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Inquiry into Slavery, Slavery-like conditions and People Trafficking

Organisation: Australian Institute of Criminology

Joint Standing Committee on Foreign Affairs, Defence and Trade

Australian Government
Australian Institute of Criminology

Inquiry into Slavery, Slavery-like Conditions and People Trafficking

Submission by the Australian Institute of Criminology to the Joint Standing Committee on Foreign Affairs, Defence and Trade, Human Rights Sub-Committee

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AIC Trafficking in Persons Research Program

The Australian Institute of Criminology (AIC) is a member of the Australian Government's Anti-People Trafficking Interdepartmental Committee and is responsible for the research component of Australia's whole of government response to trafficking in persons (TIP).

AIC's TIP research program has four objectives:

• development of a monitoring framework and a national minimum dataset

• identifying and monitoring emerging trends in the Asia-Pacific region

• targeted research projects on priority issues

• activities to improve communications and collaborations between the AIC and stakeholders, and dissemination of AIC research.

In the first four year phase of the research program, AIC undertook a variety of activities relating to these objectives, including establishing a regular monitoring program on trafficking in persons relevant to Australia and the Asia-Pacific region; identifying regional trends in both the Pacific Islands and East and South Asia; and targeted research projects including examining exploitation and trafficking in the sex industry and labour trafficking in Australia.

Key areas of focus for the next four year phase of AIC research will include, all of which involve a crime prevention approach:

• improved monitoring of trafficking in persons in Australia and the region

• further examining the nature of trafficking in the sex industry as well as non-sex industry contexts, such as marriage and the construction industry

• examining the nature of offending and offenders, and

• further examining trafficking issues in the Pacific region.

Best practice: Evidence-base and data monitoring framework

It has been widely accepted that accurate information and data on many aspects of trafficking in persons is difficult to obtain. This can be explained by the clandestine nature of the crime; the lack of domestic, regional and international data collection standards; and variances in domestic legislation. This is not a problem exclusive to Australia, it is a global issue and attempts are being made to address this in various ways. Nevertheless, a strong evidence base is central to the development of strategies to address trafficking. According to the UNODC (2009: 5):

> Knowledge of and research into the specific national, regional and international trafficking in persons context is a prerequisite for the elaboration, implementation and evaluation of anti-human trafficking strategies and development of evidence-based policies. Knowledge and research are also paramount to overcoming the current partial understanding of the crime and the violations of human rights it entails.

To this end, AIC research has focused on understanding the nature and extent of trafficking in persons in Australia and surrounding regions in an effort to build an evidence base upon which strong policies may be developed. A summary of AIC research on TIP is presented below, and a list of AIC publications on TIP is available at the end of this document.

Community awareness and attitudes survey

Examining the level of community awareness of trafficking, including expectations of the types of individuals who are victimised, is valuable for informing policy and practice in the area. This information is important for two reasons: members of the community are more likely than the authorities to come into contact with trafficked persons and the juries before which such cases are likely to be tried are drawn from the wider community. Such information can shape future awareness raising activities and shed light on issues which can have a significant impact on trial outcomes.

To this end, the AIC developed an online survey which asked respondents for their understanding of trafficking and sought to examine attitudes towards issues including key labour sectors, migrants, and victim-status. The survey was piloted in the ACT in December 2008 and was run nationally in mid-2009. Survey responses suggest that trafficking in persons is misunderstood and unrecognised, contributing to its low reporting. A complete analysis of the survey data (including the attitudinal measures examined in the survey instrument) are published in the AIC's Trafficking in Persons Monitoring Report January 2009-June 2011.

A copy of this report can be found at: http://www.aic.gov.au/en/publications/current%20series/mr/1-20/19.aspx. A subsequent community attitudes survey will be conducted in 2013.

Examining trafficking for the purpose of exploitation

Trafficking and marriage arrangements

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

• forced and servile marriage in the context of people trafficking

• the use of sham marriages and spousal visas to facilitate people trafficking; and

• the different types of marriage arrangements that may increase or decrease risks to trafficking, such as

• arranged marriages

• marriage brokering

• online introductory and dating services, and

• the implications for Australia in regard to prevention, detection, prosecution and victim services.

Preliminary findings from this research confirm that forced, servile and sham marriages can involve elements of trafficking and slavery. Also, some migrant women have experienced the type of exploitation associated with trafficking and slavery within various marriage arrangements, such as love marriages, arranged marriages, and marriages resulting from online marriage brokering and internet dating sites.

Preliminary findings were shared across a range of agencies and informed the AIC's submission to the Senate Standing Committee on Legal and Constitutional Affairs' Inquiry into Marriage Visa Classes.

A copy of the submission is available at: https://senate.aph.gov.au/submissions/comittees/viewdocument.aspx?id=e1364f4f-996a-447e-bde1-9d475709ad2e

A final report and other publications will be published in 2013.

Labour trafficking

While the body of literature on trafficking for the purpose of sexual exploitation has grown steadily, much less is known about trafficking where the exploitation occurs outside the sex industry. Responding to this critical gap in knowledge, in 2009-2010, the AIC undertook research on "labour trafficking".

The resulting RPP on Labour Trafficking, launched in November 2010 by the Minister for Home Affairs, examines what is known about labour trafficking in Australia, based on incidences of reported crimes, but also by drawing on information about unreported crime. As such, it provides an assessment about the known or likely incidence of trafficking in persons that can occur in the agricultural, cleaning, hospitality, construction and manufacturing industries, or in less formal sectors such as domestic work and home-help.

The research confirms that while the precise size of the labour trafficking problem remains unknown, there have been instances of unreported and/or unrecognised labour trafficking. The report gives examples of cases involving domestic workers, and workers in other sectors such as construction, manufacturing and agriculture. The research suggests the existence of underreporting and a lack of awareness by 'frontline' agencies and services that certain exploitative practices are criminal under Australian law.

The report also noted that many participants interviewed for the research, including those working directly on anti-trafficking issues, were unsure where to draw the line between "bad work" and criminal conduct such as labour trafficking, and other participants were noticeably unaware that Australia's anti-trafficking laws could apply beyond to contexts outside of the sex industry.

A copy of this report can be found at:
http://www.aic.gov.au/en/publications/current%20series/rpp/100-120/rpp108.aspx

Trafficking in the construction industry

In light of previous AIC research on labour trafficking (see David 2010) and interest by policy and program decision-makers in further research in this area, the AIC has partnered with an NGO to consider issues related to trafficking in the construction industry. Research on risks and protective factors for migrant workers in the construction industry will not only contribute to the existing research on people trafficking in a meaningful way, but it will provide an evidence base for frameworks to prevent and address very serious exploitation within this industry.

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

A final report is expected to be published in late 2013.

Migrant sex worker vulnerabilities and protections to trafficking

To improve knowledge about vulnerabilities and protections relevant to trafficking in persons, the AIC funded Scarlet Alliance, the peak body representing sex workers and sex worker organisations in Australia, to conduct a multilingual survey of both migrant and non-migrant sex workers in Sydney, Melbourne, Adelaide, Brisbane, Townsville, Perth, Kalgoorlie and Canberra. The survey was available in English, Thai, Korean and Chinese languages. The project will allow a better understanding of sex workers' experiences in Australia, identifying vulnerabilities to trafficking and exploring the strategies used by sex workers to reduce the risks of trafficking and related exploitation.

Data collected for this project is currently being analysed and a final report is expected to be published in 2013.

Examining understandings of trafficking offending, offenders and victims

Organised crime and offenders

Although it is often noted that organised crime groups dominate the landscape of TIP offender typologies, there is also evidence to support significant un-organised criminal involvement. An individual or duo can be responsible for orchestrating all stages of the trafficking process, from recruitment to transportation and exploitation. Social networks can include friends, relatives, or acquaintances, often from the same ethnic diaspora as the victims. Where this is the case, existing trust-relations and cultural vulnerabilities are abused in order to recruit victims.

While the existing research is far from comprehensive, several themes do emerge from the current literature which suggests that the role of organised crime networks in the trafficking process is complex. In 2012, AIC published a report on organised crime and trafficking in persons (see Appendix 2) that concluded:

- the level of organisation involved in the trafficking process appears to vary by degrees, with some studies formulating typologies of offending based on the nature and level of organisation apparent in the action of trafficking a person/people (among other variables)
- evidence suggests that while 'traditional' networks (centralised networks with a defined hierarchy) are less likely to be involved in the trafficking process, the trafficking process can involve a high level of organisation between a variety of actors
- trafficking offenders can use pre-existing networks (whether diaspora communities or organised networks for crimes other than trafficking in persons) or spontaneously develop links and networks in response to trafficking opportunities
- such types of 'organised' trafficking in persons can contribute to considerable challenges in detecting and prosecuting the crime, and
- there is a great deal of diversity in the characteristics, criminal histories, operations and motives of trafficking offenders which highlights the need for these differences to be captured more effectively through identification of common typologies of trafficking crimes.

A copy of this paper can be found at:

http://www.aic.gov.au/en/publications/current%20series/tandi/421-440/tandi436.aspx

A further publication on the nature of trafficking offenders in Australia will be published in late 2012.

Trafficking in persons in Asia and the Pacific

The trafficking of children in the Asia-Pacific

This paper summarised key findings from a review of the available literature on the issue of child trafficking in both Asia and the Pacific. It examined current definitions of child trafficking, the forms it is known to take in the Asia-Pacific and factors associated with vulnerability to trafficking and also included observations of 'good practice' in the protection of children from trafficking.

Children are known to be trafficked from less developed to more developed countries within the Asia region, e.g. from Laos, Cambodia and Vietnam to China and Thailand. In the Asia region boys and girls are trafficked for a range of purposes including for begging, sexual exploitation, factory work, domestic work, forced marriage and to work in the fishing industry.

Comparatively little is known about child trafficking in the Pacific region. Cases involving the exploitation and possibly, trafficking of children for both sexual and labour purposes, have been reported in the region. It is particularly important to consider the vulnerability of children in the Pacific as the region is characterised by a largely youthful population- almost 37 percent of the region's population is aged under 15 years and children are known to be susceptible to a range of exploitative and criminal activities (sex tourism etc).

Although we cannot determine the extent of the problem, much is known about factors which can increase a child's vulnerability. In the Pacific region these factors include:

- Low availability and high cost of education
- Lack of employment opportunities for young people
- Risks linked to in cultural practices such as billeting, informal adoption and early marriage.

A copy of this paper can be found at: http://www.aic.gov.au/documents/0/1/B/%7B01B01E30-2D3F-44EC-A3F6-713A85400134%7Dtandi415_001.pdf

Assisting the International Organization for Migration with analysis of human trafficking data

The International Organization for Migration (IOM) is an inter-governmental organisation committed to the principle that humane and orderly migration benefits migrants and society. IOM has been working actively to counter human trafficking worldwide since 1997 by providing direct assistance to trafficked persons and collecting data for research and analysis. To date, IOM has provided assistance to approximately 15,000 trafficked persons from over 80 different nationalities trafficked to more than 90 destination countries.

In 1999, IOM developed and implemented the Counter-Trafficking Module (CTM), which is the largest global database containing primary data on victims of trafficking. The CTM facilitates the management of IOM's Return, Recovery and Reintegration Program as well as mapping the victim's trafficking experience. As such, it strengthens the research capacity and understanding of the causes, processes, trends and consequences of trafficking.

During 2011-2012 the AIC collaborated with IOM to analyse the CTM Indonesia database. The database holds qualitative and quantitative information relating to 3,700 Indonesian victims of trafficking identified between January 2005 and January 2010. The database contains a wealth of information regarding the characteristics and histories of trafficked persons, the nature of the trafficking process (including recruitment and transportation methods), patterns of exploitation and abuse, instances of re-trafficking, and the nature of assistance provided by IOM. IOM and AIC carried out joint research and analysis with the aim of providing insight for more targeted government responses, including victim identification, risk and protective factors for trafficking or associated activity, prosecuting cases, better victim support and re-integration issues for victims. Papers on the following topics are due to be published by 2013:

- Experiences of trafficked persons: an Indonesian sample
- Support needs of trafficked men, women and children: a case study of Indonesia
- Barriers to trafficked peoples' involvement in criminal justice proceedings: an Indonesian Case Study
- Exploitation and trafficking: experiences of Indonesian migrant domestic workers

Trafficking in the Pacific

While little is documented about trafficking in the Pacific, consultations by the AIC and analysis of known trafficking-like cases in the Pacific suggest that people trafficking into the region may be occurring in a variety of industries. Further, there are risks of Pacific countries being used as transit points for international trafficking in persons, in part due to the special migration status of some nations for migration into developed destination countries such as the United States, New Zealand and France. Some cultural practices have been identified as creating greater risks of trafficking in persons especially in regard to children and women (for example bride price and customary adoption). Finally, the Pacific labour market situation, in some cases involving a lack of local employment opportunities and in others a shortage of local labour due to external migration, drives irregular migration within the region which creates opportunities for exploitation and possible trafficking of such migrants.

As part of a project on trafficking in persons funded by the Attorney-General's Department, in September 2009 the AIC held a Pacific Trafficking in Persons Forum in Wellington, New Zealand (see Lindley & Davis 2009), and undertook a range of consultations throughout the Pacific prior to that.

In addition, the AIC released two Trends & Issues in Crime and Criminal Justice papers in 2011 that examine vulnerabilities to exploitation and people trafficking in the Pacific Island region. The first draws on consultations with a range of Pacific Island stakeholders to provide an overview of the region's vulnerabilities and protections to trafficking—including people movements, weak border and immigration controls, 'slim states' affected by corruption, the impact of cultural practices entwined with poverty, and a poor capacity to respond to natural disasters—in an attempt to inform anti-trafficking in persons strategies in the Pacific Islands (see Lindley & Beacroft 2011). The second examines the Pacific Seasonal Worker Pilot Scheme, a temporary workers scheme, in regard to how it manages vulnerabilities to exploitation and trafficking of persons (see Ball, Beacroft & Lindley 2011). At the time of writing the paper, the Scheme was still relatively new. The research indicated that the Scheme is a positive development, but planned growth is likely to present challenges and requires careful management and monitoring.

Copies of these papers can be found at:
http://www.aic.gov.au/publications/current%20series/tandi/421-440/tandi432.aspx and
http://www.aic.gov.au/publications/current%20series/tandi/421-440/tandi432.aspx

Further papers on issues related to human security and child guardianship in the Pacific will be published in 2013.

Best practice approach to developing data monitoring framework

The need for collection of standardised, reliable data has been recognised internationally (UNODC 2008). The AIC is currently developing an evidence-based framework of indicators for monitoring trafficking in persons in Australia and the region. A critical matter has been the decision of whether or not to develop estimates relating to the extent to which trafficking occurs; the US Government Accountability Office (GAO 2006:2) found that 'such estimates are questionable…because of methodological weaknesses, gaps in data, and numerical discrepancies'. Therefore the AIC's approach will not attempt to establish estimates at this time, but will follow a best practice approach to monitoring trafficking and gathering evidence about risk and protective factors for people trafficking in Australia and its region. The AIC will work collaboratively with government and non-government sectors, particularly the AFP, in order to develop the framework.

The Framework will be supported by a Guide for Collecting Information and Data on Trafficking in persons in Australia and the region, to guide government and non-government sectors in their information and data collection; this Guide will ensure that relevant and comparable information and data are collected across all sectors. Subject to the agreement of relevant agencies and ethics approvals, AIC will analyse information and data consistent with this Guide from both government and non-government sectors.

Underpinned by this framework is the development of a national minimum dataset - a core set of data that has been identified by users and stakeholders as a minimum for collection for a specific purpose. The intention is that the next AIC Monitoring Report on People Trafficking (due in 2014) will employ the framework and begin to collect data agreed under a national minimum dataset.

References

Government Accountability Office (GAO) 2006. Human Trafficking: Better data, strategy and reporting needed to enhance U.S. antitrafficking efforts abroad. http://www.gao.gov/assets/260/250812.pdf

UNODC 2009. International Framework for Action: To Implement the Trafficking in Persons Protocol. New York: UN http://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf

UNODC 2008. Human Trafficking: An Overview. New York: UN http://www.ungift.org/docs/ungift/pdf/knowledge/ebook.pdf

List of AIC TIP publications

David F 2012. Organised crime and trafficking in persons. Trends & issues in crime and criminal justice no.436. Canberra: Australian Institute of Criminology. http://www.aic.gov.au/en/publications/current%20series/tandi/421-440/tandi436.aspx

Joudo Larsen J & Renshaw R 2012. People trafficking in Australia. Trends & issues in crime and criminal justice no. 415. Canberra: Australian Institute of Criminology. http://aic.gov.au/publications/current%20series/tandi/441-460/tandi441.aspx

Joudo Larsen J, Renshaw L, Gray-Barry S, Andrevski H & Corsbie T 2012.Trafficking in persons monitoring report January 2009 – June 2011. Monitoring Reports. Canberra: Australian Institute of Criminology.

http://www.aic.gov.au/en/publications/current%20series/mr/1-20/19.aspx

Ball R, Beacroft L & J Lindley 2011. Pacific Islanders in Australia and the Australian Horticulture Sector: Implications for Australia's Pacific Seasonal Worker Pilot Scheme. Trends & issues in crime and criminal justice no 432. Canberra: Australian Institute of Criminology.

http://www.aic.gov.au/publications/current%20series/tandi/421-440/tandi432.aspx

Lindley J and Beacroft L 2011. Vulnerabilities to Trafficking in Persons in the Pacific Islands. Trends & issues in crime and criminal justice no 428. Canberra: Australian Institute of Criminology.

http://www.aic.gov.au/publications/current%20series/tandi/421-440/tandi428.aspx

Joudo Larsen J 2011. The trafficking of children in the Asia-Pacific. Trends & Issues in Crime and Criminal Justice no. 415. Canberra: Australian Institute of Criminology http://aic.gov.au/publications/current%20series/tandi/401-420/tandi415.aspx

David F 2010. Labour trafficking. Research and Public Policy Series no.108. Canberra: Australian Institute of Criminology.

http://www.aic.gov.au/en/publications/current%20series/rpp/100-120/rpp108.aspx

Joudo Larsen J 2010. Migration and people trafficking in southeast Asia. Trends & Issues in Crime and Criminal Justice no.401. Canberra: Australian Institute of Criminology. http://aic.gov.au/publications/current%20series/tandi/401-420/tandi401.aspx

Joudo Larsen J, Lindley J & Putt J 2009. Trafficking in persons monitoring report July 2007-December 2008. AIC Monitoring Reports no. 6. Canberra: Australian Institute of Criminology. http://www.aic.gov.au/publications/current%20series/mr/1-20/06.aspx

Lindley J & Davis K 2009. Pacific Trafficking in Persons Forum. Paper to the Pacific Trafficking in Persons Forum. Wellington, 2-4 September. http://www.aic.gov.au/events/aic%20upcoming%20events/2009/~/media/conferences/2009-peopletrafficking/ptp_outcome_report.ashx

Labour trafficking: prosecutions and other proceedings 2009. Transnational Crime Brief no. 5. Canberra: Australian Institute of Criminology http://www.aic.gov.au/publications/current%20series/tcb/1-20/tcb005.aspx

Labour trafficking forum, Canberra, June 2009 and paper: David F 2009. Labour trafficking: concepts and cases. Paper to the Labour trafficking Forum. Canberra, 18 June. http://www.aic.gov.au/events/aic%20upcoming%20events/2009/labourtrafficking.aspx

Labour trafficking: key concepts and issues 2009. Transnational Crime Brief no. 3. Canberra: Australian Institute of Criminology.

http://aic.gov.au/publications/current%20series/tcb/1-20/tcb003.aspx

People smuggling versus trafficking in persons: what is the difference? 2008. Transnational Crime Brief no. 2. Canberra: Australian Institute of Criminology http://www.aic.gov.au/publications/current%20series/tcb/1-20/tcb002.aspx

David F 2008. Trafficking of Women for Sexual Purposes. Research and Public Policy Series no. 95. Canberra: Australian Institute of Criminology. http://www.aic.gov.au/publications/current%20series/rpp/81-99/rpp95.aspx

David F 2008. Prosecuting trafficking in persons: known issues, emerging responses. Trends & Issues in Crime and Criminal Justice no. 358. Canberra: Australian Institute of Criminology. http://aic.gov.au/publications/current%20series/tandi/341-360/tandi358.aspx

David F 2007. Law enforcement responses to trafficking in persons: challenges and emerging good practice. Trends & Issues in Crime and Criminal Justice no. 347. Canberra: Australian Institute of Criminology.

http://aic.gov.au/publications/current%20series/tandi/341-360/tandi347.aspx

Putt J 2007. Human trafficking to Australia: a research challenge. Trends & Issues in Crime and Criminal Justice no. 338. Canberra: Australian Institute of Criminology. http://aic.gov.au/publications/current%20series/tandi/321-340/tandi338.aspx