



People trafficking: an update on Australia's response

Janet Phillips
Social Policy Section

Executive summary

- This Research Paper provides an overview of the people trafficking problem in Australia, Australia's responses to date and the likely effectiveness of those measures. It also provides access to a range of key documents and relevant electronic resources on the issues.
- There is no reliable data available anywhere in the world on the true extent of people trafficking, but it is widely accepted that the trade is extensive, and very lucrative, in the Asia Pacific region.
- Regional governments, including Australia, have begun to tackle the problem relatively recently.
- Australia's responses to people trafficking have included both anti-trafficking and victim support measures. Initiatives have also included developing and funding several anti-trafficking initiatives between governments in the Asia Pacific region.
- Australia's anti-trafficking initiatives have been commended. However, some suggest that unless the systemic issues that perpetuate the cycle of both sex trafficking and forced labour are addressed, including entrenched poverty in developing countries and a lack of legal migration options, very little will be achieved in combating people trafficking.

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Introduction

It is widely recognised that 'people trafficking' has become a well-established and enormously lucrative business throughout the Asia Pacific region. Issues arising from this trade vary between countries, but all are in agreement that serious human rights breaches (such as sexual coercion or forced labour) are often involved. Regional governments have only recently begun to tackle these issues in a concerted way.

This Research Paper reviews and updates the contents of *People trafficking: Australia's response*.¹ It provides an overview of the people trafficking problem in Australia, Australia's responses to date and the likely effectiveness of those measures. It also provides access to a range of relevant electronic resources on the issues.

Is it trafficking or smuggling?

The terms 'people trafficking' and 'people smuggling' are often used interchangeably. However there are important differences.

'People trafficking' is defined by the [UN Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children](#) as:

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

'People smuggling', on the other hand, is the term generally used to describe the illegal movement of people on a fee-for-service basis. Such transactions are not usually conducted without the consent of those being smuggled.²

How big is the problem?

There is no reliable data available anywhere in the world on the true extent of people trafficking, but there is general agreement that the trade is extensive. The US Department of State's *Trafficking in Persons Report 2008* states that:

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1. J. Phillips, 'People trafficking: Australia's response', *Research Note*, no. 20, Parliamentary Library, Canberra, 2005, [Hhttp://www.aph.gov.au/library/pubs/rn/2004-05/05rn20.pdf](http://www.aph.gov.au/library/pubs/rn/2004-05/05rn20.pdf)H , accessed on 12 August 2008.
 2. See K. Carrington and J. Hearn, 'Trafficking and the Sex industry: from Impunity to Protection', *Current Issues Brief*, no. 28, Parliamentary Library, Canberra, 2003, [Hhttp://www.aph.gov.au/library/pubs/CIB/2002-03/03cib28.htm](http://www.aph.gov.au/library/pubs/CIB/2002-03/03cib28.htm)H, accessed on 12 August 2008.

A wide range of estimates exists on the scope and magnitude of modern-day slavery. The International Labor Organization (ILO) ... estimates there are 12.3 million people in forced labor, bonded labor, forced child labor, and sexual servitude at any given time; other estimates range from 4 million to 27 million ... [Each year] approximately 800 000 people are trafficked across national borders, which does not include millions trafficked within their own countries. Approximately 80 percent of transnational victims are women and girls and up to 50 percent are minors. The majority of transnational victims are females trafficked into commercial sexual exploitation. These numbers do not include millions of female and male victims around the world who are trafficked within their own national borders—the majority for forced or bonded labor.³

The majority of the world's trafficking victims are women and children from Africa, Asia and parts of Eastern Europe. Trafficking can involve one or more associated crimes such as rape, murder, torture, debt bondage or slavery. There is also a growing trade in trafficking for body parts.⁴

Estimates suggest that the profits to be made from the people trafficking trade are huge. The International Organisation for Migration (IOM) has estimated the worldwide proceeds to be at least US\$10 billion a year.⁵ However, in 2005, the ILO estimated that global profits from forced labour trafficking victims alone were in the order of over US\$31 billion at that time:

Global profits made from forced labourers exploited by private enterprises or agents reach US\$ 44.3 billion every year, of which US\$ 31.6 billion [is] from trafficked victims. The largest profits—more than US\$ 15 billion—are made from people trafficked and forced to work in industrialized countries.⁶

In combination, the people trafficking and smuggling trade is believed to rival the world's drugs and firearms trade in profitability:

Human trafficking and illegal migration/human smuggling represent a core business of international criminal organisations. They are now thought to be among the most lucrative

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3. US Department of State, Introduction, *Trafficking in Persons Report*, 2008, [Hhttp://www.state.gov/g/tip/rls/tiprpt/2008/H](http://www.state.gov/g/tip/rls/tiprpt/2008/H), accessed on 12 August 2008.
 4. World Health Organization (WHO), *Organ trafficking and transplantation poses new challenges*, media release, 2004, [Hhttp://www.who.int/bulletin/volumes/82/9/feature0904/en/index.html](http://www.who.int/bulletin/volumes/82/9/feature0904/en/index.html)H, accessed on 12 August 2008; and B. Damman, Trafficking Unit, UN Office on Drugs and Crime, presentation at the People Trafficking, Human Security and Development Symposium, Canberra, 2004.
 5. Department of Immigration and Citizenship (DIAC), 'People smuggling', *fact sheet*, no. 73, revised 30 January 2007, [Hhttp://www.immi.gov.au/media/fact-sheets/73smuggling.htm](http://www.immi.gov.au/media/fact-sheets/73smuggling.htm)H, accessed on 12 August 2008.
 6. P. Belser, *Forced labour and human trafficking: estimating the profits*, ILO, 2005, p. iii, [Hhttp://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD_BLOB?Var_DocumentID=5081](http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD_BLOB?Var_DocumentID=5081)H, accessed on 12 August 2008.

of their world-wide activities. Together they are now believed to represent a global challenge of the same proportions as the illegal trafficking of drugs and firearms.⁷

Sex trafficking into Australia

The number of people trafficked into Australia is unknown. Estimates given to a 2004 parliamentary inquiry into sexual servitude in Australia ranged from 300 to 1000 trafficked women annually.⁸

The inquiry found that most of the women trafficked into Australia are recruited from South East Asia and China for the sex industry. According to the inquiry report, traffickers facilitate the women's entry to Australia by a range of fraudulent means, including providing visas (usually student or holiday visas), false passports and funds. The women are then sent to brothels around the country where their movements are usually restricted. It is not unknown for women to be forced to repay debts of over A\$40 000.⁹

Australia's response to sex trafficking

Australia's responses to people trafficking in the Asia Pacific region have included developing anti-trafficking initiatives between governments and providing aid to the region aimed at alleviating the economic and social conditions that allow trafficking to flourish. In particular, Australia and Indonesia co-chaired two regional ministerial conferences on trafficking and smuggling in 2002 and 2003 known as the Bali Process. The Bali Counter-

7. US Financial Action Taskforce, Chapter III, 'Proceeds from trafficking', *Money laundering and terrorist financing typologies 2004-05*, June 2005, p.65, [Hhttp://www.fatf-gafi.org/dataoecd/16/8/35003256.pdf](http://www.fatf-gafi.org/dataoecd/16/8/35003256.pdf)H, accessed 12 August 2008; and Co-chair statement, 'Bali Ministerial Conference on People Smuggling, Trafficking in Persons and related Transnational Crime', (known as the [HBali Process](#)H), February 2002, [Hhttp://www.dfat.gov.au/illegal_immigration/cochair.html](http://www.dfat.gov.au/illegal_immigration/cochair.html)H, accessed on 12 August 2008.

8. Australian Parliament, Joint Committee on the Australian Crime Commission, *Inquiry into the trafficking of women for sexual servitude*, Canberra, June 2004, p. viii, [Hhttp://www.aph.gov.au/Senate/committee/acc_ctte/completed_inquiries/2002-04/sexual_servitude/report/report.pdf](http://www.aph.gov.au/Senate/committee/acc_ctte/completed_inquiries/2002-04/sexual_servitude/report/report.pdf)H, accessed on 12 August 2008. For further discussion on the difficulties of accurately measuring the extent of trafficking see J. Putt, *Human trafficking to Australia: a research challenge*, Australian Institute of Criminology (AIC), 2007, [Hhttp://www.aic.gov.au/publications/tandi2/tandi338.pdf](http://www.aic.gov.au/publications/tandi2/tandi338.pdf)H, accessed 12 August 2008. Note: Australia is one of 21 trafficking destination countries listed in the high destination category; see United Nations Office on Drugs and Crime (UNODC), *Trafficking in persons: global patterns*, 2006, p. 64, [Hhttp://www.unodc.org/documents/human-trafficking/HT-globalpatterns-en.pdf](http://www.unodc.org/documents/human-trafficking/HT-globalpatterns-en.pdf)H, accessed on 12 August 2008.

9. *ibid.*, p. viii.

Terrorism Process evolved from this collaboration and on 29 June 2006, Australia and Indonesia issued a report on its achievements.¹⁰

In October 2003, the Australian government announced additional anti-trafficking measures with a \$20 million package, targeting sex trafficking in particular.¹¹

The package included:

- a new Australian Federal Police (AFP) unit, the Transnational Sexual Exploitation and Trafficking Team (TSETT)
- new visa arrangements for trafficking victims
- victim support measures, including counselling and legal and medical support, to be administered by the Office for Women (OFW)¹²
- proposed improvements to legislation, making people trafficking punishable by up to 20 years jail, and
- a promise to ratify the [*UN Protocol to Prevent, Suppress and Punish trafficking in Persons, especially Women and Children*](#) (Australia was already a signatory).

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10. Department of Foreign Affairs and Trade (DFAT), *Bali counter-terrorism process: report of the Australian and Indonesian co-chairs report*, 2006, [Hhttp://www.dfat.gov.au/icat/2004_conference/cochair_report.html](http://www.dfat.gov.au/icat/2004_conference/cochair_report.html)H, accessed on 12 August 2008. Note: On 7 February 2008 the Australia–Indonesia Framework for Security Cooperation or the [*Lombok Treaty*](#)H was ratified by both nations' parliaments, and came into force, [Hhttp://www.dfat.gov.au/geo/indonesia/ind-aus-sec06.html](http://www.dfat.gov.au/geo/indonesia/ind-aus-sec06.html)H, accessed on 12 August 2008. This treaty covers, among other issues, trafficking in human beings (Article 3: 7a). Australia was also represented at the Vienna Forum to Fight Human Trafficking held in February 2008, [Hhttps://www.unodc.org/unodc/en/press/releases/2008-02-15.html](https://www.unodc.org/unodc/en/press/releases/2008-02-15.html)H, accessed on 12 August 2008.
 11. A. Downer (Minister for Foreign Affairs), *Australian Government announces major package to combat people trafficking*, media release, Parliament House, Canberra, 13 October 2003, [Hhttp://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressrel&Criteria=CITATION_ID:18MA6](http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressrel&Criteria=CITATION_ID:18MA6)H; accessed on 12 August 2008; and Attorney–General's Department, *Australian Government's action plan to eradicate trafficking in persons*, 2004, [Hhttp://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(CFD7369FCAE9B8F32F341DBE097801FF\)~99Traffickingplan.pdf/\\$file/99Traffickingplan.pdf](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(CFD7369FCAE9B8F32F341DBE097801FF)~99Traffickingplan.pdf/$file/99Traffickingplan.pdf)H, accessed on 12 August 2008.
 12. For details of these victim support measures see, Office for Women (OFW), 'Support for victims of people trafficking', *fact sheet*, [Hhttp://www.ofw.facsia.gov.au/downloads/pdfs/people_trafficking_factsheet.pdf](http://www.ofw.facsia.gov.au/downloads/pdfs/people_trafficking_factsheet.pdf)H, accessed on 12 August 2008.

In 2004, the Attorney-General's Department produced an [Action Plan to Eradicate Trafficking in Persons](#) in support of the 2003 announcement. In this plan the Australian Government reinforced its commitment to recognising that trafficking in persons is a global concern and that there is a need to collaborate with regional partners in order to address the problems regionally.

Developments since 2004 include:

- The ratification by Australia in 2005 of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.
- Australian government funding for the Australian Institute of Criminology (AIC) for research into regional trafficking activities.¹³
- Various AusAID projects to assist in preventing trafficking in the Pacific region, such as the *Asia Regional Trafficking in Persons Project*.¹⁴
- Ratification of the [Australia–Indonesia Framework for Security Cooperation](#) Treaty (known as the [Lombok Treaty](#)) by both nations' parliaments on 7 February 2008. This treaty covers, among other issues, trafficking in human beings (Article 3: 7a).
- Indonesia joining the Asia Regional Trafficking in People (ARTIP) initiative (administered by AusAID) in August 2007.¹⁵
- Attendance by Australia at the UN's [Vienna Forum to Fight Human Trafficking](#) held in February 2008.¹⁶
- In June 2008, the Minister for Home Affairs, Bob Debus, chaired the first National Roundtable on People Trafficking to consult with government and non-government agencies.¹⁷

13. D. Johnston (Minister for Justice and Customs), *Budget 2007: More resources to combat people trafficking*, media release, Parliament House, Canberra, 8 May 2007, [Hhttp://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressrel&Criteria=CITATION_ID:8J0N6H](http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressrel&Criteria=CITATION_ID:8J0N6H); accessed on 12 August 2008.

14. See the AusAID *People trafficking* website for more detail, [Hhttp://www.aisaid.gov.au/country/peopletraffick.cfm](http://www.aisaid.gov.au/country/peopletraffick.cfm)H, accessed on 12 August 2008.

15. A. Downer (Minister for Foreign Affairs), *Australia combats human trafficking through Indonesian partnership*, media release, Parliament House, Canberra, 27 August 2007, [Hhttp://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressrel&Criteria=CITATION_ID:KK3O6H](http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressrel&Criteria=CITATION_ID:KK3O6H); accessed on 12 August 2008.

16. See UN, *Report of the Vienna Forum to Fight Human Trafficking*, 30 March 2008, [Hhttp://www.un.org/ga/president/62/ThematicDebates/humantrafficking/ECN152008CRP02.pdf](http://www.un.org/ga/president/62/ThematicDebates/humantrafficking/ECN152008CRP02.pdf)H, accessed on 12 August 2008.

- The Prime Minister, Kevin Rudd, stated in an International Women's Day address in March 2008 that he wants to 'progress the protection of women from sexual slavery and human trafficking'.¹⁸

Focus on victim support

Prior to the 2003 reforms, women who were found working as sex workers in Australia illegally, some of whom may have been trafficking victims, were usually detained in immigration detention centres and promptly deported.¹⁹ In one case in 2003, a young trafficking victim, allegedly given no assistance for her heroin addiction, died in detention while waiting to be deported.²⁰ Their deportation meant that victims were unable to take part in any criminal justice proceedings and testify against traffickers. The visa arrangements and victim support measures announced in October 2003 aimed to move the focus from punishing to supporting trafficking victims. It was also hoped that the measures would enable victims to stay in the country long enough to testify, and thus lead to the successful prosecution of traffickers.

The visa available for anyone suspected of being a trafficked victim is Bridging Visa F, introduced on 1 January 2004. This visa lasts 30 days while trafficking claims are investigated. If the victim then agrees to assist the police with their inquiries, the victim is eligible for a Criminal Justice Stay (CJS) Visa allowing them to stay in the country and work for the duration of the criminal justice process. Once the CJS Visa expires, victims are eligible for the Witness Protection (Trafficking) Visa which allows trafficking victims to stay on a temporary or permanent basis depending on individual circumstances.²¹

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17. B. Debus (Minister for Home Affairs), *Government consults on people trafficking*, media release, Parliament House, Canberra, 24 June 2008, [Hhttps://www.ag.gov.au/www/ministers/ministerdebus.nsf/Page/MediaReleases_2008_Second_quarter_24June2008-GovernmentConsultsonPeopleTraffickingH](https://www.ag.gov.au/www/ministers/ministerdebus.nsf/Page/MediaReleases_2008_Second_quarter_24June2008-GovernmentConsultsonPeopleTraffickingH), accessed on 12 August 2008.
 18. K. Rudd (Prime Minister), *Address to International Women's Day Morning Tea, Old Parliament House*, media release, Parliament House, Canberra, 11 March 2008, [Hhttp://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressrel&Criteria=CITATION_ID:L4WP6H](http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressrel&Criteria=CITATION_ID:L4WP6H); accessed on 12 August 2008.
 19. See Carrington, op. cit., p. 13.
 20. L. Younes, 'Trafficking in sex slaves is rife in Australia', *The Canberra Times*, 6 March 2004, [Hhttp://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressclp&Criteria=CITATION_ID:AHUB6H](http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressclp&Criteria=CITATION_ID:AHUB6H); accessed on 12 August 2008.
 21. Between 1 January 2004 and 30 June 2005, 42 suspected victims of trafficking were granted BVFs, and 26 people were granted Criminal Justice Stay visas. During that time no Witness Protection (Trafficking) Visas had been issued. Source: Department of Immigration and Citizenship (DIAC), *Managing the Border: immigration compliance 2004-05*, p. 97, [Hhttp://www.immi.gov.au/media/publications/compliance/managing-the-border/index.htmH](http://www.immi.gov.au/media/publications/compliance/managing-the-border/index.htmH), accessed on 12 August 2008.

The Support for Victims of Trafficking Program is coordinated by the Office for Women. Under this program, victims (as identified by the AFP) are offered secure accommodation, a living allowance and access to health care and legal support.²²

Legislation

Legislative measures date back to 1999 when the *Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999* amended the *Criminal Code Act 1995* to insert offences relating to slavery, sexual servitude and deceptive recruiting for sexual services. It was acknowledged at the time that the problem was a significant one for Australia, with a growing and highly lucrative international trade in people into Australia for the purposes of sexual exploitation.²³

Improvements to the existing legislation, proposed in the government's anti-trafficking package in October 2003, included introducing additional offences to criminalise all aspects of people trafficking. On 21 June 2005, the Minister for Justice and Customs, Chris Ellison, announced the successful passage of the *Criminal Code Amendment (Trafficking in Persons) Act 2005* in the Senate. The Act creates new offences criminalising the trafficking of persons into and out of Australia. These offences include 'debt bondage' and child trafficking offences with penalties of up to 25 years imprisonment. They strengthen the existing regime of offences dealing with slavery, sexual servitude and people smuggling.²⁴ Australia ratified the UN [*Protocol to prevent, suppress and punish trafficking in persons, especially women and children*](#) in September 2005—a promise it had made on passing the legislation.²⁵

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22. See the OFW guidelines, *Support for victims of trafficking program guidelines 2007–2011*, outlining the future requirements for all program support applicants, [Hhttp://ofw.facs.gov.au/downloads/pdfs/Trafficking_%20App_Guidelines.pdf](http://ofw.facs.gov.au/downloads/pdfs/Trafficking_%20App_Guidelines.pdf)H, accessed on 12 August 2008. See also the Office for Women, 'Support for victims of people trafficking', *fact sheet*, [Hhttp://facs.gov.au/ofw/downloads/pdfs/people_trafficking_factsheet.pdf](http://facs.gov.au/ofw/downloads/pdfs/people_trafficking_factsheet.pdf)H, accessed on 12 August 2008.
 23. See the 1999 Second Reading speech, [Hhttp://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=hansards&Criteria=DOC_DATE:1999-03-24;SEQ_NUM:10](http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=hansards&Criteria=DOC_DATE:1999-03-24;SEQ_NUM:10)H; accessed on 12 August 2008; and *Criminal Code Amendment (Slavery and Sexual Servitude) Bill 1999*, Bills Digest, no. 167, Parliamentary Library, 1998–99, [Hhttp://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=billsdgs&Criteria=CITATION_ID:FZ706](http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=billsdgs&Criteria=CITATION_ID:FZ706)H; accessed on 12 August 2008.
 24. C. Ellison (Minister for Justice and Customs), *Government gets tougher on people trafficking*, media release, Parliament House, Canberra, 21 June 2005, [Hhttp://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressrel&Criteria=CITATION_ID:ZWEG6](http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressrel&Criteria=CITATION_ID:ZWEG6)H; accessed on 12 August 2008.
 25. DFAT, Treaty Database, [Hhttp://www.info.dfat.gov.au/Info/Treaties/treaties.nsf/AllDocIDs/E5DFF3770864AB2CCA256B3E00104E80](http://www.info.dfat.gov.au/Info/Treaties/treaties.nsf/AllDocIDs/E5DFF3770864AB2CCA256B3E00104E80)H, accessed on 30 October 2007. Note: Australia signed the protocol on 11 December 2002.

Parliamentary reports

In June 2004 the Parliamentary Joint Committee on the Australian Crime Commission tabled the *Inquiry into the trafficking of women for sexual servitude* report, outlining the extent of the problem in Australia and Australia's responses to date.²⁶

On 11 August 2005, the Parliamentary Joint Committee on the Australian Crime Commission produced a *Supplementary report to the Inquiry into the trafficking of women for sexual servitude*. This supplementary report aimed to assess some of the changes introduced through the government's national *Action Plan to Eradicate Trafficking in Persons, 2004*. The supplementary report included findings that debt bondage arrangements are increasing and that Sydney remains the most significant entry point for trafficked women. In addition the inquiry found that women who have been trafficked may not see themselves as victims; they see their situation as one in which they can improve their families' lives and may even be hostile to Australian law enforcement's attempts to extricate them from their position.²⁷

The Committee recommended that the government ensure that no women accepted into the victim support program be forced to return to their country and that arrangements be made to enable witnesses on CJS visas to return to their country of origin for short periods.²⁸

The Government response to the report of the Parliamentary Joint Committee on the Australian Crime Commission 'Inquiry into the trafficking of women for sexual servitude' was released in 2007.²⁹ The Government accepted some of the Committee's recommendations, but rejected the recommendation that trafficked women accepted into the victim support program or granted a CJS visa be exempt from compulsory return to their country of origin.

26. Australian Parliament, Parliamentary Joint Committee on the Australian Crime Commission, *Inquiry into the trafficking of women for sexual servitude* report, Canberra, 2004, [Hhttp://www.aph.gov.au/Senate/committee/acc_ctte/completed_inquiries/2002-04/sexual_servitude/index.htm](http://www.aph.gov.au/Senate/committee/acc_ctte/completed_inquiries/2002-04/sexual_servitude/index.htm)H, accessed on 12 August 2008.

27. Australian Parliament, Parliamentary Joint Committee on the Australian Crime Commission, *Supplementary report to the Inquiry into the trafficking of women for sexual servitude*, Canberra, 2005, p. 3, [Hhttp://www.aph.gov.au/Senate/committee/acc_ctte/completed_inquiries/2002-04/sexual_servitude/round_table/update.htm](http://www.aph.gov.au/Senate/committee/acc_ctte/completed_inquiries/2002-04/sexual_servitude/round_table/update.htm)H, accessed on 12 August 2008.

28. *ibid.*, p. 8.

29. Australian Government, Government response to the report of the Parliamentary Joint Committee on the Australian Crime Commission 'Inquiry into the trafficking of women for sexual servitude', 2007, [Hhttp://www.aph.gov.au/Senate/committee/acc_ctte/completed_inquiries/2002-04/sexual_servitude/Gov_response/trafficking_of_women_for_sex_servitude.pdf](http://www.aph.gov.au/Senate/committee/acc_ctte/completed_inquiries/2002-04/sexual_servitude/Gov_response/trafficking_of_women_for_sex_servitude.pdf)H, accessed on 12 August 2008.

The effectiveness of Australia's response

The US Department of State has commended the Australian Government for its assistance to trafficking victims in the Australian country narrative section of its *Trafficking in Persons Report 2008*. However, it has criticised the direct links that are made between victim assistance and their role in a 'viable prosecution':

The Government of Australia continued to provide comprehensive assistance for victims of trafficking and their family members, if they were willing to aid in criminal prosecutions. The government encourages victims and witnesses to participate in the investigation of trafficking, but directly links continued assistance to victims' role in a viable prosecution.³⁰

Australia's policy of making visas available only to trafficking victims who cooperate with the criminal justice system is based on concerns that without these links to the justice system, people might fraudulently claim to be victims of trafficking in a bid to remain in the country.³¹ Under these arrangements the prosecution rates in Australia so far are very small, despite the significant allocation of resources to the Government's anti-trafficking measures. As at 23 May 2007, of the 125 cases of human trafficking investigated by the AFP since 2004, 111 investigations had been completed. Of those investigations completed, 101 were ceased without any further action and only 10 had been referred to the Director of Public Prosecutions (DPP). Most of those finalised without further action included those where insufficient evidence existed to support a prosecution or where victims elected not to assist an investigation or provide a statement.³² It has been argued that the ties the Australian system currently makes between protection and cooperation with the criminal justice system contribute to the reluctance on the part of trafficking victims to cooperate.³³ In Italy, on the other hand, where a residency permit for trafficking victims is not contingent on the victim collaborating in a prosecution, the prosecution rates are reportedly growing, with very few reported problems.³⁴

30. Trafficking in Persons Report, 2008, op. cit.

31. J. Burn and F. Simmons, 'Trafficking and slavery in Australia: an evaluation of victim support strategies', *Asian and Pacific Migration Journal*, vol. 15, no. 4, 2006, p. 565, [Hhttp://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=jrnart&Criteria=CITATION_ID:709N6H](http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=jrnart&Criteria=CITATION_ID:709N6H); accessed on 12 August 2008.

32. Answer to Estimates QON no. 81, Senate Standing Committee on Legal and Constitutional Affairs, Australian Federal Police, 23 May 2007.

33. Global Alliance against Traffic in Women, Australia chapter in; *Collateral Damage: the Impact of Anti-Trafficking Measures on Human Rights around the World*, 2007, p. 37, [Hhttp://www.gaatw.net/index.php?option=com_content&task=blogcategory&id=0&Itemid=179H](http://www.gaatw.net/index.php?option=com_content&task=blogcategory&id=0&Itemid=179H), accessed on 12 August 2008.

34. In 2002, there were approximately 1600 prosecutions and investigations underway. See End Child Prostitution Pornography Trafficking (ECPAT), *Briefing on a proposal for European Union Council Directive (COM (2002) 71 final) on the Short-Term Residence Permit issued to*

Other problems have been identified with the current Australian system which may discourage many potential participants:

- Victims are not eligible for a protection visa until after the trial which may take several years—the average length of time taken to complete an investigation that proceeds to prosecution is two and a half years.³⁵
- Cultural sensitivities can also pose problems such as reluctance on the part of women from many Asian cultures to seek help from strangers in a foreign country.³⁶
- Locating trafficking victims in the first place and then persuading them to trust and cooperate with police can be very problematic, and for those women who are too afraid to cooperate there is limited support.³⁷

Fiona David, a researcher from the Australian Institute of Criminology, has noted that the crime of trafficking is complex and not easily eradicated:

Experience in Australia and overseas confirms that enacting appropriate criminal laws is just the first step. Greater challenges lie in giving full effect to these laws, while recognising the special rights and needs of victims of trafficking ... Unlike many crimes, trafficking is not a single, static 'event'. It is a process that can involve multiple offenders and crime sites across several jurisdictions, ultimately leading to exploitation of the victim (ICMPD 2003: 87). Many investigations will be conducted in the country of destination where the

victims of action to facilitate illegal immigration or trafficking in human beings who co-operate with the competent authorities, 2002,

[Hhttp://www.antislavery.org/archive/other/antislaveryecpatukresponse.pdf](http://www.antislavery.org/archive/other/antislaveryecpatukresponse.pdf)H, accessed on 12 August 2008. For more information on international trafficking prosecutions and systems see United Nations Office on Drugs and Crime (UNODC), *Trafficking in persons: global patterns*, 2006, [Hhttp://www.unodc.org/documents/human-trafficking/HT-globalpatterns-en.pdf](http://www.unodc.org/documents/human-trafficking/HT-globalpatterns-en.pdf)H, accessed on 12 August 2008; and M. Ventrella, 'Protecting victims of trafficking in human beings in the UK: the Italian 'Rimini Method' that could influence the British approach', *Journal of Migration and Refugee Issues*, vol. 3, no. 2, 2007, [Hhttp://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=jrnart&Criteria=CITATION_ID:2S9P6H](http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=jrnart&Criteria=CITATION_ID:2S9P6H)H; accessed on 12 August 2008.

35. Answer to QON no. 81, op. cit.
36. For an in-depth evaluation of the trafficking visa framework see J. Burn and F. Simmons, op. cit.
37. See for example, G. Jacobsen, 'Client sparked brothel raid', *Sydney Morning Herald*, 24 September 2004, [Hhttp://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressclp&Criteria=CITATION_ID:VPVD6H](http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressclp&Criteria=CITATION_ID:VPVD6H)H; accessed on 12 August 2008; and N. Robinson, 'Australia 'abandons' sex slaves who can't help police', *The Australian*, 16 January 2006, [Hhttp://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressclp&Criteria=CITATION_ID:XMHI6H](http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressclp&Criteria=CITATION_ID:XMHI6H)H; accessed on 12 August 2008.

exploitation is perpetrated. However, important evidence such as information about deceptive recruitment practices may be located in the country of origin or transit. Investigators in one country need to work closely with law enforcement officials in other countries to exchange information, and possibly also to secure evidence and extradite offenders.³⁸

Therefore, while the Government has been commended for the anti-trafficking initiatives taken so far, some query why there are so few victims being supported and so few successful prosecutions.³⁹ The literature suggests that the debate on the most effective way to support victims, while increasing the number of successful prosecutions, continues around the world. It remains to be seen how successful the new Australian arrangements will be in both protecting victims and prosecuting traffickers in the future.⁴⁰

Trafficking and forced labour

Very little is known about the extent of forced labour and servitude trafficking victims in Australia, but the numbers are estimated to be small. Although there were about 47 800 unlawful non-citizens in the country as at 30 June 2005, most of these would be people who have overstayed their visas and are not necessarily working here illegally, or if they are, are unlikely to be victims of forced labour. In 2004–05, the number of illegal workers located was 3870, but once again information on how many, if any, of these may have been trafficked and exploited is not available.⁴¹

Most of the current anti-trafficking measures that have been introduced by regional governments focus on sex trafficking with little reference to forced labour.⁴² For a variety of reasons people from developing countries are often forced to seek employment in developed

38. F. David, *Law enforcement responses to trafficking in persons: challenges and emerging good practice*, AIC, 2007, [Hhttp://www.aic.gov.au/publications/tandi2/tandi347.pdf](http://www.aic.gov.au/publications/tandi2/tandi347.pdf), accessed on 12 August 2008. A new report by Ms David, *Trafficking of women for sexual purposes*, AIC, 2008, deals in more depth on these issues, [Hhttp://www.aic.gov.au/publications/rpp/95/http://www.aic.gov.au/publications/rpp/95/H](http://www.aic.gov.au/publications/rpp/95/http://www.aic.gov.au/publications/rpp/95/H), accessed on 12 August 2008.

39. *ibid.*, 2007, p. 55.

40. For more discussion of the effectiveness of victim support measures see J. Burn and F. Simmons, *op. cit.*

41. *Managing the Border: immigration compliance 2004–05*, *op. cit.*, pp. 47 and 50.

42. For an example of forced labour in Australia see L. Lamont, 'Silent shame of our new slaves', *Sydney Morning Herald*, 10 June 2004, [Hhttp://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressclp&Criteria=CITATION_ID:NXRC6H](http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressclp&Criteria=CITATION_ID:NXRC6H); accessed on 12 August 2008 and S. Markson, 'Trade in slave labour', *Sunday Telegraph*, 22 July 2007, [Hhttp://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressclp&Criteria=CITATION_ID:GCQN6H](http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressclp&Criteria=CITATION_ID:GCQN6H); accessed on 12 August 2008.

countries where there is a demand for unskilled labour. With very few legal migration avenues available, many become vulnerable to the trafficking industry for both the sex trade and forced labour.

The Australian section of the *Trafficking in Persons Report 2008* notes:

There were reports of several men and women from India, the P.R.C., South Korea, the Philippines, and Ireland migrating to Australia temporarily for work, but subsequently subjected to conditions of forced labor, including fraudulent recruitment, confiscation of travel documents, confinement, and debt bondage ... While some companies and persons were fined by Australian courts for violations that may have constituted forced labor offenses, there were no criminal penalties handed down to employers involved in forced labor. During 2007, 123 employers have been temporarily barred from employing migrant laborers under the 457 visa scheme and an additional 273 received warnings for failing to pay laborers a minimum salary. DIAC, Unions, and the Workplace Ombudsman continue to discover instances in which migrant workers are in situations of debt bondage, and other conditions leading to labor trafficking.⁴³

Several recent media reports and journal articles have made allegations of servitude and exploitation:

- D. King, '[Restaurateur faces jail](#)', *The Australian*, 27 October, 2007
- D. Batstone, '[Opinion: Slavery is outsourcing's sinister side](#)', *Australian Financial Review*, 28 March 2007
- C. Marcus, '[Diplomat servant's 'unpaid slavery](#)', *Sun Herald*, 11 March 2007
- J. Lewis, '[Out of the shadows \[and\] exploitation on the rise in Australia](#)', *Law Society Journal*, vol. 45, no. 1, February 2007, pp. 24–27
- S. Markson, '[Trade in slave labour](#)', *Sunday Telegraph*, 22 July 2007.

Conclusion

Australia's responses to combating people trafficking have been commended, particularly with regard to the Government's victim assistance programs and funding support for anti-trafficking efforts throughout the Southeast Asia region.⁴⁴

However, it is widely acknowledged that the problem of people trafficking is complex and that tackling this issue through the criminal justice system poses problems around the world. Successful prosecutions often rely on the cooperation of victims who may be traumatised and

43. *Trafficking in Persons Report*, 2008, op. cit.

44. See the Australian section of the *Trafficking in Persons Report*, 2008, op. cit.

fearful. Some suggest that more could be done to further improve prosecution practices and the protection of witnesses both in Australia and internationally.⁴⁵

In addition, criticisms of strategies to combat trafficking suggest that governments have adopted a very narrow approach to the problem. The argument is made that unless the systemic issues that perpetuate the cycle of both sex trafficking and forced labour are addressed, including entrenched poverty in developing countries and a lack of legal migration options, very little will be achieved in combating people trafficking.⁴⁶

Appendix A—Australian statistics

- **Visas:** visas issued between 1 January 2004 and 30 September 2007 (Note: some visa recipients have been granted more than one visa as they have travelled back to their home countries and then returned):
 - 56 Criminal Justice Stay Visas to a total of 48 people (another 10 were issued prior to 2004)
 - 15 Criminal Justice Entry Visas to a total of eight people
 - 80 Bridging Visa F (BVF) to a total of 74 suspected victims of trafficking
 - 14 Witness Protection (Trafficking) (Temporary) Visas
 - Witness Protection (Trafficking) (Permanent) Visas—the temporary trafficking visa is granted for three years (the first was issued in September 2006). At the end of that period the Minister has the power to decide if the person is still considered at risk or whether they must return to their country of origin. So far, none of the temporary visa recipients have progressed through the system to become eligible for the permanent visa.⁴⁷

45. See F. David, *Prosecuting trafficking in persons: known issues, emerging responses*, AIC, 2008, [Hhttp://www.aic.gov.au/publications/tandi2/tandi358.html](http://www.aic.gov.au/publications/tandi2/tandi358.html)H, accessed on 12 August 2008.

46. See for example; M. Seagrave, 'Surely something is better than nothing? The Australian response to the trafficking of women into sexual servitude in Australia', *Current Issues in Criminal Justice*, July 2004, [Hhttp://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=jrnart&Criteria=CITATION_ID:RK7D6H](http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=jrnart&Criteria=CITATION_ID:RK7D6H)H; accessed on 12 August 2008; and The Global Alliance against Traffic in Women, op. cit., [Hhttp://www.gaatw.net/index.php?option=com_content&task=blogcategory&id=0&Itemid=179](http://www.gaatw.net/index.php?option=com_content&task=blogcategory&id=0&Itemid=179)H, accessed on 12 August 2008.

47. DIAC advice, 30 October 2007.

- **Trafficking:** between 1999 and February 2005, 133 suspected trafficked adults (mostly Thai) were referred by Immigration officials to the AFP. All arrived by air—predominantly on tourist visas. About 60 per cent of those were accepted for assessment by the AFP.⁴⁸ According to the 2006–07 Australian Federal Police’s *Annual Report*, since 2004, the AFP has investigated 125 cases of human trafficking.⁴⁹ A new report, *Trafficking of women for sexual purposes*, provides an update on these figures: ‘From 1 July 1999 to 31 December 2007, DIAC had formally referred 221 matters to the AFP (a ‘matter’ could be a piece of information, such as a location or a specific individual). This included 196 referrals relating specifically to the sex industry, involving 174 suspected trafficked persons ... The Australian Federal Police have undertaken more than 150 investigations related to trafficking in persons.’⁵⁰
- **Children:** between 1999 and February 2005, six children under the age of 18 (suspected of being trafficking victims) were referred by Immigration officials to the AFP. In none of these cases was trafficking substantiated.⁵¹
- **Victim support:** from 20 May 2004 to 31 January 2008, 88 clients were supported by the Support for Victims of Trafficking Program coordinated by the Office for Women. The majority of clients were Thai women (62) and the remaining clients were from other countries in Asia and Europe.⁵²
- **Prosecutions:** as at 30 January 2008, there have been seven convictions under the *Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999* since its introduction.⁵³ Of these, several are under appeal and one was quashed on appeal and a retrial ordered. The first conviction (for a slavery offence) under this Act was in the Victorian County Court in June 2006.⁵⁴ However, the accused, Wei Tang, successfully appealed and her conviction was quashed in June 2007. The Commonwealth Director of Public Prosecutions (DPP) has lodged an appeal against this decision and the matter is now the subject of a Crown special leave application to the High Court.⁵⁵ In another two

48. Answer to QON no. 107, Senate Legal and Constitutional Committee Estimates, Immigration Portfolio, 15 February 2005.

49. Australian Federal Police, *Annual Report 2006–07*, Canberra, p. 25.

50. F. David, 2008, pp. iii, 6 and 27.

51. Answer to QON no. 106, Senate Legal and Constitutional Committee Estimates, Immigration Portfolio, 15 February 2005.

52. F. David, 2008, p.17.

53. *ibid.*

54. Answer to Estimates QON no. 112, Senate Standing Committee on Legal and Constitutional Affairs, Australian Federal Police, 31 October 2006 and C. Ellison (Minister for Justice and Customs), *First person jailed under new federal sex slave laws*, media release, 9 June 2006.

55. Commonwealth Director of Public Prosecutions (DPP), *Annual Report 2006–07*, p. 45; and DPP advice. The case of *The Queen v. Tang* was heard on 13–14 May 2008 in the High Court

of these cases, the defendants convicted (of sexual servitude offences) under s 270.6 (2) of the Act have appealed and the hearings are due to be held in 2008. Another was for a slavery offence under s 270.3 (1) of the Act. There have been no convictions as yet under the *Criminal Code Amendment (Trafficking in Persons) Act 2005*.⁵⁶

- **Investigations:** of the 125 cases of human trafficking investigated by the AFP since 2004, 111 investigations have been completed. Of those completed, 101 were ceased without any further action and 10 have been referred to the DPP for prosecution. Most of those finalised without further action included those where insufficient evidence existed to support a prosecution or where victims elected not to assist an investigation or provide a statement.⁵⁷ *Trafficking of women for sexual purposes*, provides an update on these figures: 'The Australian Federal Police have undertaken more than 150 investigations related to trafficking in persons.'⁵⁸

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56. US Department of State, Australia section, *Trafficking in Persons Report 2007*, and advice from the DPP. For more detail on some of these cases see F. David, op. cit., 2008.
57. Answer to Estimates QON no. 81, op. cit.
58. F. David, *Trafficking of women for sexual purposes*, AIC, 2008, pp. 6–7, [Hhttp://www.aic.gov.au/publications/rpp/95/H](http://www.aic.gov.au/publications/rpp/95/H), accessed on 12 August 2008.

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