

## Chapter 2

### The problem of sexual servitude and trafficking in women

#### Introduction

2.1 This chapter describes the trade of trafficking in women, the involvement of the sex industry and sexual servitude. The chapter then addresses the more complex issue of the size of the trade and the extent of the problem within Australia.

#### Trafficking for the sex trade

2.2 The first widely accepted and internationally agreed definition of trafficking is embodied in the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* (the Trafficking Protocol). This instrument is one of three Protocols supplementing the *United Nations Convention against Transnational Organised Crime*.<sup>1</sup> As Ms Gallagher, a former adviser on trafficking to the UN High Commissioner for Refugees, explains, the Protocol definition is quite complicated but can be broken down into three key elements:

1. movement (across or within borders); through
2. coercive, deceptive means; for the purpose of
3. exploitation.

In the case of trafficking in children, element 2 is unnecessary. In other words, the movement of children for purposes of exploitation is considered trafficking, irrespective of whether or not the child was coerced, deceived or otherwise lured into the situation.<sup>2</sup>

2.3 This can therefore be contrasted with 'smuggling', which is defined as 'the procurement, in order to obtain directly or indirectly a financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national or permanent resident.'<sup>3</sup> The two can be distinguished in that:

people smuggling is usually limited to illegally transporting person(s) to another country after which the relationship between the smuggler and smuggled person terminates. This differs from trafficking in persons, where the person(s) are delivered to organisations or individuals who have paid

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1 Adopted by resolution A/RES/55/25 of the UN General Assembly on 15 November 2000. As at 28 August 2003 the Convention had 147 signatures and 41 parties, while the Protocol had 117 signatures and 31 parties. ADG, Submission 36, p. 4-5

2 Ms Gallagher, Submission 23, p. 3

3 AFP, Submission 37, p. 1

for their delivery, after which the trafficked person(s) must repay their debt to the organisers through prostitution or forced labour.<sup>4</sup>

2.4 The trafficking of women for the purposes of sexual servitude must also be viewed in the wider context of people smuggling and trafficking generally. Ms Gallagher points out that:

Trafficking takes place for a variety of end purposes including domestic service, forced marriage and sweatshop labour. Forced sex work is the most visible end-result of trafficking especially in developed countries such as Australia but there is no hard evidence available that it is the most common.<sup>5</sup>

2.5 This fact is evident in a study of trafficked persons undertaken by Project Respect in 2004, which also found examples in the construction and hospitality industries.<sup>6</sup> From the evidence received during this inquiry, there is no evidence to suggest that males – either adults or children – are victims of trafficking in the sex trade, with trafficked men tending to end up in other industries.<sup>7</sup>

2.6 Ms Gallagher offers several other characteristics of the trade:

- By definition, a trafficked person ends up in a situation from which she or he cannot escape. Traffickers and their accomplices use a variety of methods to prevent escape including threats and use of force, intimidation, detention and withholding of personal documents.
- Most though not all trafficked persons enter and/or remain in the destination country illegally. Illegal entry increases a trafficked person's reliance on traffickers and serves as an effective deterrent to seeking outside help.
- Unlike drug trafficking or human smuggling, revenues from trafficking are ongoing and potentially long-term, as the benefits of another person's 'labour' can be appropriated indefinitely.<sup>8</sup>

### ***Source countries***

2.7 According to Project Respect, a specialist non-government organisation working to promote the human rights of women in the sex industry, most women

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4 AFP, Submission 37, p. 1

5 Ms Gallagher, Submission 23, p. 4

6 Project Respect, *One victim of trafficking is one too many: counting the human cost of trafficking*, March 2004.

7 Mr Kitson, *Proof Committee Hansard*, 26 February 2004, p. 45; Dr Moyle, *Proof Committee Hansard*, 25 February 2004, p. 59

8 Ms Gallagher, Submission 23, p. 4

trafficked to Australia come from South East Asia and China, with the majority from Thailand. However, there are also indications that women are at times trafficked from Europe and Latin America. Project Respect also has anecdotal evidence that following the recent publicity about trafficking in Thai women, fewer Thai women are being brought to Australia, being replaced with increasing numbers from South Korea<sup>9</sup> and Malaysia.<sup>10</sup>

2.8 This evidence is borne out by statistics from the Department of Immigration, and Multicultural and Indigenous Affairs (DIMIA), which show that of 257 people detected in 2002-2003 working illegally in the sex industry, the majority (100) were from Thailand:

**People detected working illegally in the sex industry 2002-03<sup>11</sup>**

| Nationality                | Total      |
|----------------------------|------------|
| Burma (Myanmar)            | 1          |
| Cambodia                   | 1          |
| Canada                     | 1          |
| China, Peoples Republic of | 42         |
| Colombia                   | 2          |
| HKSAR of the PRC           | 9          |
| Hungary                    | 1          |
| Indonesia                  | 6          |
| Korea, Republic of         | 39         |
| Malaysia                   | 49         |
| Nepal                      | 1          |
| Philippines                | 2          |
| Thailand                   | 100        |
| United States of America   | 2          |
| Unknown                    | 1          |
| <b>TOTAL</b>               | <b>257</b> |

9 Project Respect, Submission 25, p. 7

10 Ms Hoban, School of Health Sciences, Submission 14, p. 2

11 DIMIA, Submission 37, Attachment A

## ***Recruitment***

2.9 There are three broad categories of women trafficked to Australia.

2.10 The first group comprises women who come to Australia intending to work in the sex industry. The second group come knowingly intending to work in the sex industry, but are misled by traffickers as to the conditions under which they will be working. This second group includes women who have worked in the sex industry previously in and/or abroad, as well as those who have never engaged in prostitution before. According to Ms Gallagher:

Most traffickers use varying levels of fraud or deception, rather than outright force, to secure the initial cooperation of the trafficked person. A commonly reported situation involves a girl or young woman being deceived about the cost (and repayment conditions) of the migration services being offered her, the kind of work she will be doing abroad and/or the conditions under which she is expected to work.<sup>12</sup>

2.11 Even for those with experience in the sex industry, conditions as a sex worker in Australia may be much worse than in their home countries. Project Respect told the Committee:

For example, women may be given the impression that they will be working in a karaoke bar, will be able to pick and chose who they have sex with and will only have a small number of prostitution clients.<sup>13</sup>

2.12 In these karaoke bars in Thailand for example, the women may only have one customer per night, and up to ten a month. In Australia, by contrast, they will be required to service between seven and ten customers per day.<sup>14</sup>

2.13 The third group are totally deceived about the fact that they will be required to work as prostitutes in Australia. These women are often told that they will be working in businesses unrelated to the sex industry, such as restaurants, travel services, or domestic work. Perhaps the worst aspect of this relates to child trafficking. Ms Gallagher explains in her submission that:

Traffickers use a variety of recruitment methods. Outright abduction is only very occasionally reported and often difficult to objectively verify. Child trafficking generally involves payment to a parent or guardian in order to achieve cooperation and this is often accompanied by a measure of deception regarding the nature of the child's future employment or position.<sup>15</sup>

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12 Ms Gallagher, Submission 23, p. 4

13 Project Respect, Submission 25, p. 7

14 Confidential evidence.

15 Ms Gallagher, Submission 23, p. 4

2.14 The death of a Thai sex worker in Villawood Detention Centre in 2003, brought to light an example of this in Australia. Ms Simaplee came from a hill tribe in Chiang Mai province and was sold by her parents as a 12 year old, and then smuggled into Australia on a false Malaysian passport in 1986.<sup>16</sup>

2.15 Recruitment of the women is done by spotters in the home country, often friends or acquaintances of the trafficked women, who are paid a commission or spotter's-fee. The women are asked if they would like to work in Australia. If they agree, they give their passport to the trafficker, and some time later – often months – they are contacted and told the get ready to leave.<sup>17</sup>

2.16 In the case of the increasing number of Korean sex workers coming to Australia, the Korean networks reportedly 'use recruiters to find women with debts that they buy up, promising the women to save them from debtors' prison'.<sup>18</sup>

2.17 In all cases, the size of the contract amount is very large, averaging between \$35,000 to \$40,000 and sometimes as much as \$50,000.<sup>19</sup> However, the true significance of this sum for a sex worker is the number of clients the women will need to service to complete the contract. As the Scarlet Alliance explained:

that it is an average of 700 clients for the contracts at present, but if they work in different sectors of the industry the number might be greater, because the price of the service is different. If they are working in what is called massage then the client number might be greater because the fee per service is lower and the type of service is not penetrative sexual services, whereas if they are working in what is called a full-service brothel, where the fee the client is paying is much greater, then those women are on a lower number of clients per contract.<sup>20</sup>

2.18 It is not possible to accurately determine the relative proportions of these three categories. The evidence presented to this inquiry agrees that the majority of women coming to Australia on contract do so willingly. Scarlet Alliance point to unpublished research from the Sydney Sexual Health Centre, which shows that while the contract fees are excessive relative to the things that need to be arranged:

that is the risk ... that they will take in order to have the opportunity to come here and work and perhaps go back with \$5,000, which is more money than they would ever be able to make in their lives in their home country. It is the pot of gold at the end of the road. That can be earned by a very good, very active sex worker in about two weeks, if she wishes to. So

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16 'Sold at 12: nightmare ends in death', Sydney Morning Herald, 13 March 2003, p. 7

17 Confidential evidence

18 'Deals on sex slaves in lobby of hotel', Weekend Australian, 26 July 2003, p. 3

19 Ms McMahon, *Proof Committee Hansard*, 25 February 2004, p. 20

20 Ms McMahon, *Proof Committee Hansard*, 25 February 2004, p. 20

if they are on a three-month tourist visa and they finish their contract they can make that money.<sup>21</sup>

2.19 Similarly, Superintendent Migro of the WA Police, of their experience of recent instances in which:

several Asian females residing in Australia illegally have been detained under the provisions of federal legislation. In all instances, the females were above the age of 18 and they declined to discuss their situation in any great detail. The females gave the impression that they had entered Australia fully understanding the conditions under which they would be employed and none wished to make any complaint. All appeared to be willing participants in the prostitution related matters.<sup>22</sup>

2.20 Project Respect have a more critical view, and consider that although the majority of trafficked women are willing participants in the trade, the majority are also victims of significant deception in relation to the scale of their debt and the conditions under which they will work.<sup>23</sup>

2.21 It is also important to place this evidence in a wider perspective. The Committee received evidence from the Scarlet Alliance that, based on a recent unpublished survey, the vast majority of overseas sex workers in Sydney came voluntarily with legitimate visas, quite often to study. Thus, 'the fact that they are working in the sex industry is a secondary activity to their primary purpose.'<sup>24</sup>

There were 144 women in that study, and of those only 11 had indicated that they had some kind of contractual or agent type arranged visit – so someone assisted them in exchange for money or they were actually on a contract. That is less than 10 per cent of the interviewees in that survey.<sup>25</sup>

### ***Entry to Australia***

2.22 The central challenge for those wishing to enter Australia is obtaining a visa, and it is at this point that the traffickers play the key role. The most common basis for entry is either a student or tourist visa. Project Respect explain that:

Traffickers regularly provide women with false passports and pay money into women's bank accounts to temporarily inflate their bank balance which

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21 Ms McMahon, *Proof Committee Hansard*, 25 February 2004, p. 23

22 Det Supt Migro, *Proof Committee Hansard*, 25 February 2004, p. 47. See also comments at p. 52

23 Project Respect, Submission 25, p. 4. This view is also taken by the Australian Section of the International Commission of Jurists, Submission 8, p. 3, quoting the UN Special Rapporteur.

24 Ms McMahon, *Proof Committee Hansard*, 25 February 2004, p. 18

25 Ms McMahon, *Proof Committee Hansard*, 25 February 2004, p. 18

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strengthens their application to Australian immigration authorities for a visa.<sup>26</sup>

2.23 Ms Maltzahn, representing Project Respect gave further detail of this during the public hearings, noting that although there are small operators in the business, consisting of opportunists dabbling and making a bit of money:

there are also very organised syndicates that are making it work, and they have resources behind them. ... what they will do is something like put \$10,000 in a woman's account. They will change the person's name, manufacture false identity documents, so that the person does not necessarily look as though they fit the profile of people who DIMIA would stop.<sup>27</sup>

2.24 Sometimes traffickers will go so far as to arrange marriages for trafficked women to strengthen visa applications to Australia. Traffickers also frequently provide escorts or 'mules' who accompany the women on their journey to Australia and through customs, sometimes posing as a partner or family member:

What typically occurs with the trafficking crime is that, in order to ensure that the woman gets across the border without trouble – and, I suppose, to protect the asset – the trafficker sends someone to accompany the trafficked victim across the border, and that person is paid a sum of money to do that.

... So they would get on the plane in Thailand, help them go through immigration at this end and at the other end, and that would be the end of their job. They sometimes get paid \$2,000, and they head back home.<sup>28</sup>

2.25 Several sources of information to the inquiry have also pointed to the role that corrupt officials, particularly in sending countries, play in assisting the visa frauds:

Trafficking is sustained and strengthened through public sector corruption, particularly of police and immigration officials who, in some countries, play a key role in facilitating illegal entry and providing protection to trafficking operations.<sup>29</sup>

2.26 The Committee remains concerned at the ease with which traffickers appear able to obtain entry visas for hundreds of women they bring into Australia each year for the purpose of sex work. This contrasts with the personal experience Committee Members have had of the difficulty encountered by many members of the community in obtaining visas for their family members to visit Australia for entirely legitimate purposes.

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26 Project Respect, Submission 25, p. 4. See also 'Officials impotent on sex slave trade', Weekend Australian 29 March 2003, p. 15

27 Ms Maltzahn & Ms Costello, *Proof Committee Hansard*, 18 November 2003, p. 34-35

28 Ms Maltzahn & Ms Costello, *Proof Committee Hansard*, 18 November 2003, p. 34-35

29 Ms Gallagher, Submission 23, p. 4; see also Project Respect, Submission 25, p. 4

2.27 At face value, this amounts to a serious anomaly, yet despite raising the issue with departmental officials, the Committee has not heard any satisfactory explanation for how the traffickers achieve their successful visa frauds. The matter remains to be answered.

### **Recommendation 1**

**2.28 The Committee recommends that the Australian Crime Commission focus their investigations on the methods by which people traffickers are able to circumvent Australian immigration barriers through visa fraud.**

#### *The trade in Australia*

2.29 The most common entry point of trafficked women into Australia is Sydney, and it is from there that the traffickers farm them out to the brothels, both legal and illegal.<sup>30</sup> Detective Senior Sergeant McKinney from the Victoria Police, told the Committee, there are four or five traffickers in Sydney and two or three in Melbourne, competing against each other for the brothel business,

And they all know each other. ... You will find that there are people here in Australia whose prime business is the recruitment of women. They get them here and then they disburse them once they are here.

2.30 This is borne out by the example of one brothel owner in Sydney who was offered trafficked women by four separate suppliers within just two weeks.<sup>31</sup> However, the model is flexible: sometimes the traffickers both supply the women and operate the brothels, while more recently there have been examples of:

contract girls being offered to small investors, those investors then being responsible for finding work for them, getting them to and from work and making sure they don't run away.<sup>32</sup>

2.31 Project Respect gave this description of the trade:

Some traffickers operate organised chains that cover the entire trafficking process – they recruit women in source countries and prostitute them in their own brothels (or through escort arrangements) in Australia. Other traffickers engage in only one part of the trafficking. For example, they may recruit women and bring them to Australia, and then sell them to another trafficker. This sale may be based on a ‘pre-order’, or involve traffickers coming to look at women once they are in Australia and picking the one/s they wish to buy. Some traffickers have many women, others may be ‘mum and dad’ traffickers who buy a half share in a woman.<sup>33</sup>

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30 Project Respect, Submission 25, p. 4

31 'Deals on sex slaves in lobby of hotel', Weekend Australian, 26 July 2003, p. 3

32 Christopher Payne, Trafficking and sexual servitude in Australia, Department of the Parliamentary Library, Vital Issues Seminar, 20 August 2003, p. 6

33 Project Respect, Submission 25, p. 8



2.32 The centre for the sex trade using these trafficked women seems to centre on Sydney – as the gateway – and Melbourne and Perth, although other state capitals are certainly involved. Investigators have found that the trade is highly mobile, with women moved rapidly between premises and across states.<sup>34</sup>

2.33 The traffickers themselves tend to dabble in a range of business interests and are not exclusively people traffickers for the sex trade. Det Snr Sgt McKinney told the Committee that his experience with the traffickers was that:

if there is money to be made in trafficking women they will traffic women. If they can at the same time run a credit card duplicating scheme they will do that as well. If at the same time they can dabble in heroin, ecstasy or ice they will do that at the same time.

... It is purely, ‘Where can I make the most money?’ and ‘What is the least risk to me?’<sup>35</sup>

2.34 This view was echoed by a Parliamentary Library briefing on the trade:

As trans-national crime is organised around profit, a diverse array of loose knit criminal organisations or individuals may simply work together opportunistically motivated by material gain.

Husbands, boyfriends, acquaintances, or family members may recruit and trade women into the international prostitution industry for profit, to repay debts or to support a family.<sup>36</sup>

2.35 This close linkage between trafficking and organised crime is of itself a matter of concern. It is also clear that the business is a very profitable one for the traffickers. The UN estimated in 2003, that trafficking in the global sex trade was worth US\$5-7 billion annually.<sup>37</sup> At a local level, this can mean a great deal of money for both traffickers and brothel owners. Det Sen Sgt McKinney related his experience of one brothel owner, to whom he linked forty women over an 18-month period. Calculated on the basis of \$100 per half hour and a contract value of 500 jobs, he would expect to make \$50,000 per woman. In this case, he paid around \$18,000 to the trafficker for the women:

So if you work on those base figures alone, without anything else, he is making \$32,000 per woman. If you base that over, say, 40 women, in 18 months there is a profit of \$1.2 million – just from the contract period and

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34 Det Supt Migro, *Proof Committee Hansard*, 25 February 2004, p. 52

35 Det Snr Sgt McKinney, *Proof Committee Hansard*, 25 February 2004, p. 40

36 Dept of the Parliamentary Library, *Trafficking and the sex industry: from impunity to protection*, May 2003, p. 3

37 Dept of the Parliamentary Library, *Trafficking and the sex industry: from impunity to protection*, May 2003, p. 3

nothing else. That does not include the 12 months afterwards or the board that they pay. It really is a profitable business, with a very low risk.<sup>38</sup>

2.36 For women working off these contracts, life can be very grim. According to Project Respect:

Women are prostituted for many hours a day, frequently seven days a week. Women report being woken and taken back to the brothel if customers arrive after they have left. Some women may be given a 'free' day during a quiet period, and will be allowed to keep a portion of this money. Women typically try to send as much of this money home to parents or children [as they can], but also use the money to pay for food and other expenses in Australia as these are often not provided by the trafficker.<sup>39</sup>

2.37 Det Snr Sgt McKinney related the conditions he found during an investigation:

they had to work for six days a week, and Monday was called their 'free day'. But their free day was not effectively their free day, because if they did not work on their free day they did not have any money at all to survive on. So the deal for them was that if they chose to work on the Monday, which was the seventh day, they were given a portion of the earnings. ... They had to work on the Monday just to buy personal items, because all they were given was a room and board – that was it, nothing else.<sup>40</sup>

2.38 The accommodation was also very poor. The women were housed in an inner city hotel, with a ground floor pub:

upstairs it was typically small, with four or five rooms. There was no common room or lounge room, as we would call it. There were two bathrooms but they were antiquated. There were bars on the windows. The outer windows that faced the street had all been nailed or painted shut – they could not open. The conditions were grotty. They were stacked in the room. ... I had trouble walking into the room because there were that many beds in the room that you had to shuffle and shimmy between the beds to get around.

In the premises there was a public area at the bottom and the private area was up the stairs. There were very large steel bars up the side of the stairwell and a big, lockable steel gate. When the girls were brought back

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38 Det Snr Sgt McKinney, *Proof Committee Hansard*, 25 February 2004, p. 39

39 Project Respect, Submission 25, p. 9

40 Det Snr Sgt McKinney, *Proof Committee Hansard*, 25 February 2004, p. 34-36. See also Scarlet Alliance, Submission 27, p. 11

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at, say, four, five or six in the morning, depending on how busy it was, they were put upstairs and the steel gate was locked.<sup>41</sup>

2.39 It is evident that, once the women were inside and the door locked, there was little chance of their escape if there was a fire.<sup>42</sup>

2.40 The effective degree of control and 'imprisonment' inflicted on the women goes far beyond the physical constraints of locked doors and someone guarding them. It is reinforced by physical violence, and the extent of the power the traffickers have over the women in other ways: the women may not speak English, they have no money or passport, and may not even know where they are. This is compounded by the women's distrust of authorities and the fear – deliberately cultivated – that the law enforcement agencies are involved with the traffickers and misinformation about the consequences of cooperating with authorities.<sup>43</sup>

2.41 Project Respect also describe what they term as the 'breaking-in' period for many newly arrived sex workers:

Women who were deceived about the fact that they would be doing prostitution are usually subject to significant and systematic violence upon arrival in Australia. This will frequently involve multiple rapes and threats of harm to the individual women and their families.

This violence serves two functions, one more obvious than the other. Firstly, pre-prostitution violence aims to break women's will and impress upon them their powerlessness in the face of the traffickers' demands. It aims to stop them from running away or seeking help in other ways, such as by telling customers their situation. Secondly, this rape teaches women how to do prostitution sex, and impresses on them that they must 'satisfy' their 'customer' and cannot refuse types of customers or sex (including sex without condoms).<sup>44</sup>

2.42 This evidence was supported by confidential testimony given to the Committee, in which a female sex worker related that when she refused to perform sex work, she was raped by three men, and then starved for up to a week, before she finally acquiesced.

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41 Det Snr Sgt McKinney, *Proof Committee Hansard*, 25 February 2004, p. 34-36. Mr McKinney later notes that since the introduction of the new legislation, and the publicity surrounding recent cases of sexual servitude, these conditions have become less common, with women billeted out to various households.

42 See also the example given by Christopher Payne, 'Trafficking and sexual servitude in Australia', Department of the Parliamentary Library, Vital Issues Seminar, 20 August 2003, p. 2. Note also the example of Noi, a Thai woman who was bought by a syndicate and imprisoned in a brothel in Newtown. After paying off her contract she worked on her own behalf in brothels in Sydney and Melbourne. 'Officials ignored sex slave's offer of help', the Australian, 2 April 2003, p. 13

43 Confidential evidence

44 Project Respect, Submission 25, p. 8. See also Ms Hoban, Submission 14, p. 2

2.43 As noted, a common feature of the sex work performed by trafficked women is that they have no right to refuse either clients, or particular sexual acts. Ms Maltzahn told the Committee that:

Part of what you sell with a trafficked woman is someone to whom you can do anything you want. It might be that you only want to have a particular type of sex or it might be that you want to be violent – whatever it is, fundamentally, at the guts of it, you are able to do that. So I think it is absolutely true that trafficked women are made to do a whole lot of other things that other women in the industry may be able to say no to.<sup>45</sup>

2.44 As well as the threat of violence from brothel managers if they refuse a customer or sexual act, these women suffer the further inducement that if they fail to satisfy a customer, who then complains, that job does not count towards redeeming their contract.<sup>46</sup>

2.45 Generally, the degree of freedom given to the women increases as they progress through their contract, since they become less ‘valuable’ to traffickers as they have paid off much of their contract, they are no longer ‘new faces’, and ‘women have learnt that they will be punished if they run away, and are scared that the traffickers will hunt them down even if they return home’.<sup>47</sup>

2.46 There are obvious health implications from this environment. Women are likely to suffer both psychological ill and physical ill health due to violence – internal pain, bruising, vaginal and anal bleeding, and mouth and teeth injuries – as well as drug dependency, inadequate nutrition and exercise, and forced abortions. They are also at high risk of sexually transmitted infections stemming from unsafe sex practices.<sup>48</sup>

### ***Visa abuses***

2.47 As detailed above, traffickers perpetrate a range of frauds to get women into Australia on legal visas, but their fraud games continue once the women are here and working. Traffickers, who often hold the passports and travel documents of the women, will lodge a refugee application on the women's behalf, although often without their knowledge. The logic behind this is that if a refugee application is made within 45 days of arrival, the woman is eligible for work rights until the department of immigration has resolved her protection claim – which is generally rejected, due to lack of substantiation or effort on the part of the traffickers – which is then followed by a review by the Refugee Review Tribunal. By working the system in this way, the

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45 Ms Maltzahn, *Proof Committee Hansard*, 18 November 2003, p. 48

46 Confidential evidence

47 Project Respect, Submission 25, p. 10

48 Project Respect, Submission 25, p. 12. See also Ms Hoban, Submission 14, p. 3

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traffickers are able to extend the women's legal stay in Australia, giving enough time for the women pay back the contract and possibly make some money of her own.

2.48 A major disadvantage for the women though, is that rejection of the bogus protection visa applications submitted by the traffickers makes it almost impossible for the women to subsequently make a genuine application.<sup>49</sup>

### ***Detection***

2.49 'Contract girls' usually come to the attention of authorities in Australia in one of three ways: women are detected by DIMIA, women's contracts end and they are allowed to leave the traffickers' control, or they run away.<sup>50</sup>

2.50 As noted above, during 2002/2003 DIMIA located 257 persons working illegally in the sex industry.<sup>51</sup> DIMIA has compliance teams around the country who can act on information received and mount a raid on a premises within a very short period – sometimes within hours.<sup>52</sup> The information tends to come from brothel clients who, getting to know some of the women, and become aware that they have been trafficked,<sup>53</sup> or by business rivals seeking to close down their opposition (particularly where the competition are operating illegally).<sup>54</sup>

2.51 Tip-offs will also sometimes come from the women themselves, either directly or through the agency of a friend. Scarlet Alliance told the Committee that their outreach workers often have ongoing discussions with sex workers during which information is given to the sex workers about options they might have if they want to leave:

The reason they are asking is that they may intend to trigger somehow – through a client or a person in the community that they have made contact with – a call to DIMIA to raid those premises in order to get them out.<sup>55</sup>

2.52 Perhaps the most ironic of the sources of tip-offs to DIMIA are the traffickers. Project Respect report that: 'at times, traffickers themselves contact DIMIA and "dob" the woman in, if a woman is close to finishing her "contract"'. Once the contract is paid off, the woman is entitled to a percentage of her earnings, which therefore reduces her profitability to traffickers and brothel owners. At the same time, she may:

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49 Project Respect, Submission 25, p. 9; Det Snr Sgt McKinney, *Proof Committee Hansard*, 25 February 2004, p. 41; Ms Costello, *Proof Committee Hansard*, 18 November 2003, p. 41

50 Project Respect, Submission 25, p. 10

51 DIMIA, Submission 38, Attachment A

52 Mr McMahan, *Proof Committee Hansard*, 26 February 2004, p. 39

53 Mr McMahan, *Proof Committee Hansard*, 26 February 2004, p. 39

54 Mr Wolfe, *Proof Committee Hansard*, 18 November 2003, p. 4; Mr Miles, *Proof Committee Hansard*, 25 February 2004, p. 4

55 Ms McMahan, *Proof Committee Hansard*, 25 February 2004, p. 21

- 'contaminate' new contract women (for example by telling them how to seek help, by explaining to them what the Australian legal situation is etc);
- operate in competition to the contract women;<sup>56</sup>

2.53 This is particularly unfair for the women because it is only after the contract is paid off that they have the opportunity to make the money – which is of course the reason they entered into the arrangement in the first place. This in turn increases the likelihood that they will enter into further contracts with traffickers and be re-trafficked.

2.54 In a final irony, if DIMIA deports the woman, the traffickers may save on airfare and escort costs.

2.55 The third way trafficked women come to the attention of Australian authorities is when they manage to escape the brothels. Thus for example, Detective Superintendent Migro, of the WA Police Service, told the Committee that:

The existence of sexual servitude in this state first came to the attention of the police service in 1999, when three Thai nationals attended our crime headquarters in Perth seeking assistance to return home. All three claimed that they had been deceptively recruited overseas to work in the sex industry in Australia.<sup>57</sup>

2.56 Coincidentally, just such an incident occurred in Sydney on the day the Committee was taking evidence there. According to media reports, three women who were allegedly held captive at an inner-city brothel, escaped when they woke and found that neither of the brothel owners were at home. They arrived at the Surry Hills Police station and Police subsequently raided the brothel, leading to the discovery of a further six sex workers and the arrest of the husband and wife operators of the brothel.<sup>58</sup>

2.57 Possibly the more common way out is: 'by establishing a relationship with an Australian citizen who will either provide refuge to the woman or attempt to pay off the contract. Sometimes, trafficked women marry Australian citizens.'<sup>59</sup> This view was supported by confidential evidence received by the Committee.

### ***Retrafficking***

2.58 The final step in the trafficking cycle for women in Australia is to be re-trafficked under another contract, either to Australia or another country, especially if

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56 Project Respect, Submission 25, p. 10. See also Ms McMahon, *Proof Committee Hansard*, 25 February 2004, p. 19

57 Det Supt Migro, *Proof Committee Hansard*, 25 February 2004, p. 47

58 'Two on sexual slavery charges', the Australian, 25 February 2004, p. 3

59 Project Respect, Submission 25, p. 10

their contract is interrupted and they are sent home before they are able to make any money for themselves. Ms McMahon, of the Scarlet Alliance, told the Committee that:

We have spoken on the telephone through our services with young women who are in Villawood, and their first questions are: 'Will my passport have a stamp in it that prevents me coming back? Do I have to get a new passport somehow if I want to come back? How long does it take to get deported before I can come back?' They are solely focused on coming back, even though they are in a contract.<sup>60</sup>

2.59 As Mr McMahon, from DIMIA, noted, the women are also 'stuck with a fundamental problem: they have a large debt, and there is only one way they can deliver on that debt and that is to continue with prostitution.'<sup>61</sup> Thus, women who are returned home are sometimes immediately taken to another country for the same purpose, or fraudulently trafficked back into Australia.

2.60 Ms Moyle, from the Human Rights and Equal Opportunity Commission, gave evidence that many women working on contract in Australia are here on a second or subsequent contract and may well have been re trafficked. A major motivating factor in this is the difficulty that women often have in returning to their homes:

from my contacts in South-East Asia, in the Mekong region particularly, it appears that a lot of the women are not able to be successfully repatriated on the programs that are available because they do not really lead to any general increasing acceptance of the women repatriating to their home communities. So there is really no place for them when they go back.<sup>62</sup>

### **The extent of the problem**

2.61 The issue that continues to vex both law enforcers, observers and the Committee is the real extent of the problem in Australia. According to the Attorney General's Department, trafficking in persons is a growing issue worldwide, but there are no universally agreed estimates of its scale due to:

- The differing definitions of trafficking. Many countries lack specific legislation governing trafficking in persons, and where it does exist, the absence of consistent definitions makes it difficult to achieve accurate comparable estimates.
- The clandestine and criminal nature of trafficking and the reluctance of victims to report their experiences to authorities or to testify in court cases contributes to these difficulties, ensuring that many instances of trafficking never become known to authorities.

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60 Ms McMahon, *Proof Committee Hansard*, 25 February 2004, p. 20

61 Mr McMahon, *Proof Committee Hansard*, 26 February 2004, p. 34

62 Ms Moyle, *Proof Committee Hansard*, 25 February 2004, p. 58

- Data on trafficking is often more readily available in industrialised countries than in the developing world. This may be attributed in part to the greater attention paid to this issue by governments in such countries, rather than as an indication that trafficking in persons is necessarily a greater problem in industrialised countries.<sup>63</sup>

2.62 This has led the Department to conclude that 'no consensus has been reached about the size and extent of the problem in Australia'.<sup>64</sup> Ms Gallagher, a commentator with considerable experience in trafficking of women at both national and international levels, also commented on the fundamental problems that underlie attempts to quantify the problem:

Much of the current information on trafficking is still anecdotal. It is typically presented in the form of non-statistical data and indirect indicators derived from small-scale surveys and single examples presented as case studies. There is very little quality trend evidence available and almost no cross-referencing or external verification of data. Where statistics on trafficking cases do exist, their value has been seriously undermined by the lack of a consistent definition of trafficking and the absence of uniform collection procedures. Rather than acknowledging or confronting these inadequacies, much contemporary trafficking research unquestioningly accepts and promulgates unverified data.<sup>65</sup>

2.63 Recognising these problems, the Committee is cautious in attempting any definitive conclusions in this respect. The Committee notes estimates by the Attorney General's Department that estimates of the annual worldwide traffic vary widely from 700,000 to four million persons.

A recent US Government estimate puts the figure between approximately 800,000 and 900,000 people and indicates that between 18,000 and 20,000 of these are trafficked into the United States. Other estimates suggest that around 50,000 women and children are trafficked into the United States in any one year. In Europe the figure is estimated between 200,000 and 500,000 women and children. In South Asia between 200,000 and 225,000 women and children are estimated to be trafficked to the rest of the world.<sup>66</sup>

2.64 In Australia, Project Respect estimates that there are up to one thousand women in Australia under contract at any one time,<sup>67</sup> an estimate they claim is supported by the findings of a six week research period, which documented the cases of approximately 300 individuals trafficked into Australia including a large number of

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63 AGD, Submission 36, p. 2

64 AGD, Submission 36, p. 4

65 Ms Gallagher, Submission 23, p. 3

66 AGD, Submission 36, p. 4

67 Project Respect, Submission 25, p. 7



women.<sup>68</sup> This accords with confidential evidence to the Committee suggesting that in Sydney alone, there are at least thirty trafficked women seeking to escape the sex industry.

2.65 Conversely, Scarlet Alliance present a much lower estimate, stating:

that there are less than 400 sex workers entering Australia in any one year on a contract, the majority of whom knowingly consent to the work. Our organisations have collectively had direct contact with less than ten women in the last year who have been deceptively recruited.<sup>69</sup>

2.66 Similarly, the Australian Federal Police were only able to provide firm evidence of ten identified victims of slavery and sexual servitude to date.<sup>70</sup>

2.67 The difference between these two estimates may be partly explained by differing definitions. In particular, it is likely that the key point of difference lies in the matter of 'informed consent'. As outlined above, Project Respect consider that the majority of women who entered contracts, although agreeing to work in the sex industry, were deceived as to conditions of work and the size of the contractual repayments. As such, they fit within the UN definition of trafficked women.<sup>71</sup>

2.68 The Australian Chapter of the International Commission of Jurists, implicitly support this view in pointing out that:

the particular vulnerability of women and girls in developing countries to offers of employment in rich countries like Australia means that agreements to procure their services in the entertainment or sex industry can seldom be considered as agreements entered into by equals. Rather, they are frequently the result of coercion or deception, or even of sheer desperation.<sup>72</sup>

2.69 The assumption that the majority of contract women are victims of deceptive recruiting or essentially unable to exercise any meaningful freedom of choice is disputed by the Scarlet Alliance. Ms Futol, an outreach worker to the sex industry in Melbourne, argued that in her experience the contract women should be viewed as 'transnational citizens in a world that is particularly globalised', and that 'it fascinates me how they are construed as victims'.<sup>73</sup>

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68 Project Respect, *'One victim of trafficking is one too many': counting the human cost of traffickers*, March 2004.

69 Scarlet Alliance, Submission 27, p. 7

70 Mr Lawler, *Proof Committee Hansard*, 26 February 2004, p. 4

71 Ms Maltzahn, *Proof Committee Hansard*, 18 November 2003, p. 39

72 Australian ICJ, Submission 8, p. 3

73 Ms Futol, *Proof Committee Hansard*, 18 November 2003, p. 74

## **Conclusion**

2.70 While it seems to be generally accepted that approximately 300 women are trafficked into the country each year for sex work, the number of these who can be considered to be in servitude is likely to be relatively small. Whether the figure is as low as Scarlet Alliance's estimate of ten, or as high as Project Respect's estimate of one thousand, is impossible to accurately determine. As the Hon Mr Kerr observed during hearings, contract women who have been trafficked into Australia represent a continuum of those who enter with full knowledge and consent; those who enter with consent but are deceived as to conditions; and those who enter Australia completely deceived as to their work in the sex industry.

2.71 However, the Committee agrees with Ms Maltzahn that, whatever the final proportions represented in each category:

It is a significant enough problem that we need to take it seriously. I do not think it is just a few aberrations that we are finding.<sup>74</sup>

2.72 In any case, this uncertainty underlines the continuing importance of the ACC's intelligence gathering and analysis role for informing the Australian government's response to the problem.

2.73 This uncertainty also poses problems for Australian policy in determining whether a contract woman detained by authorities is an illegal worker who should be returned to their country of origin, through the normal operation of the law, or whether they should be treated primarily as a victim of a particularly unpleasant crime.

2.74 A focus on immigration compliance runs the risk that cases of sexual slavery will be missed, with the tragic results that became public in 2003. This approach may also indirectly operate more to the detriment of the trafficked women than the traffickers. Confusing or equating the two categories – sex workers with sex slaves – can also lead to a disproportionate increase by authorities of regulation and enforcement of an industry that represents only 0.9 percent of the illegal workers detected each year. As Scarlet Alliance comment 'this hardly represents a problem of the scale the community might imagine.'<sup>75</sup>

2.75 Resolving this question in many ways comes down to the fundamental question of the legitimacy of the sex trade, which is discussed further in chapter 4.

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74 Ms Maltzahn, *Proof Committee Hansard*, 18 November 2003, p. 39

75 Scarlet Alliance, *Submission 27*, p. 12