiary studies.

The women's lives prior to migrating to Australia as fiancés or wives

When depicting their lives prior to moving to Australia, most women spoke about their family, social lives, employment and education. The majority of the women had stable and successful lives in their home country, with supportive families and friends. Three women also had either family or friends in Australia. Three women were previously married, two were widowed and one left their previous partner due to the abusive nature of the relationship. The majority of women were employed in their home country prior to moving to Australia and one woman owned her own home. While most of the women believed there were greater opportunities in Australia than in their home country, few spoke negatively of their life in their countries of origin before moving.

In describing their home and social lives prior to moving to Australia, most women spoke positively of their relationships with family and friends. One victim/survivor explained:

I was spoiled as a child because I was the youngest...My life was good. I was with a family that loved me in every way.

Another victim/survivor described her upbringing:

I was raised in a good family. My family life was very good, I was very close to my mother and father. I had good family relationships. I have good relationships with my friends.

A third victim/survivor emphasised:

My life was very good. I had a lot of friends. I had children and friends.

Independence was a key characteristic of a number of women's lives, which they achieved through study and employment. For example, in describing her life, one victim/survivor said:

Before, I had a very independent life. I was working. I tried to study as well but I had a good job. I could look after myself. I was a young single

person working many hours but I had a social life as well. I would go out with my friends.

A second victim/survivor explained:

I don't have any complaints about my life in [country X]. I had three jobs. I can't complain. I had everything.

While a third victim/survivor described how she completed her education before moving to Australia:

I was studying at university just before I got married and came here.

A fourth victim/survivor spoke about how the success of her parent's business helped her to achieve her goals of study and employment:

I am very well educated because my parents have a business so I have a good background. I had a very good life in [my country]. I helped my parents to run their business.

Only one victim/survivor described her life in her home country negatively. This participant experienced sexual abuse as a child as well as violence perpetrated by her first husband. She also described how her family disapproved of her second husband because the marriage was not arranged by her parents. In addition, two participants spoke of corruption, particularly in relation to the police, as well as war and civil unrest.

How the women met their Australian partners

The women met their Australian spouses by means of arranged marriages, family connections, online introductory or dating services and through chance occurrences. For most women, their marriages and how they met their partner was planned or intentionally pursued. Two women sought a partner through online dating services, while four women met their partner through a family connection or because their marriage was arranged for them by their parents or family members.

One victim/survivor spoke about her experience finding love through an internet dating site:

I couldn't find any men from [my country] on the internet, so I met an Australian man. He emailed my friend and then my friend passed the email to me and I answered.

Another victim/survivor described how arranged marriages were a normal cultural and religious practice in her country:

In [my country] marriages are arranged by parents. Children must respect the wishes of their parents and have little choice in their marriage.

For others, however, it was only by chance that they met their partner or became engaged. For example, one victim/survivor explained the serendipitous nature of being chosen as a wife for her future husband:

I was visiting my neighbour and I saw a lady there who was coming from Australia to find girls for her two sons to marry. This was usual habit to do this. It was normal in my culture, so we thought everything would be alright.

A second victim/survivor described meeting her partner by chance while studying English in Australia on a three month student visa:

He asked me to stay with him in Australia so I agreed and then I quit my job [in my home country]. We had a party in [country X] but were married at a registry in Australia.

While the circumstances in which the women met their husbands indicate that the women consented to their marriages, in one case it became evident that the husband was seemingly forced into the marriage. In this case, the victim/survivor explained her husband's situation as follows:

My mother-in-law was very confident, she knew she could choose for her boys and they would say yes. She was a very controlling woman, in a bad way. My husband did not know that he was getting married. I thought and my family thought that he knew and that he wanted to get married. When I arrived in Australia I saw a videotape telling him that he had a fiancé in Australia and that she would come soon and he started screaming and shouting that he didn't want to get married.

Due to the nature of how the women met their husbands, the length of the relationships prior to marriage were generally of very short or no duration. Often the husband and wife met in person for the first time at their wedding or to be married within one month of meeting.

The marriages were both 'intra-cultural' (ie between Australian male citizens and women from the man's country of origin; n=4) and 'inter-cultural' (ie between Australian male citizens and women of different ethnic backgrounds; n=4; see Iredale 1995).

The women's motivations for migrating to Australia for marriage

While the literature often depicts women from developing countries marrying Western men out of economic desperation (Constable 2003), those interviewed for this research reported multiple and varied motivations, including:

- the desire to travel and experience other cultures;
- for love and to start a family;
- to study and improve English language skills;
- for safety and to escape war; and
- to honour the marriage that was arranged for them by their family.

Importantly, many of the women were motivated to leave their home country after meeting their husbands through chance occurrences.

One of the victim/survivors who cited travel and the desire to experience other cultures remarked:

I didn't decide I wanted to move to Australia, but I just wanted to meet someone from somewhere else. I wanted to search a bit wider and not just my local city. I wanted something new...In Australia so many young girls travel around with their friends, it's not like that in my country.

Another victim/survivor explained that she migrated to improve her family life:

I was by myself and decided to organise my family life...I was all about my family.

For one woman, it was the opportunity to improve her English that brought her to Australia initially, before she met her partner and decided to migrate to live with him. She explained:

Once I graduated from university, I wanted to improve my English skills for my job so I came to Australia to study English for three months and that is when I met my husband...I chose Australia because my friend was here doing her degree. My husband told me to come to Australia

because I could finish my study and get a job (victim/survivor).

One of the women that moved to Australia as a result of an arranged marriage explained how this customary marriage practice is beneficial for women in her country:

The reason why some women get married through an arranged marriage or an organised marriage is because of the war in my country. We have had war since I was born...We didn't have a future there...I was in university just to study and not to work because the women are not allowed to work. If a woman works they say she is not well behaved. There was no future unless you get married and have kids...My family asked me many times if I wanted to do it and to be honest I wanted to do it, even though I didn't get to talk to him or see him, which was the biggest mistake of course. I was 18 and some girls that age would refuse it...but for me I wanted to have a future and work and go overseas. I saw him in a videotape and I said ok. My parents said 'no I don't think you will be ok', but I said 'no I will be ok, I want to go, don't be worried, even if I don't love him and have never spoken to him, love will come' (victim/survivor).

While women nominated varied reasons for migrating, many of the women revealed that they had no intention of leaving their home country permanently or to move to Australia specifically, but felt this was necessary to be with their husbands. This sentiment is reflected in the comments of one woman who said:

I would have liked to stay in [my country] and have my husband move there. I had a good job and my children, but I had to move to Australia if I wanted to be with my husband because of his work (victim/survivor).

Similarly, another woman revealed that:

I was pretty happy [back home]. I was happy with work and I had a boyfriend who I was nearly engaged to. I took the chance to come to Australia to study and then I planned to go back and get married (victim/survivor).

The women's journeys to Australia

All but one of the marriages took place outside of Australia and the migrant wives were sponsored by their husbands to live in Australia on Partner Migration visas. One woman was sponsored by her husband on a Prospective Marriage visa before being granted a Partner visa once married to remain in Australia permanently. All the women entered Australia legally by air once their visas were granted. The women either paid for their travel themselves, or it was paid by their husbands.

Experiences of abuse and exploitation

In addition to a wide range of abusive behaviours that characterise violent relationships (eg violence or threats of violence if the woman considers leaving the relationship; sexual, physical, psychological and financial abuse; surveillance; and isolation from family and friends), the exploitation experienced by victim/survivors interviewed for this study included assertions of ownership, debt bondage, domestic servitude, deprivation of liberty and restricted movement, threat of deportation, labour exploitation (commercial and/or domestic) involving excessive working hours with little or no pay, and control of passports and identifying documentation. The distinction must be made between abusive and exploitative situations (ie domestic violence compared with the higher order offence of human trafficking). While violent and abusive experiences alone do not meet the definition of exploitation for human trafficking offences, many victim/survivors of human trafficking experience these kinds of behaviours as they are often a way of controlling a person so that they can be exploited.

As such, the following section begins with a description of the various forms of domestic violence reported by victim/survivors and stakeholders, before discussing experiences of specific indicators of the exploitation associated with human trafficking.

Experiences of abuse

Domestic violence

Participant case files and victim/survivor interviews revealed that domestic violence was consistent in every woman's experience and frequently involved physical, psychological and sexual violence to varying degrees. Victim/survivor experiences of domestic violence included:

- serious and ongoing threats of violence towards the women and their children;
- regular and severe damaging of property;
- verbal abuse;
- threats of harm or death if they tried to leave the relationship;
- denial of education and employment;
- denial of contact with friends and family;
- daily fear and intimidation;
- denial of religion; and
- physical, psychological and sexual violence against the women and their children.

For example, one victim/survivor described an ongoing pattern of behaviour in which her husband verbally abused and threatened her and her child, as well as several incidents of sexual abuse and assault. Other incidents included being repeatedly threatened and intimidated with weapons and an attempt by her husband to run her over in his car. The woman described how her husband had firearms and knives that he kept in their bedroom at plain view and that he had threatened to use both weapons against her and her daughter. He initiated a 'cycle of terror' by threatening to harm her with a gun and a knife if she did not comply with the way that he wanted her to behave in their intimate marital life. Another woman was coerced through threats and intimidation to paint the house without the help of her husband so he could save money and build furniture for his home. A third woman described how her husband would control whether or not she was allowed in the house. She said:

Sometimes he would lock me outside and I would have to stay in the tree overnight (victim/survivor).

A small number of women in the sample reported that they, as well as their children, had experienced

sexual violence committed by their husband. The International Organization for Migration (2007: 200) defines sexual violence as

any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or act to traffic women's sexuality, using coercion, threats of harm or physical force, by any person regardless of relationship to the victim, in any setting, including but not limited to home and work.

Sexual violence may include forced prostitution, forced exposure to pornography, forced pregnancy, forced abortion and forced marriage. Sexual violence is common in cases of human trafficking, even for victims trafficked for the purpose of labour exploitation (IOM 2007). Support providers interviewed for this research acknowledged the prevalence of sexual abuse experienced by victim/survivors of human trafficking, whether or not their exploitation involved an intimate relationship:

What we find is that we very rarely work with somebody who has not experienced sexual abuse, because that is the one thing that degrades a woman the most (service provider).

Victim/survivors reported instances of sexual violence that included forced exposure to pornography, coerced pregnancy and pressure to engage in unwanted sexual interactions. One woman described how

[m]any of my sexual experiences with [husband] were not experiences I wanted or was comfortable with. Many of these experiences were upsetting, traumatic and abusive (victim/survivor).

Another woman's husband regularly exposed his genitals and touched her inappropriately. In response to her requests to end his behaviour he told her that she needed to 'assimilate into Australian society', saying that 'Australian men do show their [genitals] at home all the time' and that this behaviour was 'normal' (victim/survivor). His dominance extended to controlling her choice of religion by prohibiting her from attending the church of her faith and instead, forcing her to attend the church of his religion. As a result of frequently being forced to witness the overwhelming indecent exposure, she suffered long periods of trauma, stress, fear and depression. He exercised

extreme power and control over [his wife] and over her daughter, in the form of emotional, physical, material, cultural, religious and moral abuse and, on various occasions, assault. He stripped them of power to make basic decisions in their lives (an example of this is his refusal to allow both mother and daughter to access medical assistance) and he humiliated them constantly, dragging them to the confinements and darkness of an ill mind (service provider).

A different woman believed the sexual encounters with her husband were also a way for him to control her and she was told that 'this is just what we do in Australia' (victim/survivor). This led most of the women to believe that what they were experiencing was normal in Australian culture. For example, one woman remarked:

Some of the things I never knew I was being abused. I thought that women here in Australia do the same (victim/survivor).

Other women experienced pressure to have children, by both their husbands and their mothers-in-law. One woman said she was pressured by her mother-in-law and 'coerced by [her] husband to have sex every day and was not allowed to use contraception' (victim/survivor).

One woman's husband attempted to pressure her into prostitution by telling her that 'when a person living in Australia doesn't speak good English, what they do is to sell their body because they cannot do other things' (victim/survivor).

Finally, in an example of the degree to which the women were socially isolated and prevented from interacting with the wider community, some participants recounted instances when they required medical assistance but were denied the opportunity to seek treatment. Most commonly, the reasons why women were denied medical treatment related to the cost of seeing a doctor and buying medicine. One woman asked her husband if she could see a doctor but was told that because she had seen a doctor on a previous occasion she was not allowed any subsequent visits as it would cost too much. Another woman disclosed that:

The many times I got physically sick when living with my husband, it was a real struggle to convince him to help me to access medical assistance...both of my children got sick and I

requested my husband to take some leave at work since I was also getting sick and my body was asking me to have some rest. My husband said no to my request and I was getting sicker and sicker...I was diagnosed with pneumonia in one lung (victim/survivor).

The victim/survivor's traumatic experiences were often exacerbated as a result of being deceived and exploited by their intimate partner. As one service provider explained:

With [human trafficking involving] domestic violence and family violence it is hard because women are so damaged at the end of it...it's intimate violence. It's at the hands of someone that they trust and love.

Financial abuse

Many of the women experienced severe financial abuse and control. Most were exploited for their ability to earn an income for their partner and supply their partner with additional income through social support payments; however, the women also reported being targeted for their wealth and assets. Specifically, two women believed that their husbands had married them and brought them to Australia because of their ability to work and exploit them financially. One woman told of how her husband learned about her savings when she reported it on her forms to Australian immigration:

He asked to see my passbook and saw that I had [amount of money]...I worked very hard for this money...On two separate occasions [my husband] asked me to loan him money...I gave him the money and expected that he would pay me back some time later...I was not thinking he was going to cheat me (victim/survivor).

Another woman said that her husband thought she was a 'golden egg' and that he married her to 'improve his economic situation' (victim/survivor). His parents also thought she was a 'good, strong, stable woman that could take care of him' (victim/survivor). She remarked:

I wondered why he wanted to marry me, maybe because I have a job and money and because I study. When we went to my brother's factory his eyes became very bright like he saw something golden, he was hunting for gold (victim/survivor).

Other financial abuses experienced by victim/survivors included:

- having wages, social security and Medicare payments redirected to husbands' bank accounts;
- being denied access to existing bank accounts and being prevented from opening own accounts;
- being denied knowledge of the husband's financial position and the family's assets;
- control over finances and restricted access to money by husbands; and
- not receiving agreed payment for domestic and other work.

For example, when one woman found a job, her husband filled out the employment forms on her behalf and nominated his own bank account for where her wages should be paid, despite having her own bank account. When she asked for her money, her husband would get angry and claim that 'the [automatic teller machine] is closed' (victim/survivor). Further, he linked her personal account to his own, which meant that he could access information regarding her personal financial matters. With this knowledge, he would take her bank card and make cash withdrawals as well as buying appliances, electronic equipment and furniture. A second woman was given only \$20–25 per week from her husband to take care of herself and her child, while a third was given \$50 each week for three years to live off.

Stakeholders provided knowledge and consequences of similar financial abuses faced by other victim/survivors in their care. One service provider explained the lack of financial freedom imposed on victim/survivors:

They don't get access to any finances, or the money is applied for through Centrelink on their behalf and then they are restricted access to that. They don't have access to what they are entitled to.

Another service provider revealed that sponsoring husbands will:

provide assurance of financial support to the person, which [was] a condition of entry to Australia [until 1 January 2012]. When [the victim/survivors] find they have no money and they apply for what they feel they would be entitled to through Centrelink they are told they have an Assurance of Support, whether it's their mother-

in-law or the husband who has said they have enough money to support the person and they find they don't have access to anything else because someone has said they can provide the financial support to them. We see several mechanisms into how that person is controlled. They are very dependent.

Other stakeholders expressed how financial control restricted a person's freedom. One service provider explained:

If they don't have identity documents or a dollar to their name, leaving the house and not knowing where to go is daunting because of all the vulnerabilities attached to being a migrant in an unfamiliar place.

In addition, stakeholders provided details of cases where women have been deceived about their husband's financial position and once in Australia they are coerced to work, usually in the sex industry, to provide money to their husband. This allows the husband to exploit the women for their labour and ability to earn an income for him, as well as to exploit her in the home as a domestic servant. The sex industry is chosen as the ideal type of work because large amounts of money can be made in a short period of time and because the women are made to believe they will not be able to find employment in other industries due to their limited education, qualifications and appropriate skills and language capabilities.

While financial risks are commonly associated with exploitation in labour industries, as well as romance and online dating scams, often there are fewer acknowledgements of the personal risks. For human trafficking involving marriage, the personal consequences can be greater than financial loss:

It's not as if men are going around and plucking people out, they are pursuing relationships with people. They are leading them to believe this is what they want. We have read letters that have been sent from potential husbands during the dating phase, if you knew no better, it would look pretty legitimate. The women are genuinely broken hearted...they genuinely think the person loved them (service provider).

Abuse of children

All but two of the women interviewed for this study had children aged less than 18 years, either as a result of their marriage to their Australian sponsor or who resulted from a previous relationship and had migrated to Australia with them. In all of these cases, it was reported that the children witnessed and/or experienced serious psychological, physical and/or sexual violence. Types of violence witnessed and/or experienced by children included:

- slapping, pushing and hitting;
- household objects being thrown, broken and smashed;
- yelling and verbal abuse;
- witnessing and being subject to sexual violence;
- being denied medical assistance; and
- being denied adequate food.

For example, one woman described her husband's violent behaviour in front of her children as follows:

He used to break things. When he got angry he broke things. He broke a fortune of mobile phones. He used to break chairs sometimes. One time he broke the glass dining table. I get scared when he shouts. I was shaking (victim/survivor).

Another woman revealed that:

[me and my children] were often hungry because we didn't have enough food (victim/survivor).

Although there are currently no data on how widespread a problem the abuse of migrant children might be in Australia, these cases highlight the importance of assessment and support for children involved in such cases, in addition to support for the migrant women.

Experiences of exploitation

Based on the experiences of victim/survivors and the expertise of stakeholders, the indicators of human trafficking, slavery, slavery-like conditions (eg servitude) are discussed below.

Domestic servitude

In addition to the extreme abuse perpetrated by the husbands and the men's families, women also

experienced a number of specific indicators of exploitation associated with human trafficking.

All of the eight women experienced living conditions that could be classified as domestic servitude. The women in the sample compared their lives to being in a jail, like a prisoner, like a slave and like a servant. One woman spoke of being 'treated like a possession' (victim/survivor). Another was told by her husband:

These are the rules and regulations. You should be caring for everything in the house, doing the cooking, washing, cleaning, and whenever I go to the shower you have to give me my toothbrush and towel. You must iron my clothes and make my food whenever I like and whatever I like... You must care for me... You are here to do the housework. I brought you to give me money and help me in the house. If you don't do those things I will send you back. Otherwise it's no use keeping you here (victim/survivor).

The women talked about excessive housework and having to persistently care for their husband's extended family and other children. On the day that another of the participants arrived in Australia her husband said to her:

I want you to look after my parents because I don't have time. I have to be with my girlfriend (victim/survivor).

She continued by saying:

When I arrived in Australia, my husband and I never shared the same bedroom. There was a room for me to stay in. My husband and his girlfriend left to stay at their own place... They only came over when they needed something... There were 16 people living in the house... My life was like a slave... there was always work to do in the house. My mother-in-law was always with me... I hardly ever got any rest or break during the day. If I sat down for 5 or 10 minutes my mother-in-law would find me something to do (victim/survivor).

Evidence from family members of the participants also revealed the extent of women being exploited through domestic servitude. One witness observed that one of the women

was treated like a servant by her husband's family. She was expected to do everything for

[her husband's] family. She did all the cooking and waited on [him] and his family. I saw that they did nothing to help [her] and acted like guests in their home (victim/survivor case file).

Evidence from stakeholders is consistent with that of victim/survivors. Knowledge of domestic servitude extended to victim/survivors being responsible for all household chores—washing, cleaning, cooking, caring for elderly or infant family members—and being restricted in their ability to rest, leave the house, use the telephone and contact family members and friends.

Deprivation of liberty and restricted movement

In contrast to the small number of women who were encouraged to leave the house for work and to study English to improve their employment opportunities, the majority experienced acute isolation and surveillance by their husbands and his family. For these women, opportunities to work and study were discouraged, they had limited involvement in the community, communication with their family and friends was restricted, their movements were controlled and monitored, and sometimes they were forbidden from leaving the house for long periods of time. Victim/survivors described how their husbands went to great lengths to maintain surveillance, isolate them and deny their independence, such as disconnecting telephones and internet connections, not permitting them to learn to drive or obtain a driver's licence, disallowing them from leaving the house without being escorted, and being intimidated and coached into concealing their experiences in the home. One woman was told that 'anything that happens in the house just keep it inside, don't say anything to anyone' (victim/survivor). Another woman disclosed that

since I don't have close relatives in Australia I became very isolated and powerless to change things at home... I was confined to home on the days my husband worked... Living with my husband I experienced a lot of isolation and loneliness. I didn't have a key to my house... My husband had disposed of a personal phone contact book I had in the kitchen with the numbers of some friends I had made... I knew that my husband's intention was to perpetuate my isolation in this country (victim/survivor).

One woman described how she accessed DIBP's website and found a list of things that immigrants should do once they move to Australia, including opening a bank account and obtaining a tax file number, however, when she showed this list to her husband he became verbally abusive towards her and would not allow her to accomplish any of the items on the list. This husband's way of controlling the woman and her children was not by forcing them to obey his wishes, but by denying them basic ways of participating in society.

Significantly, the women's isolation largely resulted from restricted movement and freedom. Women's experiences included being locked in the house during the day and at night if the husband was out, being locked out of the house at night and being forced to sleep in the backyard in winter, and being accompanied at all times, even when travelling overseas, usually by the mother-in-law. One woman said:

[my husband] always told me not to tell my mother what was happening here and he warned me not to have any association with any friends here. I am not allowed to go out during the day...I am not allowed to associate with my friends and my family. Each time I go out I have to tell him (victim/survivor).

Similarly, another woman revealed:

If I wanted to go [outside the house and to the city] I had to go with his mother or his sisters or him. They thought that maybe I would get in contact with my parents to tell them what was going on. They didn't want my parents or my family involved because they wanted to keep me under control (victim/survivor).

In contrast to the physical restraints that women experienced, stakeholders explained that victim/survivors in their care often had a psychological bondage with their husbands. One service provider elaborated that:

even though the door is open and the person may be free to leave, they are psychologically attached to their offender, because that person has taken them out of their unstable life that is characterised by poverty in their home country.

Women's experiences of being restrained through psychological means include their financial

dependence on their husbands, knowing their husband is their sponsor and thus responsible for their residency in Australia, being threatened with deportation, threats of their children being taken from them and being told that their neighbourhood is an unsafe place and as a result they should not leave the house or talk to people.

Threats of deportation

Participants were regularly threatened with deportation if they tried to leave the marriage or they did not comply with requests from their husband and his family. Threats of deportation were made by both the husbands and members of his family. One woman was told by her husband 'I can destroy you because you are an immigrant' (victim/survivor), while another was directly threatened with deportation:

I will return you to [country X]...The law in Australia says that in the first two years of marriage if the husband says he doesn't want to live with his wife anymore, then he can send her back (victim/survivor).

Another woman described how her husband used the threat of deportation to control her:

My husband knew that my soft spot was to be sent back to [country X] and he used this to his advantage. He knew that it would be a disaster for me and people would look down on my family (victim/survivor).

Control of passports and personal documentation

Only one woman reported that her husband tried to take her passport, however, she convinced him that she needed it for her employment and because he encouraged her to work as much as possible he allowed her to keep it. This finding is in contrast to evidence that confiscation of personal documentation and passports is a key part of the control that offenders exert on their victims (APTIC 2009). However, it supports the emerging evidence that human traffickers are using less overt methods of control because of the psychological bondage they create (APTIC 2012).

Exiting the situation

Victim/survivors employed diverse help-seeking strategies, both formal and informal, to exit their exploitative situations.

Informal help-seeking behaviours

The victim/survivors in the study most commonly sought help from informal sources, such as friends, family, neighbours and people in the community. It was these less formal sources that often provided a first point of contact for seeking help. A study on effective options for help-seeking in cases of domestic violence demonstrated the importance of informal sources of help, as these were the most prominent sources chosen for support (Meyer 2010). This research found that 'positive reactions of family and friends...encourage[d] more formal or professional help-seeking decisions, including the utilisation of law enforcement, counsellors, crisis accommodation and financial support' (Myer 2010: 1). It is therefore important how the community responds. In the current study, victim/survivors utilised informal sources of help in several ways.

Victim/survivors most often sought assistance from people they knew personally, such as neighbours, family and friends. For example, one victim/survivor (interview 2011) described seeking the help of a neighbour to call her parents (which she was not permitted to do by her husband) in order to alert them to the situation and to gain their approval for her to escape. With the support of her family, and following her sister's migration to another Australian city, this victim/survivor was able to escape her exploitative situation, taking her three young children to stay with her sister and her sister's husband, before relocating to a women's refuge on their advice.

Another woman described being so frightened that her husband would harm her that she snuck out of her house during the night to seek help from a neighbour. While this woman's neighbours attempted to comfort her, they also incorrectly informed her that as her husband had not been physically violent, she could not report her situation to the police. Although this victim/survivor returned home following this attempt to seek help, she ultimately exited the situation by fleeing and staying with a local friend. Initially, this

strategy meant leaving her children with their father; however, the victim/survivor removed her children from the situation a number of days later by picking them up from childcare. Once out of her exploitative situation, this victim/survivor sought help from a community worker and was referred to a women's refuge.

Several women also reported leaving their situation with the help of other migrants. For example, one woman's friends advised her to go to a migrant resource centre for assistance, who then contacted a domestic violence shelter to help her to exit her exploitative situation.

Of concern is that a number of women who sought help from people they knew who failed to act or who encouraged them to go back to their homes and deal with the situation as a private matter to be resolved with their husband. For example, one victim/survivor explained that when she confided her abusive and exploitative home life to a family friend she was told by her family friend that she was unable to assist her:

[My mother's friend] asked me how life was at the house and I said I did not like it and wanted to move out. She said there was nothing she could do because it was an issue between me, my husband and his family (victim/survivor).

Another victim/survivor explained her attempt at seeking assistance from a neighbour who had overheard the violence in her home. She said:

One time the neighbour said to me 'I don't like what I am hearing and next time I will call the police'. I told her 'yes, please do', but she never did (victim/survivor).

Stakeholders reported knowledge of similar scenarios where women were not assisted by neighbours, family and other members of the community due to the private nature of their problem. One example provided by a victim support provider involved an exploitative arranged marriage between a man and woman whose families did not know each other and were from different parts of Australia. The woman initially left her violent situation with help from her neighbours and entered a domestic violence shelter. However, the wife reunited with her husband in response to pressure from her family and was taken abroad.

Formal help-seeking behaviours and detection by authorities

Mainstream and migrant community organisations and education providers played an important role in assisting half the women to leave their exploitative or violent situations. For example, on arrival in Australia, one of the victim/survivors was given a pamphlet on community centres and decided to enrol in a course. While at the community centre, there was a presentation on domestic violence. While listening to the presentation she recognised that she was experiencing domestic violence perpetrated by her husband. After the presentation, she spoke to a social worker who provided her with counselling and referred her to a women's refuge that assisted her to leave her violent situation. Another victim/survivor was helped to leave her situation by a friend who was an English tutor who she met while taking English lessons. Her friend put her in touch with the local community centre where she was provided assistance. These help-seeking behaviours illustrate the importance of community and educational centres in assisting immigrant women experiencing abusive and exploitative marriage situations.

In the current study, only two of the eight victim/survivors left their situation with the assistance of formal authorities. On both occasions women were assisted by social workers at Centrelink, who referred one woman to a refuge and another to the Domestic Violence Crisis Service after she sought help because she did not have enough money to live. In another case, a third woman called the police in response to escalating threats of violence from her husband. She believed that police involvement was a useful immediate intervention, however, after a short period her husband's behaviour became abusive once more and she feared the consequences and reprisals she may face if she were to contact the police again. This woman chose not to report her experience to police once she exited the situation and was receiving professional support because she thought the police would believe her husband over her as she had complained to the police once already.

While the majority of the cases of human trafficking and related exploitation involving migrant spouses appear to be detected through

less formal means, stakeholders (interviews 2011) reported instances where formal authorities, such as police and immigration officials, had also detected and responded to cases. Cases had been brought to the attention of stakeholders in a number of ways, including:

- state or territory police intervention following an escalation in domestic violence matters;
- NGO referrals to the AFP;
- Centrelink referrals to domestic violence or other victim support services;
- referrals from the public to DIBP, mostly related to concerns about visa issues;
- clients seeking sexual services;
- Consulates and embassies, for example where a victim/survivor sought advice on their passport or visa; and
- parents of victim/survivors reporting violence to the police.

DIBP also detected possible cases of sham marriages when victim/survivors sought assistance to apply for a divorce. In these scenarios, the relationship between the victim and the trafficker had ceased, but the victim was still married to a person they had no genuine relationship with, or who they might not have been able to locate. They therefore contacted Immigration to seek information on obtaining a divorce, at which point DIBP could investigate and identify the situation as one of exploitation, human trafficking or visa fraud.

Identification of victims in these ways is somewhat different from how victims of non-domestic exploitation are usually detected. Cases of labour exploitation, including in the sex work industry, are commonly detected by DIBP while investigating breaches of visa conditions that are then referred to the AFP. Notably, cases are rarely reported to formal authorities as suspected cases of human trafficking or related exploitation.

Barriers to exiting and help-seeking

Victim/survivors and stakeholders identified a number of barriers that prevented victim/survivors seeking assistance to exit their exploitative situations. These included:

- victim/survivors' lack of knowledge with regard to the existence of social services, the law and their rights in Australia, including the existence of the Family Violence Provisions;
- lack of permanent residency and fear of deportation;
- cultural disparities regarding gender and marriage that resulted in victim/survivors not identifying their experiences as being illegal or abusive;
- fear of reprisals;
- shame and stigma; and
- mistrust of police.

These issues appeared to often be exacerbated by:

- lack of family ties in Australia;
- social isolation;
- a sense of obligation to stay in a relationship; and
- pressure to conform to cultural traditions of male dominance.

In some cases, these barriers were actively fostered by victim/survivors' husbands, who almost universally sought to prevent their wives from seeking help by deliberately misinforming them about the role of police and about the ability they had, as Australian sponsors, to send their wives 'back home'.

Victim/survivors' lack of knowledge about the Family Violence Provisions and fear of deportation

The reasons why women stayed with their abusive partners was not assessed, however, it has been argued that:

the fact that under the visa system a marriage or relationship needs to be genuine and continuous for two years in order for the migrant woman to obtain permanent residency, means the woman is completely dependent on her partner for that period (Schloenhardt 2009b: 6).

This belief was entrenched in one woman who was repeatedly threatened with deportation by her husband. Another woman said she did not contact the police because she was afraid she would be separated from her son and have to go back to her home country because she did not have permanent

residency yet. She stayed in her situation for three years until she was granted permanent residency, but still did not go to the police because she believed she would lose her son. These fears were perpetuated by her husband who took advantage of her lack of English and lack of knowledge about immigration law.

Although the family violence exception exists to enable victims of family violence to leave their abusive husbands and still remain in Australia, only one woman used these provisions to remain permanently in Australia after she escaped her abusive situation. The limited use of these provisions may be explained by migrants being largely unaware of their existence or availability to them. Further, even if migrant victims of domestic violence know about the special provisions, they may not seek help or report the violence because they do not recognise their experience as domestic violence, are fearful of the outcome including risk of deportation, perceive a poor response from the criminal justice system and feelings of shame (Schloenhardt 2009a; 2009b).

Cultural disparities

The impact of disparate cultural perceptions about gender and the institution of marriage are evident in the stories of the victim/survivors. One woman spoke of her husband's very strong views about gender roles and how she would not be allowed to do anything without his permission. Consequently, she suffered tremendous isolation and emotional, financial and psychological abuse. Because of his cultural background (which was the same as hers), he had traditional views about gender roles, specifically that 'women should stay at home, bear children and be the primary carers of the children, while men are the breadwinners and have total authority over their wives' (victim/survivor). She remarked that:

From the beginning of my marriage my husband was very controlling and domineering. He was the one making the household decisions; he decided on my behalf without consulting me or even asking for my opinion (victim/survivor).

Another victim/survivor gave insight into her husband's views about gender and marriage by relaying a conversation in which he stated:

I better marry [country X] woman, at least she will sit at home, she doesn't go anywhere even shopping. I drive for her. Even she will not dare to go for shopping. I will buy for her, bring it home and she will sit in quiet, have children and raise them and that's it (victim/survivor).

Only after years of living in controlling and exploitative conditions did a third woman realise that this was not normal and 'started to realise that other women in Australia enjoyed more freedom and autonomy' (victim/survivor). Another confessed:

I didn't know a lot of things about Australia and how I could be protected, but in my culture you must follow your husband all the time (victim/survivor).

This same woman revealed that she felt her marriage and her situation was her responsibility and this was the reason she delayed seeking help:

I don't want to upset other people. It's my problem (victim/survivor).

A victim support provider explained how another 'did not think it was wrong because it was normal to her' (service provider).

Additional insights provided by the research participants revealed that many women did not associate their situation as being illegal, abusive or exploitative and overwhelmingly, respondents were poorly informed about the culture, laws and their rights in Australia. For example, one victim/survivor disclosed that she thought her husband's behaviour was typical of Australian men:

I thought everyone was like [my husband]. I was frightened of everyone. I didn't talk to anyone around me (victim/survivor).

Another victim/survivor conceded that her culture and the customs of her upbringing impeded her ability to identify her husband's behaviour as abusive and to leave her exploitative situation:

Gender roles are very marked and views about some issues are very different to the Australian views...I did not think to call it an act of violence. But somehow I always felt belittled and worthless living with my husband (victim/survivor).

Most stakeholders identified key personal and family circumstances that increased the risk of trafficking and exploitation—cases where a man

chooses a woman from a foreign country, where the woman is isolated from friends and family in Australia, cannot speak proficient English, is unaware of Australian culture and law and is therefore dependent on her husband. In these circumstances, the balance of power within the relationship is skewed and increases the potential for the men to control, exploit and abuse.

Power imbalances in cases where women are victimised were thought to stem, in part, from cultural expectations of marital relationships. Generally, stakeholders described marriages in which the wife was expected to be traditional, submissive, dutiful, compliant and obedient, and where men experienced more freedom, autonomy, assertiveness and control.

Representatives from an NGO explained that 'women do not identify as victims because culturally they have been brought up knowing that a wife serves her husband in the home' (service provider). These findings are consistent with the argument that

[s]ome refugee and immigrant women do not see sexual violence within marriage as a 'real' crime, or they may hold a sense of obligation to stay in the relationship due to religious beliefs or traditional attitudes and rules developed during their upbringing (Allimant & Ostapiej-Piatkowski 2011: 6).

Allimant & Ostapiej-Piatkowski (2011: 9) argue further that:

[at] a family and community level, sexual violence by a husband may not even be recognised as criminal behaviour. If a woman was to seek help—for example, for sexual violence by her husband—she may fear the subsequent loss of her relationship and her family as the crime may not be recognised by her community.

Fear of reprisals

Some immigrant women

have a legitimate fear of reprisal or escalating violence if they speak out against sexual abuse and/or domestic and family violence. This may be associated with fears of being disbelieved or blamed, and possible exclusion or persecution

from their community (Allimant & Ostapiej-Piatkowski 2011: 8).

Traffickers can also perpetuate this fear by telling women to remain silent and avoid talking to government, law enforcement, teachers and social workers, as otherwise they would be deported. This deliberate isolation of the women ensures they do not receive information, gain knowledge and start to understand that what is happening to them is illegal.

Shame and stigma

Further, in some countries, 'divorce is not culturally acceptable and may lead to social isolation' (Schloenhardt 2009b: 6). As stated by a service provider:

Cultural factors definitely play a huge role. Women feel like after they have experienced that kind of situation there is no way they could return home to their family as a divorced or separated woman. In some instances where the family hasn't approved of the marriage and then they go back as a divorced woman, they are alone there too (service provider).

Similarly, many of the women interviewed for this study expressed shame associated with divorce and failing to build a safe home for their family, and subsequent consequences. For many, returning to their home country was identified as bringing shame on them and would add to the trauma they have already experienced. One woman expressed that in her home country there is a considerable amount of shame inflicted on women who leave their husbands; they are considered to be prostitutes. Another woman did not seek help because of the shame and the consequences for her and her family:

people would look down on me and my family. We would lose face and be embarrassed. No one would marry my younger sisters because of the scandal. I would not be valued in my community. I feel ashamed of myself (victim/survivor).

Another woman also 'felt so much shame with the thought that my parents would know my marital situation after just four days in Australia' (victim/survivor). Another told how in her culture, there would be great shame if the marriage did not succeed and she returned home:

I couldn't share all the problems about myself to my family...I did not want my kids to know or hear me depressed (victim/survivor).

A different woman explained that although she had opportunities to inform her family of her situation, she chose not to. She said:

When I had the chance to call my parents I didn't do it because I was too afraid [my husband] would find out or maybe one of his friends would see me. I didn't want to get my parents in trouble or me in trouble (victim/survivor).

The ALRC (2011: 494) has also argued that

many victims of family violence find it difficult to return home due to cultural stigma, financial constraints and other reasons, if the marriage does not eventuate. In the worst case scenario, a person may risk persecution upon returning to their country of origin having failed to marry.

Stakeholders articulated similar concerns about the safety and wellbeing of women being repatriated after leaving their partner:

In some cases we have seen that the husband is well aware of what that marriage has meant for the (victim's) family and that person then can't go back to their family. They are using that as another kind of pull to keep that person there (service provider).

Consequently, '[f]ear of the shame of separating from their spouse, or not reporting incidents of domestic violence, may also result in exploitation or continuing abuse' (Schloenhardt 2009b: 6).

Therefore, stakeholders (interviews 2011) expressed how important it is for victims to obtain permanent residency as they cannot go home for fear of being shamed, stigmatised and persecuted by their family and community.

Perceptions of police and consequences of reporting

The majority of the participants did not contact the police for assistance to leave their exploitative marriage. While this may be explained by the women being unable to recognise their situation as abusive or exploitative because of cultural norms in their country of origin, women also expressed that distrust in

police, police corruption, fear of deportation, and reprisals from their husbands and his family contributed to their inability to seek formal help from law enforcement. Women reported feeling 'scared to contact police' or report to police 'because of the repercussions', as well as being fearful of the retributions they could face from their husbands. One woman expressed the fear her husband instilled in her if she was to leave her situation:

He had a certificate to be a private investigator and he said he could find me anywhere, he told me he would find me (victim/survivor).

A number of women also expressed concern about the legal consequences of escaping their situation and taking their children with them as this might be viewed by the police as abduction. Further, women were advised that the police would not be able to help them unless they could show physical signs of abuse. One woman was told by her husband:

I will not hit you because I don't want a problem with the police report (victim/survivor).

Another told of how her husband would try to control his physical abuse because he knew he would get in trouble with the police. A number of women spoke about the alleged corruption in the police forces in their home country and how this influenced their decisions to contact the police for assistance in Australia. For example, one victim/survivor explained that:

It's [country] mentality. Police never will help you. I never called police.

Stakeholders confirmed the lack of trust that migrant women sometimes have in law enforcement and the criminal justice system:

There is rarely a legal outcome at the end of these cases. They [the police] don't proceed because there is no support from the victim; because they don't understand and because they don't want police involved. They have a misunderstanding of what the role of the police is in Australia compared to what is in their home country (service provider).

On the small number of occasions where women chose to involve the police, they did not receive the expected outcome of their attempt at seeking help. The Global Alliance Against Traffic in Women (GAATW nd: 3) has argued that

[p]olice often have not been trained to identify a servile marriage as a trafficking case, not least because of the erroneous but widely held notion that human trafficking is limited to the sex industry.

Similarly, in the cases where women chose to contact the police, their situation was not recognised as exploitative or considered anything other than a domestic dispute.



Discussion of emerging themes

The following section provides a discussion of the key themes that emerged from the research. The structure of this section follows the chronology of the trafficking process, beginning with themes that emerged from the process of victim/survivors entering their exploitative situations, followed by themes that emerged throughout the period of exploitation and concluding with themes that emerged from victim/survivors' experiences of seeking help and exiting their exploitative situations. Cultural influences are pervasive across the trafficked persons' entire experience and are therefore discussed separately.

Do these experiences constitute human trafficking?

These qualitative data highlight the diversity of experiences of some of those women who migrate to Australia as fiancés and wives and are subsequently seriously exploited. The women who participated in this research came from a range of cultural backgrounds, age groups and economic and family circumstances. They met their future husbands in varied ways and revealed a diverse range of reasons for migrating to Australia as fiancés and wives of Australian men. The exploitation experienced by the

women also varied considerably, as did their methods of exiting their marriages.

The implications of the women's stories for preventing and responding to such cases will be considered in detail in the next section. First, it is important to consider whether these women's experiences constitute human trafficking.

As outlined earlier in this report, the United Nations deems human trafficking to have occurred when an individual is recruited, transported, transferred, harboured or received, by means of the threat or use of force or other forms of coercion, for the purpose of exploitation. The experiences of many of the women who participated in this research meet this definition. Indeed, a number have received support from specialised services as victim/survivors of human trafficking.

Importantly, these women's stories do not simply reflect instances of domestic violence against migrant women. While domestic violence against migrant women is clearly a serious issue (Quinn 2009; Taylor & Putt 2007) and can result in extreme harm including the death of the victim (Cunneen & Stubbs 2000), the current research contends that in some cases, the experiences of the victim/survivors constitute human trafficking. This is the case for two primary, interrelated reasons. First, the exploitation experienced by some of the women amounts to

servitude, which is one of the exploitative purposes identified by the UN Trafficking Protocol and defined as a slavery-like offence under Australian law. ‘Servitude’ refers to practices that are not as severe or serious as slavery (Gallagher 2010), but that seriously limit the freedom and agency of the victim (see Division 270.4, *Criminal Code 1995* (Cth)).

As described in this section, women in this study variously reported being denied freedom of movement and liberty (eg being locked in their homes, escorted constantly whenever outside the home, having their passports confiscated), being forced to provide services (sexual, domestic and/or reproductive) to their husbands and their husbands’ families, and/or having few genuine opportunities to improve or escape their exploitative situations.

Second, it appears that in some cases at least, the perpetrators of these women’s exploitation had intended to deceive the women into migrating to Australia in order to seriously exploit them. This intention is a critical component of human trafficking offences—trafficking occurs ‘if the implicated individuals or entity *intended* that the action...would lead to one of the specified [ie exploitative] end results’ (Gallagher 2010: 34; italics in original). While victim/survivors of human trafficking undoubtedly experience numerous other crimes—

they are subjected to threats, to physical and sexual violence, or to being locked up; their passports are confiscated; they are forced to work without any payment (Bales 2005: 129)

—it is this link between the action and the intended exploitation that constitutes human trafficking.

As the then Special Rapporteur on Human Trafficking, Radhika Coomaraswamy (cited in Gallagher 2010: 25) puts it, ‘it is the combination of the coerced transport and the coerced end practice that makes trafficking a distinct violation from its component parts’. ‘Coercion’ here is an umbrella term that includes violence, threats and deceit (Gallagher 2010).

While this study cannot claim without doubt the connection between action and exploitative purpose in the victim/survivors’ experiences because alleged perpetrators were not interviewed for this study and the cases have not been tested in a court of law in

Australia, the evidence provided by victim/survivors and the professionals familiar with the victim/survivors’ cases (and other similar cases), strongly suggests a link to human trafficking consistent with the international definition.

Consent in cases of human trafficking involving marriage

The UN Trafficking Protocol stipulates that consent on the part of a human trafficking victim is irrelevant where any of the means elements listed in the Protocol have been used (ie threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability or the giving or receiving of payments). Indeed, as Vijayarasa (2010: 217) argues, ‘voluntariness is inherent in the majority of trafficking situations’ and understanding the process undertaken by victim/survivors to arrive at consent is therefore vital to understanding the drivers of human trafficking.

As suggested above, all women interviewed for this study had consented to their marriage and to moving to Australia to live with their partner. In most cases, however, the women were deceived about a range of important issues, including:

- their husband’s character and occupation;
- the husband’s financial circumstances;
- the husband’s family;
- their husband’s existing relationships with other women;
- what would be expected of them in the relationship (eg whether working outside the home would be expected);
- the conditions they would be living in; and/or
- the nature of the relationship.

For example, one woman had not been informed that her husband was already in a genuine, long-term de facto relationship with another woman in Australia, that she would be living with 16 members of her husband’s extended family, or that she would have primary responsibility for the care of a number of young children and the household’s domestic chores. Representatives of NGOs interviewed for this research were aware of similar situations in which a human trafficking victim/survivor had married an Australian man who, unbeknownst to her, already had a

partner. Similarly, another victim/survivor interviewed for this research was not made aware that her husband had existing relationships with other women in her 'home country'. This woman was told by her husband that once in Australia, her husband would be 'caring, loving and responsible for everything in our life'; in reality, however, this woman found she was 'working full-time in a factory doing hard work all day and then [she] had to do the shopping, cooking, cleaning and personal care for [her husband]' (victim/survivor). She revealed that she also 'had to rake the backyard and cut the grass by hand' (victim/survivor).

Another woman was deceived as to the nature of her husband's occupation and character. While this man claimed to be a war veteran and to be working as a police officer, this woman discovered (as a result of her attempts to seek help for his mental health problems) that he had never served in the police or defence forces and had previously been convicted of impersonating a police officer. This woman explained how her husband's occupation influenced her decision to migrate to Australia:

He told me he was a policeman and I thought about how to be secure for my family in a different country...He told me that we would have a normal life and that my daughter could study and I could work (victim/survivor).

Stakeholders provided similar examples that demonstrated how a woman can be deceptively recruited into marriage (see also Quinn 2009). Domestic violence service providers spoke of women being deceived and how they were made to believe:

they were coming to build a family life, with dreams of having a happy marriage, and under the understanding that the marriage was going to be a genuine relationship where they would be active participants and be treated according to what was agreed when they decided to marry, which was to be respected and to be happy, and be equal and have access to a social life. At the end they have not found that in the marriage when they came to Australia (service provider).

Another case worker explained that men:

marry the victim who is of the understanding that it is a genuine relationship and they will come to

Australia and have a great life and have all the opportunities that Australia might offer, but when they get here it is none of what they were promised. It's quite similar to any other kind of trafficking case; whether it's a job or a marriage they are coerced into believing they are going to come into a certain type of life. There is deception there. So the woman comes here feeling she is going to have a genuine relationship and that she is going to have a family. Then she finds out the husband has another partner and the woman has to look after the family, the house, and do the cooking and cleaning and washing. They can't leave. They can't call their family (service provider).

Similarly, Dinan's (2002: 1115) study of the trafficking of Thai women into the Japanese sex industry found that:

although coercion is central to [the United Nations definition] of trafficking, the process often appears voluntary in its initial stages, as persons agree to offers of lucrative jobs (or marriage offers) abroad, and the coercive nature of the arrangement is not fully apparent until after the destination is reached.

Ray (2006: 914) argues against the dichotomisation of human trafficking victims into 'innocent victims' and 'those who consented', and suggests that consent exists on a continuum. Like Dinan (2002), Ray (2006: 914) argues that while individuals may agree to migrate for work opportunities (and therefore 'consent' to being 'recruited'), they may be unaware of the 'exploitative conditions of the work and the brutal nature of the abuse'. Ray (2006: 914) concludes that

the situation on the ground demands that we respect the initial decisions of these women, and take their exploitation and abuse as the criteria for including them within the context of trafficking (see also Vijayarasa 2010).

This study similarly asserts that although the victim/survivors interviewed 'consented' to their exploitative marriages, some should be considered victim/survivors of human trafficking due to the deception of the women about the marriages they were to enter into and the extreme nature of the exploitation experienced by some victim/survivors.

Further, Vijayarasa (2010: 217) argues for a new approach to human trafficking remedies that views

the relationship between victim and offender as similar to a housing or labour contract:

When one enters into a contract to buy a house, or (to better parallel the nature of human trafficking) a labour contract to provide services as a waitress or construction worker, the contract may be rendered void if the conditions of work are misrepresented or if the potential employee is deceived as to the nature of the object of the contract. While the agreement may have *initially* [original emphasis] been entered into voluntarily, the individual may be recognised as a victim of fraud or deception and entitled to compensation in some circumstances...trafficking should be analysed from a similar lens.

Entering the exploitative situation

Drivers of marriage migration

An important finding of this research is that there are diverse drivers of marriage migration that include economic, personal, societal, cultural, political and familial motivating factors. Understanding these drivers more carefully (including through further research) can help to inform and develop preventative measures to combat human trafficking. Commonly, disparate economic contexts between the source and destination countries contribute to a trafficker's decision to target a particular victim (or group of victims) as well as a victim's proactive migration.

As Gallagher (2004: 9) has argued, 'trafficking, like all other forms of irregular and/or exploitative migration, generally involves movement from poorer countries to relatively wealthier ones'. Similarly, in the context of marriage migration, migrant brides are often depicted as 'marrying out of economic desperation' (Constable 2003: 64). The perception that economic factors largely underpin a bride's decision to migrate for marriage was held by many stakeholders that were interviewed for this study.

A key finding of this study, however, is that women's decisions and motivations to migrate for marriage are far more complex, multi-faceted and

serendipitous than this perspective allows (for general background, see Constable 2003).

Many of the eight women who participated in the research were educated and employed, and in two instances, the women were seemingly targeted for their wealth or ability to work outside the home and earn an income for their husbands. Others identified corruption, war and the difficulty of succeeding in their home country as influencing their decisions to migrate. Importantly, none of the migrant women in this study stated a desire to migrate to Australia specifically. In fact, most did not have a desire to emigrate at all. Further, few of the other women interviewed for this study had specifically sought to find a spouse.

Findings from the current research reflect prior studies that highlight the diverse reasons for victim/survivors of human trafficking and related exploitation to migrate. Constable (2006) also identifies non-material factors, such as the desire to be married, love, compatibility and family expectations, as motivating women to seek foreign marriage partners. In these instances, vulnerability can arise from the emotional nature of the relationships and interactions. Surtees (2007: 40) found that:

while many victims originated from 'poor' and 'very poor' economic backgrounds, a striking number of victims also originated from 'average' or 'well-off' families. Similarly, while many victims of human trafficking have low education levels, these were often consistent with educational levels in the population at large and a small number of victims from countries like Ukraine, Moldova, Romania and Bulgaria also had university and college education.

This is not to say that economic disparities between developing and developed countries do not influence women's decisions to migrate, but rather it suggests that their decision-making processes are more complex than this. Further, it is not only economic disparities that influence a person's decision to migrate but living conditions closely tied to economic situations, for example war, civil unrest, lack of educational opportunities and gendered opportunities. McSherry and Kneebone (2008: 71) found, for example, that:

many trafficked women...are living in countries where law and order and the authority of central government have broken down so that conditions are ripe for their exploitation.

In addition, while family conflicts have been observed as a common reason for human trafficking victims to leave their country (Omer Demir 2010), few of the women who participated in this study had family members that were not supportive or encouraging of their decision to migrate to live with their partner. Several marriages were arranged by parents or relatives that had chosen a spouse for their daughter, or who encouraged a relationship formed through family connections.

This finding is supported by Surtees' research (2007: 40) that found that:

while problematic family relations were, in many circumstances, a catalyst for individuals to migrate, many victims also reported positive and supportive family and community relationships. In some cases it may have been precisely these positive relations (and the resulting desire to support and assist the family) that led victims to migrate.

Similarly, research by Blanchet (2005: 310) found that the:

majority of marriages in [the] sample had the assent of parents, who allowed their daughters to be taken away for marriage or else handed them directly to a man who had travelled to marry.

Moreover, stakeholders perceived that being the only or eldest daughter with inborn obligations to support the family was a significant push factor, especially if there were elderly, ill or young family members.

Importantly, the diverse drivers for migration identified through this research clearly demonstrate that while human trafficking and exploitative migration scenarios occur in a particular socioeconomic context, with women migrating from developing to developed countries, economic factors are not always the sole or even the primary motivation underpinning the victim's choices.

Sham or fraudulent marriages

Sham marriages 'are entered into purely for immigration purposes with no genuine intention that

the two parties continue their relationship once the migrant is in Australia' (Schloenhardt & Jolly 2010: 678). Entering into a married relationship for immigration purposes that is not intended to be genuine and continuing, and arranging a marriage to obtain permanent residence for someone else, are offences amounting to immigration fraud (*Migration Act 1958* (Cth) div 12, sub-div B, ss 237, 240; Schloenhardt & Jolly 2010). In Australia, the *Migration Act 1958* (Cth) outlines sham marriage offences that relate to abuse of laws allowing migrant spouses or de facto partners of Australian citizens or permanent residents to obtain permanent residency (*Migration Act 1958* (Cth) div 12, sub-div B).

A sham marriage can be used by traffickers to facilitate migration to a country by deceiving immigration authorities into granting a visa to the victim so that they can enter and remain permanently in Australia to be exploited. Sham marriages may be used as a method of recruitment for human trafficking into various forms of exploitation, such as domestic servitude, exploitation within the sex industry and forced labour. Traffickers either marry the intended victim themselves or to another person as a method of misrepresenting the relationship status of that person to immigration authorities. These marriages are fraudulent in that 'the woman is not expected to become a "wife" to her husband and indeed might never see her husband after the ceremony' (GAATW nd: 2); however, the woman may or may not be aware that the marriage is contrived.

While the marriages in this study involved serious exploitation, the majority were intended by both parties to be genuine marriages; that is, the parties intended to live together, have an intimate relationship and in some cases, start a family together. In one case, however, the marriage appeared to be sham or fraudulent because the husband did not genuinely intend to live with his wife as a married couple.

Several stakeholders similarly spoke of sham marriages being used to facilitate legal entry to Australia for exploitation in other cases not examined for this research. The marriages were fraudulent due to the contrived nature of the relationship and because there was no intention for the husband and wife to live together as a genuine couple. One

stakeholder provided an example of a sham marriage between an alleged trafficker and a victim that was legally carried out for the purpose of obtaining a visa for the victim:

The woman has never seen that person since. The marriage was used to get her to Australia to help her get a job. The exploitation was not within a family-type relationship setting...it was other exploitation (service provider).

In the case of *R v Kovacs* [2008] QCA 417, the victim was allegedly 'aware that the marriage was a sham only for the purpose of securing a visa to enter Australia' (Schloenhardt & Curley 2011), to work and send remittances to her family in the Philippines. The victim 'was told that she would need to marry a white Australian man in order to assist in obtaining a visa, but that the marriage would be fake' (*R v Kovacs* [2008] QCA 417).

Stakeholders also observed sham marriages being used in human trafficking scenarios in which a trafficker coerces a victim to marry someone they do not have a relationship with but who is paid to do so. This allows ostensible legal entry for the victim and once their exploitation has ended with the repayment of their debt to the trafficker, they are able to remain in Australia because of their Partner visa status. In this scheme, the fake husband receives payment, the trafficker benefits from exploiting the wife until she repays her debt and the wife is able to remain permanently in Australia. Several stakeholders provided examples of these types of sham marriages being linked to cases of human trafficking involving exploitation in the sex industry (interviews 2011). According to stakeholders, sham marriages were needed to give the impression that women from high-risk countries were in a stable financial position and therefore not coming to Australia to work in the sex industry. To pass through this tighter visa regime, traffickers marry the victim to a third party in order to pass immigration processes (stakeholder interviews 2011).

Other stakeholders spoke of cases where women were allegedly trafficked to Australia, but once their exploitation ends they marry an Australian citizen in order to remain in the country so they will not have to face the shame of returning home (stakeholder interviews 2011).

These examples highlight that sham marriages have been used to allegedly traffic women into Australia. Further, they demonstrate that this has occurred with the victim/survivor being both aware and unaware of the sham nature of the marriage. This suggests that being a willing participant in a sham marriage does not operate to protect migrant women from trafficking or related exploitation. Unlike other cases, where the marriage is genuine (albeit used to facilitate serious exploitation in some cases amounting to human trafficking), these cases highlight possible weaknesses in DIBP's processes for detecting marriages that are not genuine. This raises issues for prevention, which are addressed later in this report.

Period of exploitation

Offenders and patterns of offending

Stakeholders generally identified alleged offenders as being the men who marry the victim/survivor. However, stakeholders and victim/survivors also identified the husband's family members as being involved in the violence or exploitation (see below) and possibly the recruitment process. For example, one service provider explained:

We did have some cases where the mother-in-law was involved. But it's hard to know because in other cases I would say the husband definitely perpetrated abuse but the mother-in-law was hand-in-hand with that (service provider).

One victim/survivor also emphasised the controlling nature of her mother-in-law. She asserted that her mother-in-law

[w]anted a young bride so she could bring them [to Australia] and control them. When [the brides] come here they know nothing so they need her and that is the time she can control them in the best way (victim/survivor).

Offenders were most likely to be dual citizens which according to one service provider, is a 'real selling point' because 'there's a real illusion that if you live in Australia you have money'.

There is little information on perpetrators of human trafficking offences, however, the growth of information regarding offenders reveals that 'there is considerable diversity in the characteristics and criminal histories of offenders involved in trafficking crimes' (David 2012: 1). This study contributes to the knowledge base of offenders and patterns of offending in Australia, with particular support for the expanding information on offenders other than organised criminal groups.

Despite stakeholders identifying organised crime groups as typically perpetrating human trafficking offences, interviews with victim/survivors and victim/survivor case file analysis undertaken for this study suggests that alleged offenders who used partner migration to bring women to Australia for exploitation were largely operating on an ad hoc, small-scale basis (see David 2012).

A number of experiences described by stakeholders and victim/survivors for this research also raise concerns about serial sponsorship and women being treated as exchangeable or disposable commodities. One of the husbands who brought his wife to Australia after meeting via an online dating site would regularly email a male friend to express his feelings about his wife. The emails 'made it sound like his wife was a commodity, that he was not happy with the product and that he was going to return her and get another one' (service provider). Another husband who met his wife through internet dating tried to find a new wife online when he decided he no longer wanted to be with his current wife.

Role of the husband's family in perpetrating the exploitation

The Family Violence Provisions specify that in order for a victim of family violence to access the provisions, the violence must be perpetrated by their spouse. However, a number of the women interviewed for this study identified abuse or exploitation that was also perpetrated by the spouse's family, such as extreme surveillance, control and manipulation. For instance, one woman was continuously threatened with deportation by her mother-in-law who told her that 'no-one could send [her] back to [her country] but [her mother-in-law]' (victim/survivor). Stakeholders largely reported the mothers-in-law as the instigators

of and main contributors to the control of the women in this sample, as well as other cases they had knowledge of.

Stakeholders, however, also spoke of the ambiguity of the role of the husband's family in recruiting and exploiting a wife, as well as the difficulty in proving their involvement. One case worker acknowledged that it was often 'unclear' whether 'the husband is influenced by a second or third family member' and how in some cases, even a distantly located relative seemed to be involved:

the grandmother overseas has had influence...It gets quite convoluted (service provider).

Power imbalances

Human trafficking is characterised by victim–offender relationships that are influenced by power imbalances between individuals, communities and countries in relation to gender, class and ethnicity (GAATW nd).

In relation to human trafficking involving marriage, power imbalances are often attributed to:

- the victim/spouse having a lower level of education compared with the offender/spouse;
- a significant age difference between the victim/spouse and offender/spouse (between 10 and 20 years);
- the victim's lack of English language skills, unfamiliarity with Australian culture and lack of knowledge of rights under Australian law;
- the victim's isolation from family and friends; and
- the victim's dependence on the offender/sponsor for legal immigration status (ALRC 1994; Schloenhardt 2009b).

This shows that vulnerability can stem from personal characteristics as well as the vulnerable context in which the victim is positioned.

In the current study, the significant power imbalances between the migrant women and their husbands and his family were evident. Indeed, the findings showed that dependence on spouses extends to emotional, social and financial support and this made it very difficult for victims to leave their situation.

It is clear from the victim/survivors' stories that they lacked English language skills, were unfamiliar with Australian culture and laws, and experienced extreme isolation. What also emerged is the substantial age difference between the husband and wife. Seven women who participated in an interview provided their age and their husband's age at the time they were married. Women were aged between 18 and 49 years at the time they married; with husbands being aged between 23 and 60 years. The smallest age difference between partners was five years, with the greatest being 19 years. Notably, there was a 10 year or greater age gap between the husband and wife in half of the eight cases. In contrast, the findings show that education level was not a considerable risk factor for vulnerability, with the majority of women completing secondary or tertiary level studies.

While some of the women did not share the same vulnerable characteristics or personal circumstances as a typical victim, the victim/survivors were still deceived into situations that enabled their exploitation.

Power imbalances also resulted from the short duration of most of the relationships prior to marriage. Because couples often met in person for the first time at the wedding or shortly prior to the wedding, women had limited knowledge about their husbands, such as his previous or existing relationships, family background, criminal record and financial situation. DIBP representatives interviewed for this research expressed similar concern over marriages that were solemnised by proxy, in which the couple had not met in person as adults. In these situations, it is DIBP's policy to refuse the migrating spouse a visa to reside in Australia; however, there have been instances where the Migration Review Tribunal overturned DIBP's decision (see Box 5). This discrepancy in policy creates two problems. First, it can increase the risk of exploitation and abuse for the migrating spouse. Second, it can increase the risk of visa fraud where couples have no intention to be in a genuine relationship and are using a marriage visa as a means to gain entry to reside in Australia. Aligning the *Migration Act 1958* (Cth) with DIBP's policy can go some way to addressing these problems.

Box 5 Case studies in which Partner visas have been granted when the spouses had not met in person as adults

Example 1: A 22 year old Abu Dhabi-born Australian citizen applied to sponsor an 18 year old Somali visa applicant. The applicant was the cousin of the sponsor's mother; however, the sponsor and the visa applicant had never met in person. They were married by proxy in Kenya four months before applying for a visa. The DIBP decided to refuse to grant the visa on the basis that it was a marriage of convenience rather than a genuine committed relationship with a mutual commitment to a shared life as husband and wife. The Migration Review Tribunal overturned the decision to refuse the Partner visa after ruling that the sponsor and applicant had a genuine intention to live together as husband and wife and were committed to make their marriage a success.

Example 2: A 23 year old Australian citizen from Sudan applied to sponsor a 27 year old visa applicant also from Sudan. The sponsor and visa applicant were cousins, but had not seen each other since they were teenagers. They married by proxy approximately one year before applying for a Partner visa. At the time of application and decision (approximately 2 years apart), both parties were living in separate countries. The DIBP refused to grant the visa on the basis that there was not enough evidence to prove the sponsor and applicant were in a genuine married relationship. The Migration Review Tribunal ruled that the sponsor and applicant did have a mutual commitment to a shared life as husband and wife to the exclusion of all others, that the relationship was genuine and continuing, and that the parties did not live separately on a permanent basis.

Exiting the exploitative situation

Responses to help-seeking behaviours

The community organisations, domestic violence shelters and state or territory police from which the victim/survivors in this study sought assistance did not appear to recognise the women's exploitation as related to human trafficking, but rather as domestic violence. Consequently, cases were most likely to be reported and treated as domestic violence and dealt with under the Family Violence Provisions.

This finding highlights the need for these sources to be aware of the indicators of human trafficking and related exploitation involving marriage to assist with correctly identifying victim/survivors and referring them to the appropriate services and authorities

(discussed below). Specifically, education and awareness-raising initiatives can:

- help authorities and service providers understand that cases may first present as domestic violence;
- ensure that authorities and service providers are aware of additional indicators that might signal that it is a human trafficking situation;
- ensure that authorities and service providers use these indicators in their initial assessment so that victim/survivors of human trafficking are correctly identified;
- identify potential points of intervention; and
- assist victim supports to identify the appropriate services and needs of this group.

If domestic violence support personnel are not aware that 'elements of marriage can rise to the level of trafficking or servitude' (service provider), then the case may never proceed as the more serious human trafficking offence. If someone 'knows about trafficking within the service then they might think to call a more specialised service' (service provider). However, stakeholders believed that 'there are probably many women across the country in domestic violence services who have experienced situations of servitude' and that 'there are trafficking victims being supported by services that wouldn't think that it was trafficking' (service provider). Stakeholders explained that human trafficking is rarely identified correctly because there is no 'mainstream network like domestic violence. It is not like standard assault or people coming out of prison where there are refined mechanisms and support systems. [Human trafficking] does not have that collective network' (service provider). Therefore,

if a person comes to the attention of a domestic violence service initially, that service is checking the domestic violence boxes. That's the boundaries around their work. Most places do not have the resources and the hours that it takes to build someone's story (service provider).

However, even if domestic violence workers are aware of the indicators of human trafficking and suspect that a case may be more than migrant domestic violence or a bad marriage, stakeholders believed that:

Sometimes there is no point going into the

depths of [seeking a remedy through human trafficking provisions] if we know the most effective remedy for that person is domestic violence or family violence provisions...we're about trying to meet the most immediate needs of the individual...their visa is probably going to expire or someone is going to withdraw sponsorship (service provider).

As such, stakeholders reported that:

Sometimes the angle we come at with cases is thinking the best remedy for this person is through the family violence provisions. While we do think about what are the servile-like or slavery-like indicators, they are not strong enough to support that remedy, so they end up filtering in to that domestic violence setting. I think that's what's really hard because a lot of the time the elements of domestic violence are much higher and are much easier to be the most effective remedy for that person...And for some women it's quicker, it's less traumatic, it allows them to just file an application and that be it...there are a lot of subtleties involved in marriage than in trafficking at large (service provider).

Moreover, stakeholders believed that accessing critical services for their clients was easier through the family violence provisions as a victim/survivor of domestic violence as opposed to pursuing those avenues as a victim/survivor of human trafficking:

Access to property or houses is much more accessible because it's quite clear there is family violence. We have a pretty specific response to domestic violence. It's very hard to get other people to see this as more than just domestic violence and how do we have state police look further at 'this is a migrant woman, this is her situation and how is it more than domestic violence?' Because the domestic violence realm is so well-defined they just go 'oh, right, this is domestic violence' (service provider).

Research literature on human trafficking more generally has also highlighted the comparison between human trafficking and domestic violence, and as such, '[i]t is possible that cases...may also be treated as incidents of serious domestic violence or sexual assault rather than trafficking' (Schloenhardt & Jolly 2010: 687; see also Kleemans 2011).

Obstacles for reporting and prosecution

The impact of consent on substantiating evidence

Despite the consent of a victim being irrelevant in cases of human trafficking where coercion, threat or deception have been used, stakeholders still expressed concern about the effect that consent has on investigating and prosecuting cases involving marriage:

I think it does play a really big role in how cases are investigated or prosecuted...I think it has a huge effect...Some people may argue that it's not any different to any other marriage in terms of marrying someone in Australia and they could be totally the person that they're not, and that all comes out afterwards...But we always consider here the element of bound consent: what does consent mean, what are the different elements of consent and where was the deceit to get that consent? Whether it be marriage or whether it be employment, what kind of position has that person been in to give that consent, or coerced into giving consent and what other choices did they have? The vulnerability and the other higher risk factors for migrant populations are what make it distinctly different. They are probably putting a lot more at risk in terms of coming to a new country (service provider).

Another agreed that:

People don't need coercion, threat or force because they are in such poor conditions in their home country that they are consenting or willing to come to Australia despite not knowing their husband's character because their life in exploitative or servile conditions is still better than in their home country (immigration stakeholder).

Stakeholders clarified that consent that appears to be given freely creates difficulty in securing prosecutions for law enforcement because technically the *means* element (threat, coercion or deception) of human trafficking is absent. Although coercion includes psychological oppression, abuse of power and taking advantage of a person's vulnerability (Division 270.1A, *Criminal Code 1995* (Cth)), the apparent absence of overt (or physical) ways used to obtain consent

remains problematic for establishing, prosecuting and obtaining a conviction for human trafficking and slavery offences.

From a law enforcement perspective, allegations need to be corroborated, which can prove difficult in a domestic setting where the offending husband may be the only witness to the circumstances. These factors appear to often result in cases being assessed as domestic violence or a form of exploitation that is unlikely to meet the legal definition and evidentiary requirements to be prosecuted as a human trafficking offence.

The perspectives of stakeholders lends support to Vijayarasa's (2010: 217) argument that '[any] agency exercised by the individual is seen by the courts, police and others as rendering their victimhood impossible'. However, as Vijayarasa (2010: 217) concludes, 'agency and voluntariness should not be a barrier to prosecuting traffickers'. The recent legislative amendments to the *Criminal Code 1995* (Cth) aim to rectify this perspective by stipulating that a victim/survivor's consent or compliance is not a defence to conduct constituting any element of a human trafficking or slavery offence (Division 271.11B and 270.11, *Criminal Code 1995* (Cth)).

Establishing intent

In addition, it can be difficult to establish the intent of the husband and whether they sought to use marriage to traffic a person to Australia for exploitation, or whether they intended the marriage to be genuine but where domestic violence was perpetrated within that relationship. One service provider, for example, expressed the challenge of determining intent:

Who knows what the intention of the trafficker is. Was it always their intention to do that? Who knows how to decide that? Are they just generally abusive? If you have two women and they have both filed family violence applications and he is trying to sponsor a third, that plays into the intention. But sometimes it does beg the question about what the intention was of that person. That's the hard thing because you can't really prove that; you can't really prove that that was always that person's intention to exploit them (service provider).

Law enforcement representatives articulated that distinguishing between visa fraud with the intention to traffic a person and visa fraud for the purpose of gaining permanent residency can also be difficult. Likewise, stakeholders expressed that it is equally as difficult to establish human trafficking from a genuine marriage situation involving domestic violence:

What was the intention of the man in the first place? Was it to bring her out to Australia for exploitation, or was it a genuine relationship to begin with and then it changed? (law enforcement stakeholder)

Although women who migrate for marriage are at an increased risk of domestic violence (Schloenhardt 2009a), human trafficking involving the exploitation of a wife is distinguishable and significantly more serious than a bad or abusive marriage. Stakeholders have identified that one of the key factors that distinguishes human trafficking involving the exploitation of a wife from migrant domestic violence is the presence of servitude or slavery-like conditions. Indicators of servitude and slavery-like conditions include significant loss of freedom, loss of personhood and where the consent of the wife was obtained by coercion, threat or deception.

While Australian legislation states that the crime of human trafficking can be committed if the perpetrator is reckless as to whether the victim will be exploited, the United Nations Trafficking Protocol states that to criminalise conduct associated with human trafficking, the act must be committed intentionally.

Supporting victims through criminal justice processes

Assistance and support plays a key role in a person's decision to speak with police and be a witness at a criminal trial. Assistance is provided through the Australian Government's Support for Trafficked People Program, as well as a small number of NGOs that specialise in providing tailored assistance to trafficked people. In the opinion of victim support providers, victim/survivors of human trafficking or related exploitation involving marriage have similar support and rehabilitation needs as victim/survivors of other forms of human trafficking, mainly because 'they are still a vulnerable and marginalised group' despite specific circumstances.

Primarily, victim/survivors required income support, accommodation, assistance with finding work, rectifying their visa status and caring for their children, medical care, advocacy and legal assistance. Specific needs included assistance with divorce or annulment, applying for an apprehended domestic violence order and applying for permanent residency through the family violence provisions. However, of greatest importance was ensuring that victim/survivors were able to access psychological treatment as this was considered to have the most influence over a person's capacity or willingness to participate in an investigation. One of the greatest challenges in providing the most effective treatment for victim/survivors is the cost and availability of services to meet individual needs:

Psychological services are probably the hardest to get for people who don't have an income to pay for them and people from culturally and linguistically diverse backgrounds may be less likely to engage in mainstream health services. So we need to find psychologists who are willing to work for no money and provide alternative therapies, like art therapy, recreation because people from culturally and linguistically diverse backgrounds may be confronted by the thought of mental health or trauma interventions, especially when it comes to family violence because they shouldn't be talking about what happened in the home. They are very ashamed...and it takes a significant amount of time before that person is able to start verbalising. If I have to identify one specific thing that I think is required it would be access to psychological assistance because that then plays into their capacity to or willingness to participate in any investigation. Those two definitely go hand in hand. I think we are finding a lot of the time the kind of investigation request comes before the other stuff. So they might get their 45 days of settling down time, but 45 days in my opinion as a social worker is not enough for somebody to be able to get to the point of being ready. I understand there are those restraints around being able to collect particular types of information or evidence within a time period, but I think psychological services need to be prioritised more heavily because that definitely does influence somebody's capacity.

Cultural influences

Cultural disparities between the countries of origin and destination, and cultural perceptions about gender and the institution of marriage can contribute to every aspect of a person's trafficking experience. It contributed to how the victim/survivors in this study entered the exploitative situation, it contributed to the exploitation that they suffered and it inhibited their ability to leave or even identify their situation as exploitative or abusive.

This research highlights the perceived differences between the victim/survivor's motivations and the husband's motivations for seeking an immigrant spouse, which in most cases, involved a man seeking a woman with seemingly traditional values towards the institution of marriage and who is 'interested in fulfilling traditional family roles' (Hughes 2004: 51). Further, it is evident that cultural norms are also played out in-country and replicated elsewhere to facilitate human trafficking and associated exploitation. As Seyhan (2009: 36, 39) has argued 'cultural practices concerning gender, ethnicity, and marriage create an ideal setting for becoming a trafficking victim' as some behaviours or activities that define human trafficking might also be regarded as 'customs or rituals by various cultures or nations'. Specifically, Seyhan (2009: 36) draws on literature by Long (2004) to determine that some 'cultural practices provide preconditions of contemporary sexual trafficking'. However, such practices can also lead to conditions of domestic servitude, servile marriage and other slavery-like conditions involving non-sex labour. For example

in southern Vietnam the exchange of gifts at the time of marriage is a common place. In return for this payment, the women are expected to move to their in-laws and provide labor for them (Seyhan 2009: 36).

Research conducted by IOM and the Association of Southeast Asian Nations in Indonesia concluded that 'cultural factors can lead to under-reporting by family members, to protect their reputation and avoid legal consequences for their acts' (IOM cited in Seyhan 2009: 37). Often there are family members involved and women may not wish to prosecute their family. Therefore, they may not reveal all the details of their

exploitation or lie to protect a partner or family members. Further, if a victim/survivor has had their trust betrayed by someone close to them, then it may be difficult for them to trust a stranger from a different country and who holds a position of authority. Fear of reprisals may also play into their willingness to report and provide evidence as a witness.

Service providers spoke about typical responses of victim/survivors to pursuing legal action against offending family members:

they usually don't want to pursue anything further. They just want to be safe, they want to be divorced and they want to start a new life. It's difficult because while legislation can't hurt, I know what the ramifications can be in pursuing an investigation and potential prosecution. That is what we struggle with in general trafficking cases and is the reason so many trafficking cases don't get counted or get prosecutions (service provider).

It is therefore recommended by stakeholders (interviews 2011) that if a case proceeds to court, cultural experts become involved in court processes to assist with providing cultural knowledge and to explain the mindset of a person from a particular culture or country of origin. This could assist the jury to understand the victim's background and how it might influence their attitude and behaviours.

Preventing and responding to human trafficking involving partner migration

As the phenomenon of human trafficking is necessarily viewed within a broader migration framework, solutions and responses are often developed from an immigration or criminal justice perspective, which involves maintaining the integrity of border control programs and prosecuting offenders. In applying a migration lens, there is a risk that other points of view will be overlooked, leading to narrow responses and inherent limitations in what can be done. Consequently, solutions often lack the voice of victim/survivors, which should be at the centre of any approach to combating all forms of human trafficking crimes.

With this in mind, stakeholders working in the area of human trafficking and importantly, victim/survivors interviewed for this study were asked what could be done to prevent instances of human trafficking involving marriage in the future. This section outlines potential strategies for prevention, drawing on these interview data, victim/survivors' stories more broadly and the relevant literature.

Improve provision and distribution of information to migrating partners

In general, the women interviewed for this study reported feeling ill-informed about a range of important topics and the provision of more and better information—and the improved delivery of such information—was considered a particularly important prevention measure by victim/survivors and stakeholders.

Enhanced content of information for migrant partners

Although information materials have been specifically developed for partners migrating to Australia, most victim/survivors interviewed for this study could not recall receiving this information. Most interviewees had arrived in Australia largely uninformed about Australian culture, customs, law and life. Perhaps most importantly, they arrived uninformed about gender roles in intimate relationships and what to do if their relationship was not as they expected it to be. Victims/survivors were unaware of the details of their own unique circumstances, as well as the broader social service context in Australia. For example, one victim/survivor was unaware that her husband's

brother, rather than her husband himself, was her sponsor. Another's knowledge of social welfare services in Australia was so limited she confused staying in a women's refuge with being a refugee. Most others had very limited or no knowledge of services such as women's refuges.

Only two women were able to leave their exploitative situations using the information that was provided to them. One woman received information from DIBP upon arrival (see below) and she used this to seek assistance and subsequently leave her situation. Another read about a support service in a pamphlet she received from the hospital when she gave birth to her child. She contacted the support service who referred her to the Domestic Violence Crisis Service where she was able to access the support she needed to exit her exploitative conditions. These examples demonstrate that if appropriate and useful information is available, women can and will use it to seek assistance for themselves and their children.

Although DIBP (2014a) produces a detailed information booklet for migrants—*Beginning a Life in Australia*—in 38 languages, most women in this study had no recollection of receiving this material. The booklet contains valuable information relating to:

- Australian ways of life, including gender equality;
- the law, including that violence towards family, within marriage and against other people is illegal and explaining that violence is 'behaviour by a person that results in the victim experiencing or fearing physical, sexual or psychological abuse and damage, forced sexual relations, forced isolation or economic deprivation' (DIBP 2014a: 31);
- sexual assault and the legal age of consent, including for sexual relations within marriage. Specifically, that 'sexual assault or violence is any behaviour of a sexual nature that is unwanted or happens without consent—even when this behaviour occurs within a marriage or established relationship. It includes sexual harassment, sexual assault, childhood sexual abuse and rape. Sexual violence is an abuse of power that may involve the use of physical force, threat or coercion' (DIBP 2014a: 32); and
- forced early marriage, stating that it is 'illegal to take or send a child to another country for forced early marriage or to have someone else organise this' (DIBP 2014a: 33).

The booklet also contains information about a relationships advice helpline and website for family relationship issues, and information relating to various services that exist to support victims of crime or violence, including violence in the home.

There are a number of potential reasons that DIBP representatives interviewed for this study gave for the migrant women not receiving this information:

- In instances of partner migration, the Australian sponsor is the 'authorised recipient' of this information, rather than the sponsored migrant partner. Information of this nature may therefore not have been passed on to the migrant partner (either intentionally or unintentionally); and
- The *Beginning a Life in Australia* booklet is not provided in hard copy. Rather, the website for the booklet is referred to in the grant letter to the Australian sponsor. Due to resource constraints and because the letter is a legal document, it is only provided in English.

This restricts access to this information for migrant partners with limited English and/or limited access to or capacity to use the internet. DIBP (2013c: 8) recently acknowledged in relation to the booklet that 'the Department could consider enhancing the content of Partner visa grant letters in order to more clearly set out its availability and the information it contains'.

In addition to enhancing the content of grant letters, the findings of this study suggest a number of limitations of the *Beginning a Life in Australia* booklet (DIBP 2014a) that could be addressed to better meet the information needs of vulnerable individuals migrating to Australia for the purpose of marriage.

First, no information on intimate partner violence is included in the *Family* chapter in the section titled *Marriage and Other Relationships*. Instead, information is provided later in the booklet, in the chapter on *Australian Law*. In addition to information about national, state and territory help lines and services, this section provides the following definition of domestic and family violence:

Violence within the home and within marriage is known as domestic or family violence. Domestic or family violence is unlawful. This is behaviour by a person that results in the victim experiencing or fearing physical, sexual or psychological abuse and

damage, forced sexual relations, forced isolation or economic deprivation (DIBP 2014a: 31).

This definition is a useful one in the context of human trafficking involving partner migration, as it describes many harmful behaviours experienced by victim/survivors, but not commonly recognised as domestic violence—such as forced sexual relations, forced isolation and economic deprivation. Women interviewed for this research frequently stressed that they were unaware that a range of behaviours—including sexual, emotional, psychological and financial abuse—were classed as domestic violence and therefore against the law. Victim/survivors typically adhered to very narrow conceptualisations of domestic violence, considering only serious physical assaults to constitute domestic violence offences. Previous Australian research on intimate partner violence against women from culturally and linguistically diverse (CALD) communities has similarly indicated that migrant women are often unaware of the diverse range of behaviours that are subsumed under the rubric of domestic violence. For example, Taylor and Putt's (2007: 2–3) research on sexual violence against Indigenous and CALD women found in relation to sexual violence that:

many CALD women stated that rape could not occur within marriage since the marriage contract implied consent for sexual intercourse for the duration of the relationship. Several participants indicated that there is no phrase for 'rape in marriage' in their languages. Indeed, in some languages, the word for marriage literally means having sex.

As many harmful behaviours are not identified as illegal by migrant partners, it is recommended that this valuable information be included in the *Family* chapter of DIBP's information booklet (DIBP 2014a). At a minimum, this section should reference the *Australian Law* chapter in which the relevant information is currently included.

Second, in light of the widespread mistrust of police and misunderstanding of their role by the migrant women interviewed for this study (see also Taylor & Putt 2007), it is recommended that information on police currently included in the *Beginning a Life in Australia* booklet be enhanced. The booklet currently states:

In Australia, the police aim to protect life and property in the community, prevent and detect crime, and preserve peace. The police may intervene in family issues where there is a domestic dispute or concern about physical, sexual or psychological abuse. Police are not connected to the military forces. The police do not play a part in politics (DIBP 2014a: 17).

It is recommended that the booklet explain that police can be trusted, are required to act ethically and are subject to external accountability mechanisms that do not tolerate illegal or corrupt behaviour. This is important as the victim/survivors interviewed for this study repeatedly stressed their lack of trust in police due to police corruption in their home countries.

In addition to the information already produced by DIBP, the Legal and Constitutional Affairs References Committee (2012:10) have recommended that DIBP:

develop an information package for newly arrived migrants on a Prospective Marriage visa or Partner visa, which informs such migrants about: the law in Australia with respect to family violence and forced marriages; factors which might indicate the existence of a forced marriage; and how migrants experiencing family violence or a potential or actual forced marriage can seek assistance (see also APTIC 2012; ALRC 2011).

As the ALRC (2011) argues, it is particularly important that Partner visa applicants receive culturally appropriate information about the Family Violence Provisions. Therefore,

the ALRC recommended that...information about legal rights and the family violence exception is provided to visa applicants prior to and on arrival in Australia and that such information should be given in a culturally appropriate and sensitive manner. Ensuring that victims have adequate knowledge about their rights and entitlements is one important factor in empowering them to exercise personal autonomy to leave a violent relationship and not be forced into marriage against their will (ALRC 2012: 2–3).

While concerns have been expressed about the adequacy of the Family Violence Provisions in protecting holders of Prospective Marriage visas from violence and abuse perpetrated by their partner (ALRC 2011), some of the same concerns are

apparent for Partner visa holders. As the DIBP data outlined earlier in this report indicate, the vast majority of migrants who enter Australia as partners of Australian citizens are granted Partner visas rather than Prospective marriage visas. All but one of the migrant women in this study was married outside Australia and entered on a Partner visa. Although there are a number of reasons why they did not seek help or were unable to leave their situation, one of the main reasons was fear of deportation and lack of knowledge about the law and their rights (see further Richards & Lyneham forthcoming). Although the family violence exception would be available to these women, they did not know this and strongly believed, or were made to believe by their husbands or his family members, that they would be deported if their marriage broke down within the two year provisional visa period. Indeed, many of the women stayed in their exploitative situation for significant periods of time, with the longest time being eight years. Further, women were seemingly manipulated to believe their situation was 'normal'. They had little understanding of domestic or family violence and laws relating to violence perpetrated by a spouse in Australia. It is therefore recommended that information to be available to migrants entering Australia on all marriage visa classes regarding the Family Violence Provisions for when a marriage breaks down and the services available to them, both pre- and post- entry.

Enhanced distribution of information for migrant partners

The distribution of the information described above could be enhanced in several ways. This research found that victim/survivors are likely to visit community organisations, education centres and have contact with Centrelink. Therefore, a recommendation of this research is that information could be provided distributed at these places to migrant partners regarding their rights, what they are entitled to and how it may be different from their country of origin. This information could also be made available on posters and in brochures in various languages to be placed in the areas most frequented by foreign partners.

For example, victim/survivors (interviews 2011) highlighted the role of English classes in transferring information that helped them to recognise and exit

their exploitative marriages. Under the government-funded AMEP, migrants who qualify can access free English classes (DIBP 2014a), however as the AMEP is not compulsory, DIBP does not monitor compliance. Sponsors are expected to enable their partner to attend these lessons, if needed, by signing a 'sponsorship undertaking' that requires the sponsor to 'provide information and advice to help [their] partner settle in Australia' (DIBP 2013c: 16).

A number of further suggestions have been made in the literature on human trafficking about the provision of information to prospective migrant partners as a prevention strategy. In its submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade's Inquiry into Slavery, Slavery-like Conditions and People Trafficking, Australian Catholic Religious Against Trafficking in Humans suggested that:

a credit card-sized concertina brochure be developed to convey to a woman her rights in marriage according to Australian law and relevant phone numbers should her situation mean she needs to seek assistance. The small size of the brochure has been recommended to [Australian Catholic Religious Against Trafficking in Humans] as something a woman can conceal and keep private (ACRATH 2012: 14).

Australian Catholic Religious Against Trafficking in Humans (ACRATH) (2012: 14) claim that such a strategy has been adopted by the Brazilian Government. Stakeholders interviewed for this study suggested similar creative initiatives, including distributing information to women in lipsticks containing contact details of police and support services.

Expanding sponsor background checks and the disclosure of outcomes to applicants

Of particular concern to the women interviewed for this study was the lack of information made available to them about their prospective husbands and the imbalance of power in their relationships that this inevitably caused. Specifically, while Partner visa applicants must undergo a range of health and character checks (eg criminal record checks), Australian sponsors do not (see DIBP

2013c). The lack of information provided to Partner visa applicants about their sponsor's marital and criminal histories, health and mental health, living conditions, family and employment exacerbates existing power imbalances between sponsor and applicant, and makes migrant partners vulnerable to abuse (see Orloff & Sarangapani 2007).

The role of DIBP does not extend to providing information about Australian sponsors to Partner visa applicants, because in these circumstances, the Australian sponsor and not the visa applicant, is DIBP's 'client'. DIBP representatives interviewed for this research explained that the Department must attempt to strike a balance between recognising that Partner visa applicants may be vulnerable and 'not impinging Australians' rights to partner someone from overseas' (immigration stakeholder). DIBP (2013c: 6–7) has stated that

the Department remains cautious about placing additional sponsorship barriers between Australians and their foreign partners, especially those based on the previous behaviour of the sponsor. Such measures could lead to claims that the Australian Government is arbitrarily interfering with families, in breach of its international obligations. It could also lead to claims that the Government is interfering in relationships between Australians and their overseas partners in a way in which it would not interfere in a relationship between two Australians.

Further, according to DIBP representatives, the Department recognises that Australian sponsors and their partners are adults and as such, responsible for discussing their histories with one another and making appropriate decisions.

While this framework is understandable, it may fall short in cases of human trafficking, given that Partner visa applicants may be deliberately deceived about their partner and the broader situation that they are seeking to enter. In addition, providing information to Partner visa applicants might not be considered a 'sponsorship barrier' but a measure that would better facilitate Partner visa applicants making fully informed decisions. Certainly, providing such information to Partner visa applicants would not necessarily prevent their migration to Australia as originally intended. This

report therefore recommends that the issue of providing information to Partner visa applicants be revisited by the Australian Government. Although providing information (eg outcomes of criminal record checks) would undoubtedly require more resources, it is also the case that the current system of not providing this information is a costly one, both economically and socially.

Since March 2010, DIBP has been required to undertake character checks if there are minor children included in an application to sponsor a migrant partner and to disallow sponsorships from any individual with a conviction for a registrable offence (DIBP 2013b). This measure reflects Australia's obligations to protect children under international instruments such as the *Convention on the Rights of the Child*. Research from the United States indicates that this is potentially an important measure in preventing violence against migrating partners and their children. The US Government Accountability Office (USGAO 2006) matched computer records of all US citizens who applied to sponsor an overseas family member during 2005 against the National Sex Offender Registry and found that 398 convicted sex offenders applied to sponsor overseas family members (including spouses and children) during that year.

There are, however, several limitations associated with the current approach of disallowing individuals convicted of a registrable offence from sponsoring an overseas partner. Given the importance of preventing child abuse, it is important to consider whether this approach is an adequate preventative measure. It is recommended that the following issues be considered in this context:

- whether convictions for registrable offences should be the sole factor that prevents an individual sponsoring a partner with minor children to migrate to Australia. Research evidence clearly shows that sexual offences against children are often not reported (Abel et al. 1987; Bates, Saunders & Wilson 2007) and that sexual offending against children has a high rate of attrition from the criminal justice system (Eastwood, Kift & Grace 2006; Fitzgerald 2006). Including convictions related to serious violent offences, in addition to registrable offences

against children, in the exclusion criteria might provide for better protection against human trafficking cases involving partner migration;

- whether the outcomes of criminal proceedings alone are an adequate measure. Cunneen and Stubbs' (2000) research indicates that a broader range of legal proceedings (eg applications for Apprehended Domestic Violence Orders, child protection and Family Court proceedings) would provide relevant information to grant or reject a Partner visa application.

Pre-migration education and awareness initiatives

In addition to measures that can be implemented within Australia, non-government and law enforcement stakeholders recommended that prevention initiatives should begin in the country of origin prior to immigration. These include education about the possibility of negative experiences abroad, as well as specific information on exploitation and violence. Information could be handed out in the most vulnerable areas or provided on planes during immigration and in an appropriate format that takes into account the education level of the intended audience, for example a cartoon. Therefore, even if the person still decides to immigrate, they will have some information and contact details for places they can seek assistance if they encounter any problems (service provider).

The Quality of Life Promotion Center and Cacioppo (2006: para 6.2.2), for example, argue that women considering migrating for marriage be provided with detailed information in their home country. Considering the specific issue of Vietnamese women migrating for marriage, they suggest that:

women applying for visas for marriage overseas should attend a counselling session hosted by the provincial Women's Unions offering basic language and cultural skills specific to their destination. Such education should encourage women to think very carefully about migrating abroad for marriage and should minimize the risk of a hurried, harmful decision...In addition, all women should know the contact information of the nearest Vietnamese embassy or consulate.

Education, awareness and training

Community awareness and education

In addition to recommending enhanced provision and delivery of information to migrant partners, stakeholders interviewed for this study recommended broader community education on the issue of human trafficking, slavery and slavery-like practices. Community awareness about human trafficking in Australia is very limited. A previous AIC study on community attitudes and awareness found that of 1,617 respondents to an online survey, only nine percent (n=148) had a complete understanding of what human trafficking is and 61 percent (n=973) confused human trafficking with people smuggling (Joudo Larsen et al. 2012). As a number of victim/survivors interviewed for the current study sought help from members of their community, it is important to increase community awareness and education regarding human trafficking and related exploitation to enhance detection, reporting, monitoring and referral pathways to support services.

ACRATH (2011: 4) has recommended educating the community on very broad relevant issues—'a community education project in which we tackle societal attitudes of patriarchy and exploitation'—and also specifically on human trafficking involving marriage. However, as previously noted, men may also be the victims of human trafficking and human trafficking involving marriage, and therefore all societal attitudes that promote, support or are ambivalent to exploitation, human trafficking and slavery need to be tackled. ACRATH (2011) suggest embedding education about human trafficking involving marriage into existing community education campaigns on domestic violence and into the *National Plan to Reduce Violence against Women and their Children* (NCRVAWC 2009). Other stakeholders consulted for this research agreed that national awareness campaigns and education are vital to improving detection, identification, prevention and victim support. Similarly, they recommended it would be most effective to tie any response and awareness-raising of human trafficking involving

marriage exploitation into existing approaches to domestic violence:

We don't need to duplicate and if we already have a well-refined and comprehensive domestic violence response, then adding [human trafficking] will see people take the same kind of attitude towards it (service provider).

Stakeholders proposed that an effective way of educating the community would be to circulate awareness posters with information on what human trafficking is and how to report it in frequently attended venues such as in entertainment precincts, restaurants, movie theatres, shopping centres and other public settings (service providers).

The need for community education on both human trafficking involving marriage and domestic violence was reflected in the experiences of a number of the victim/survivors interviewed for this study. In one case, a victim/survivor attempted to escape her situation by seeking the help of a neighbour, but was incorrectly advised by the neighbour that she could only contact the police if she had experienced physical assaults. This suggests that better informed members of the public may be better equipped to identify and respond to situations involving exploitative marriages (see further Richards & Lyneham forthcoming).

Stakeholders interviewed for this study also recommended educating the community about who they should contact if they suspected a person was being held in a situation of slavery or servitude, including information on the role government, NGOs, law enforcement and DIBP in ensuring the safety and protection of Australian citizens and residents, as well as vulnerable foreign nationals who may need assistance. Community education campaigns such as those developed by ACRATH (see ACRATH Radio Awareness Project, <http://acrath.org.au/3303/anti-trafficking-radio-awareness-project-rap/>), Anti-Slavery Australia (see <http://www.antislavery.org.au/resources/educational-videos.html>) and the University of Queensland (see <http://www.law.uq.edu.au/awareness-and-education>) were therefore considered an important step towards preventing human trafficking into Australia. These campaigns take different approaches to achieve a common goal of educating the community about human trafficking in Australia. The campaign by ACRATH consists of multi-language community service announcements

broadcast on local ethnic radio programs in Victoria; the national Anti-Slavery Australia campaign consists of a series of short film clips depicting what modern slavery and servitude looks like in Australia; and the national campaign by the University of Queensland targets the demand for goods produced by trafficked people by warning the community to 'be careful what you pay for' (Schloenhardt 2011: 4; see also Schloenhardt, Astil-Torchia & Jolly 2012).

The Australian Government also plays an important role in raising general awareness of human trafficking, slavery and slavery-like practices, including as a human rights issue within the Australian community and among target groups. The Australian Government, through the Communication and Awareness Working Group comprised of representatives from civil society organisations and Australian Government agencies, is currently redeveloping the *Communication and Awareness Strategy for Human Trafficking and Slavery*. The working group will develop a consultation and evaluation strategy to ensure that relevant communities, groups and organisations are involved in the development of awareness raising products and materials.

The importance of evaluating anti-trafficking strategies such as public awareness campaigns is considered to be the 'single most critical addition necessary to strengthen anti-trafficking work'; Konrad cited in GAATW 2010). However, GAATW (2010: 4) argue that 'anti-trafficking initiatives are not being sufficiently evaluated, impeding the effectiveness of anti-trafficking responses and limiting progress in combating trafficking'. Anti-trafficking awareness campaigns that have been evaluated have shown to be effective in their aim to increase the knowledge of the target audience; however, their effectiveness is limited in affecting attitudinal and behavioural change.

For example, an evaluation of Denmark's *Action Plan for Combating of Trafficking in Human Beings* found that awareness raising measures specified in the Action Plan were largely successful in educating the community about trafficking in women and to lesser a lesser extent trafficking in children and men. The evaluation also showed that two-thirds of respondents reported they would contact the police if they suspected a person had been trafficked (COWI 2010).

Similarly, MTV EXIT was launched in 2006 as a multi-media, multi-platform awareness and prevention campaign against human trafficking in the Asia Pacific. MTV EXIT documentaries were developed as part of this extensive campaign to ‘build knowledge and influence attitude and behaviour of the target audience’ (Thainiyom 2011: 1). The MTV EXIT documentaries were found to be ‘most successful at raising awareness of the issue and increasing knowledge of human trafficking’; however, the documentaries had limited influence on attitudes and behaviour, which were considered to require longer term and more intensive intervention (Thainiyom 2011: 15).

The UNODC’s Toolkit to Combat Trafficking in Persons (2008), examines various methods of prevention through public education and information, and provides guidelines for developing targeted anti-trafficking awareness campaigns.

Education for government, law enforcement and domestic violence service providers

In addition to education for the community in general, a recommendation of this research is that education about human trafficking involving partner migration is vital for authorities and victim support services most likely to come into contact with victim/survivors—state and territory police officers, immigration officers and domestic violence service providers. In the eight cases described in this study, human trafficking involving partner migration was often initially identified by law enforcement and victim support services as domestic violence. Although identifying a case in this way may assist the victim/survivor to exit the exploitative situation and access support services, victim/survivors of human trafficking are likely to have needs beyond those that domestic violence service providers are equipped to address and have suffered exploitation-related trauma that may be outside the scope of mainstream domestic violence services (eg labour exploitation). In addition to ensuring that victims of human trafficking receive appropriate assistance, identifying suspected victims is the first step toward protecting their human rights; ‘[f]ailing to identify a trafficked person correctly “is likely to result in a further denial of that person’s rights” (UN

OHCHR cited in Simmons & Burn 2010: 714). Additional reasons for correctly identifying victim/survivors include:

- the likelihood of needing to rectify their visa and immigration status, as they may be repatriated if they have not yet married their partner;
- ensuring they are granted the appropriate visa for their situation and which allows them rights that may not be available on a visa granted under the Family Violence Provisions (eg work rights);
- facilitating access to tailored assistance via the Support for Trafficked People Program or similar services that are specific to victim/survivors of human trafficking;
- the need to address a combination of physically, sexually and psychologically abusive and exploitative experiences that might occur in various settings within or outside the home;
- facilitating access to appropriate legal assistance;
- rectifying child custody issues;
- recovering unpaid wages;
- facilitating assistance in learning the basic ways of life in Australia, such as banking, shopping, learning English, catching transport and obtaining a driver’s licence; and
- for monitoring purposes, to inform appropriate responses and the development of victim support programs.

Stakeholders provided further reasons of the need to correctly identify these types of human trafficking cases. The benefit of viewing cases as human trafficking include the opportunity to raise awareness of this form of human trafficking, to show internationally that Australia will not tolerate these kinds of abuses, which has the potential to act as a deterrent and the benefit it provides to victims to be recognised as someone who has endured an experience that is more than domestic violence (see further Bales 2005). A central reason given for distinguishing human trafficking involving partner migration from domestic violence is the notion that there are ‘separate elements to migrant travel and subsequent violence that are quite different to domestic violence’ (service provider). Migrant experiences of exploitation were viewed by stakeholders as an aggravated offence because of increased vulnerability that may have

been targeted by the perpetrator. For example, one service provider believed:

transportation to another country heightens vulnerability a whole lot more. This is because they are people who have no understanding of the kind of rights they have here in the country, they may not know the language, they are often very isolated and it's easier for [the offender] to then control because they don't have any contact with family or any friends or any networks, and [the offender] makes sure of that. It then makes it more difficult to leave (service provider).

In addition, stakeholders explained the benefits of being granted a visa to stay in Australia as a victim of human trafficking as opposed to a victim of family violence:

What happens now is if somebody applies for Family Violence Provisions they don't have an attached support program like there is with trafficking cases. That person, while they are awaiting permanent residency, which could take one or two years, are on a temporary visa. That means they have all the restrictions that come with a temporary visa and it makes it very difficult for them to rehabilitate...In particular, temporary visa holders have no access to our mainstream housing support...A lot of housing providers are conscious of taking in somebody with a temporary visa because what it means is they can't be moved on from the service until they have obtained permanent residency. So not having them recognised as trafficking cases means they aren't able to exercise their rights and access support (service provider).

While a permanent visa may be granted within two years in cases where family violence has occurred, support providers have experienced delays, victim/survivors are not often aware of the possibility of securing a visa sooner and victim/survivors are still unable to access the same services available to trafficked people.

However, while it is important to correctly identify victim/survivors of this form of human trafficking, victim/survivors may have other avenues of redress. For example, the AFP can charge suspected offenders with migration, fraud or sham marriage offences if they are unable to utilise human trafficking

legislation (law enforcement stakeholder). However, such remedies and the penalties that can be imposed, may not be adequate for the seriousness of human trafficking offences and therefore not as effective as prosecuting the case as a criminal matter, where trafficked people may be able to pursue compensation as victims of crime and the offender may be incarcerated.

Therefore, training for operational state and territory law enforcement officers, immigration officers and domestic violence supports could be expanded to include a focus on the indicators of human trafficking (eg threat of deportation, confiscation of passports, restricted movement) so that victim/survivors are correctly identified and provided the most appropriate support based on their experience of exploitation. Currently, DIBP's compliance officers undergo mandatory training that includes modules on human trafficking, sexual servitude and labour exploitation. Training sessions are also currently offered to federal police (which have also been attended by a limited number of immigration officials) through the AFP's Human Trafficking Investigations Program, which aims to assist in developing investigator skills in the specifics of human trafficking investigations. A recommendation of this research is to include a small component on human trafficking in the domestic and family violence training module in state and territory police recruit programs so that the officers who are most likely to detect exploitation in a domestic setting are able to distinguish a situation of domestic violence from one of human trafficking.

Enhanced training could also support intelligence and information sharing, particularly with DIBP officers posted abroad to assist with cultural knowledge and practices to develop risk profiles for source countries.

As described earlier in this report, the victim/survivors interviewed for this research stressed the importance of domestic violence support services and general community development organisations—both migrant and mainstream—in helping them exit their exploitative marriages. Incorporating issues relevant to human trafficking scenarios in training and education for these organisations is therefore a further recommendation of this report. For example, ACRATH (personal correspondence 2013) have advocated for a short presentation to be offered to all domestic violence and refuge annual meetings on forms of human trafficking where exploitation occurs in the home or involves domestic violence.

Education and training for migration agents

A small number of stakeholders also suggested that enhanced education and training for migration agents on the issues of human trafficking and marriage exploitation could assist in preventing these problems. Migration agents are subject to a range of regulatory mechanisms. Migration agents, whose primary purpose is

to provide professional advice and assistance to organisations and individuals on Australian migration matters in an ethical manner and in accordance with the *Code of Conduct* (MARA 2011: 4)

must be qualified as Australian Legal Practitioners or have completed a Graduate Certificate in Australian Migration Law and Practice (see www.mara.gov.au). All migration agents must be registered with the Officer of the Migration Agents Registration Authority (www.mara.gov.au).

In addition, migration agents must adhere to the *Code of Conduct for Registered Migration Agents* (MARA 2012) and meet the professional standards documented in the *Occupational Competency Standards for Migration Agents* (MARA 2011). Under Standard 7 of the *Occupational Competency Standards for Migration Agents*, agents must

‘identify and undertake an ongoing professional development plan’ (MARA 2011: 11).

A recommendation of this study is that education on the issue of human trafficking in general, including human trafficking involving marriage, be incorporated into the professional training and development provided to migration agents in Australia. Awareness of this issue and how to respond to it, could be beneficial as a prevention mechanism. Nonetheless, it is recognised that, like education and training for marriage celebrants, this approach can only have a limited impact on preventing human trafficking involving marriage.

There is no obligation for those seeking to migrate to Australia to use the services of a migration agent; indeed, the cost of doing so may be prohibitively expensive for some. Further, where Australian citizens have sinister motives in assisting a partner to migrate to Australia, they may prevent their migrant partner from using a migration agent. In this study, the women’s Australian partners had taken responsibility for undertaking the work and covering the costs necessary for them to migrate to Australia. However, at least one of the victim/survivors interviewed for this study had used the services of a migration agent; for this woman, a meeting with her migration agent in relation to her tax file number provided the impetus for her to exit her exploitative situation.

Enhanced immigration policy

A number of recommendations relate to potential changes to current immigration policies, which may significantly contribute to improving Australia’s ability to prevent and better respond to incidents of human trafficking and related exploitation.

First, creating more opportunities for marriage and partner visa holders to discuss their family circumstances without their spouse or the spouse’s family present will increase opportunities for detecting exploitative relationships and facilitate disclosure. This could be achieved in several ways. For example, the Legal and Constitutional Affairs References Committee (2012) recommends that all partner visa and prospective marriage visa applicants under the age of 18 be interviewed separately from

their Australian sponsor before being granted entry into Australia, while the Coalition Against Trafficking in Women Australia (2011) recommends this procedure be undertaken for all women entering Australia through such visas. It has also been recommended that welfare checks be undertaken several months after arrival and separately from the sponsoring partner and family members to ensure the safety and wellbeing of those on partner visas (Tomison 2012). Second, as some victim/survivors were prevented from attending English classes by their husbands, it is a recommendation of this study that the AMEP is made compulsory for eligible newly arrived migrants whose language proficiency is inadequate. This initiative could be supported by the development of strategies to monitor the signed undertakings of Australian sponsors to provide support for their migrant partners to settle in Australia more generally.

Third, findings from the current study show that cases of human trafficking and marriage exploitation often present as cases of domestic violence. It is therefore important that sponsors undergo a criminal background check that involves convictions for domestic violence orders and serious violent criminal offences in addition to registrable offences against children. Currently, immigrating spouses are required to undergo such checks; however, the same requirement does not exist for sponsors.

Finally, it is recommended that changes advocated by the ALRC (2011) be implemented regarding the limitations of the Family Violence Provisions in assisting fiancés to remain in Australia if they leave their partner due to family violence. Australia's efforts to combat this crime could also be enhanced by further amendments to the Migration Regulations 1994 so that couples that have been married by proxy (ie being married without first meeting in person) are ineligible to move to Australia on a Partner visa. This would aid DIBP's ability to prevent forced, servile and particularly sham marriages from circumventing immigration checks and processes to determine if the marriage is genuine.

Regulation of international marriage brokering agencies

International marriage brokering agencies (known as IMBs) have been heavily criticised for their role in

facilitating exploitative marriages, some of which constitute human trafficking (CEPA 2004; Huda 2007; Orloff & Sarangapani 2007; Quek 2010).

Given that using IMBs are potentially a relatively easy way to recruit an individual into a human trafficking situation; IMBs are an obvious site of prevention. Regulation of IMBs is therefore often proposed as a key strategy to prevent exploitative marriages, including those that constitute human trafficking (CEPA 2004; GAATW nd; Orloff & Sarangapani 2007). Regulation in the source country, coupled with regulation in the destination country, would greatly advance the goal of protecting and informing migrating brides, and reduce the risk of a bride encountering an abusive or exploitative relationship (Heggs 2010).

Under Australian legislation, a perpetrator (person or company) that causes a person to enter into a forced marriage may be charged under Division 270.7B of the *Criminal Code 1995* (Cth). Similarly, offences related to harbouring a victim of human trafficking or slavery (ie where a person or company assists an offender or furthers an offender's purpose in relation to an offence) may apply to IMBs depending on the circumstances.

Online dating safety measures

Some of the risk factors relating to human trafficking facilitated through IMBs are also common to online dating websites. Despite the clear identification of financial risks relating to online dating, the potentially much greater risks relating to human trafficking and related exploitative scenarios have not been as well covered. As this research demonstrates, online dating can lead to much greater harms than loss of money.

Importantly, some strategies designed to prevent romance scams may also contribute towards the prevention of human trafficking and related exploitative scenarios involving marriage. For example, organisations such as Date Screen and Cupid Screen and their international equivalents, which conduct background searches on prospective partners met through online dating and social networking sites (and in some instances via other

avenues), can provide important information to clients about their prospective partners.

It is therefore recommended that further consideration be given to how romance scam prevention measures might be broadened to assist in the prevention of human trafficking. Information about avoiding romance scams provided on online dating sites, particularly those with an international focus, could be broadened to alert users of these sites to potential harms beyond financial exploitation.

A multi-agency approach

A multi-dimensional approach has been widely recognised as best practice for addressing and eradicating human trafficking by many organisations, including the United Nations, non-government agencies and women's groups (Ming Zhao 2003). A multi-dimensional approach

must include not only legislative initiatives, crime prevention and security control efforts, but also social welfare, education, job training, rights protection and development initiatives in the source, transit and destination locales (Ming Zhao 2003: 98).

Consistent with this approach, the UK's Forced Marriage Unit (2009) has drafted multi-agency guidelines for handling cases of forced marriage. The guidelines contain important information to assist agencies to understand the issues around forced marriage, important indicators and how to respond to cases. It targets health professionals, schools, colleges and universities, adult and child social workers, police officers and local housing authorities. Most cases involving exploitation within marriage are identified as domestic violence, therefore guidelines for Australian agencies likely to come in contact with these victims would allow for their correct identification and assistance. Critical agencies include community organisations, particularly migrant community centres, state and territory police, immigration officers, migration agents, marriage celebrants, religious organisations, educational institutions, health professionals, counsellors, child protection workers and providers of victim services.

Further research

It is frequently argued that the 'lack of progress in anti-trafficking is largely due to inadequate data and insufficient knowledge of the scope or scale of the problem and how it should be tackled' (GAATW 2010: 4). A number of stakeholders, particularly law enforcement and immigration representatives (interviews 2011), recommended that further research into human trafficking generally and the involvement of marriage specifically, was needed to understand the size and nature of the problem, to appropriately target resources, to measure the success of anti-trafficking strategies and to better understand the needs of victim/survivors. The AFP emphasised that:

to be able to devote resources to this issue, research is needed to show that it is a problem. One of the difficulties with any form of human trafficking is that no one is able to quantify it... Before we implement measures we need to know more.

Stakeholders identified they would use research in a number of ways, including to enhance their understanding of the nature, extent and size of the problem, to assist with developing risk profiles for immigration purposes, to better allocate resources and to better support victim/survivors.

As part of the Australian Government's response to human trafficking, slavery and slavery-like practices, the AIC will continue to undertake research into this area of concern.

Future research could:

- examine the drivers of marriage migration to inform and develop preventative measures to combat human trafficking;
- investigate the experiences of men and boys who may be affected by exploitative relationships, domestic servitude and forced marriage;
- evaluate anti-trafficking awareness campaigns and communication strategies; and
- evaluate victim support programs and services to ensure victims are receiving the right type and amount of support necessary for rehabilitation and recovery.



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