

**Submission
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INQUIRY INTO HUMAN TRAFFICKING

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AIC reports

Inquiry into human trafficking in NSW

**Submission by the Australian Institute of
Criminology to the NSW Legislative Council Select
Committee on Human Trafficking**

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AIC's Human Trafficking and Slavery Research Program

The Australian Institute of Criminology (AIC) is a member of the Australian Government's Interdepartmental Committee on Human Trafficking and Slavery and is responsible for the research component of Australia's whole-of-government response as outlined by the *National Action Plan to Combat Human Trafficking and Slavery 2015–2019*.

The AIC's Human Trafficking and Slavery Research Program commenced in 2007 with the aim of enhancing the knowledge base on human trafficking and slavery in Australia and the Asia-Pacific region. The objectives of the research program are to:

- develop a monitoring framework and a national minimum dataset;
- identify and monitor emerging trends in Australia and the Asia-Pacific region;
- conduct targeted research projects on priority issues;
- undertake activities to improve communications and collaborations between the AIC and stakeholders; and
- publish and disseminate human trafficking and slavery research.

This submission highlights recent findings of the AIC's research regarding the nature and context of human trafficking and slavery in Australia. A full list of AIC publications related to human trafficking and slavery in Australia and the Asia-Pacific is provided.

Human trafficking and slavery offenders

In 2013, the AIC published research that analysed the court transcripts of 15 offenders convicted in Australia for slavery, sexual servitude, and human trafficking offences under Divisions 270 and 271 of the *Criminal Code 1995* (Cth; Simmons, O'Brien, David & Beacroft 2013). Cases involved 37 victims and nine trafficking schemes (7 of which involved exploitation in the sex industry). Since publication, a further three offenders have been convicted.

The analysis identified the similarities and differences between offending in the Australian context and elsewhere. The findings showed that:

- most successful prosecutions have involved exploitation in the sex industry;
- offenders in Australia tend to be older than those identified internationally. Most offenders were aged in their mid-30s to early 60s, with most over 40 years of age;
- a greater proportion of Australian offenders are women compared to offenders internationally;
- most offenders have a prior history of victimisation (commonly victimisation related to human trafficking);
- most offenders are migrants who share the same cultural and language backgrounds as their victims;
- the offenders' migration experiences, knowledge of migration processes, and shared cultural and language backgrounds with the victims appeared to help the offenders identify and control their victims;
- offenders were not highly organised criminals, though the trafficking process often involved other criminal activity, such as migration offences; and

- victims were generally not controlled by physical means; they were accommodated in private rental arrangements, used public transport and had access to mobile phones and the internet. Rather, victims were restrained by more subtle methods such as debt bondage and manipulation of social contexts.

Organised crime involvement

Although it is often noted that organised crime groups dominate the landscape of human trafficking offending internationally, there is evidence to support significant un-organised offending in the Australian context. Individuals, duos and small unsophisticated groups (commonly family members) have been responsible for orchestrating all stages of the trafficking process, from recruitment to transportation and exploitation. Loosely connected social networks involving friends, relatives, or acquaintances are known to recruit and exploit victims from the same ethnic diaspora. Where this is the case, existing trust-relations and cultural vulnerabilities are abused in order to recruit victims.

While the existing research is far from comprehensive, the role of organised crime networks in the trafficking process is complex. In 2012, the AIC published a report on organised crime and trafficking in persons (David 2012) that concluded:

- the level of organisation involved in the trafficking process appears to vary by degrees in the Australian context;
- centralised offending networks with a defined hierarchy are less likely to be involved in the trafficking process, though the trafficking process can involve a high degree of organisation between a variety of actors;
- trafficking offenders use pre-existing connections or spontaneously develop links in response to trafficking opportunities;
- the varied 'organisation' of trafficking offenders contributes to considerable challenges with regards to detection and prosecution, and
- there is a great deal of diversity in the characteristics, criminal histories, operations and motives of trafficking offenders, which highlights the need for these differences to be captured more effectively through identification of common typologies of trafficking crimes.

Sexual exploitation

Migrant sex workers in Australia

This research, conducted in partnership with Scarlet Alliance (Renshaw, Kim, Fawkes & Jeffreys 2015), involved a survey of 592 migrant and non-migrant sex workers across NSW, VIC, QLD, SA, ACT and WA.

The surveys collected information on the demographic profile of sex workers, work conditions and access to services. The experiences of migrant sex workers were compared and contrasted with those of Australian-born sex workers. The migration experiences and motivations of respondents for migrating to Australia were also documented and the possible pathways migrants may take in engaging in sex work were described, along with an analysis of the specific needs and services required by this group.

The research highlighted the intersection of social and structural barriers that may marginalise migrant sex workers from accessing services and resources, such as the stigma associated with sex work, limited access to safe migration pathways, fear of deportation and language barriers. The survey responses also outlined possible mediums and strategies to increase migrant sex workers' access to services and information, such as increasing access to translated material, employing

outreach workers who match the language backgrounds of migrant sex workers, and using the internet to increase awareness about relevant mainstream and sex work-specific services, and their rights and responsibilities as a migrant sex worker.

Labour exploitation

While the body of literature on trafficking for the purpose of sexual exploitation has grown steadily, much less is known about trafficking where the exploitation occurs outside the sex industry.

To address this gap in knowledge, AIC research (David 2010) examined what is known about labour trafficking in Australia, based on incidences of both reported and unreported crimes affecting the agricultural, cleaning, hospitality, construction and manufacturing industries, and in less formal sectors such as domestic work and home-help.

The research confirms that while the precise size of the labour trafficking problem remains unknown, there have been instances of unreported and/or unrecognised labour trafficking. The research concludes that there is underreporting and a lack of awareness by 'frontline' agencies and services that certain exploitative practices are criminal under Australian law.

The report also notes that many participants interviewed for the research, including those working directly on anti-trafficking issues, were unsure how to differentiate between 'bad work', exploitation and human trafficking.

Exploitation in the Australian construction industry

Subsequent research (Hedwards, Andrevski & Bricknell 2017) specifically sought to identify the key risks and protections for migrant workers employed in the Australian construction industry and how human trafficking and labour exploitation might manifest in the industry.

The research involved:

- a review of literature and policy on issues associated with temporary migrant workers, the construction industry and labour exploitation;
- 27 targeted stakeholder interviews conducted between August 2012 and February 2013 with government, industry and union representatives, academics specialising in research on migrant workers and skilled migration, and advocacy and support personnel; and
- analysis of quantitative data on the number of temporary migrant workers in the Australian construction industry and those found to be working unlawfully.

The risks facing temporary migrant workers in the Australian construction industry are comprised of a combination of the inherent vulnerabilities associated with being a temporary migrant worker and the characteristics of the industry. Temporary migrant workers, whether lawfully employed or not, may be more vulnerable to labour exploitation due to a limited understanding of Australian workplace legislation and rights, lower levels of access to union and government support, language and cultural barriers and social isolation. Visa arrangements were also identified as a major risk factor.

Employment practices and the informal economy were identified as primary industry features that promoted risk. The nature of both lawful (pyramid contracting and subcontracting) and unlawful (sham contracting) employment practices posed a risk for all workers in the construction industry, but were seen as particularly risky for temporary migrant workers in combination with other vulnerabilities inherent in their migrant status.

There was a belief among stakeholders that extreme forms of labour exploitation could occur in the industry, with key issues of concern being deception around the content or legality of a work

contract, debt bondage, threats of denunciation to authorities, false information about permanent residency and threatened violence.

Human trafficking and slavery involving marriage and intimate partner relationships

This report (Lyneham & Richards 2014) explored the links between partner migration to Australia and human trafficking, and how marriage and other intimate relationships may be involved in the trafficking of persons to Australia.

Interviews were conducted with eight migrant women where marriage played a role in their exploitation. This was supplemented by interviews with government and non-government agencies, law enforcement representatives and relevant victim service providers, as well as case file analysis and analysis of Australian immigration and Partner visa data.

The findings confirm that marriage and partner migration have been used to facilitate the trafficking of people into Australia, and that a separate category of human trafficking exists where exploitation is considered neither sexual exploitation nor labour exploitation. Rather, in this context, trafficking results in the exploitation of the personhood of the victim.

In addition to a wide range of abusive behaviours that characterise violent relationships (eg violence or threats of violence if the woman considers leaving the relationship; sexual, physical, psychological and financial abuse; surveillance; and isolation from family and friends), the exploitation described by stakeholders and experienced by victims included a number of human trafficking indicators, including:

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

This study shows that in many instances, cases of human trafficking are misidentified as domestic violence and are responded to as such. Victims of human trafficking are, however, likely to have needs beyond those that domestic violence service providers are equipped to address (eg if an individual has experienced labour exploitation). The report makes a number of recommendations for preventing and responding to this form of trafficking.

The role of migration brokers in facilitating exploitation, human trafficking and slavery

This research (Renshaw 2016) explores the role of migration brokers in alleged and finalised cases of migrant exploitation, ranging from low pay and hazardous working conditions to more severe forms involving debt bondage, forced labour and slavery-like practices.

A typology of two kinds of migration broker was developed from these case studies: the migration facilitator and the labour supplier. Points of intervention are discussed with reference to these typologies, in addition to the effectiveness of various responses to the actions of migration brokers in preventing and detecting human trafficking, slavery and slavery-like practices.

Community awareness and attitudes

A national survey of community awareness and attitudes conducted by AIC in 2009 indicated that human trafficking is misunderstood and unrecognised, contributing to its low reporting. A complete analysis of the survey data (including the attitudinal measures examined in the survey instrument) has been published in the AIC's Trafficking in Persons Monitoring Report January 2009–June 2011 (Joudo Larsen et al. 2012). The analysis indicates that the Australian community:

- conflates human trafficking and people smuggling;
- believes International crime networks are primarily responsible; and
- estimates the number of people trafficked each year to be much greater than reported cases.

National Human Trafficking and Slavery Monitoring Program Pilot

Monitoring human trafficking and slavery comprises one of the measures in the Australian Government's National Action Plan to Combat Human Trafficking and Slavery 2015–19, with the aim of improving and standardising the collection of statistical information on human trafficking and slavery in Australia.

In 2015, the AIC published a Technical and Background Paper that explored the feasibility of an enhanced monitoring program on human trafficking and slavery (Bricknell & Renshaw 2015). It involved the development of a conceptual framework and associated indicators (data items), a preliminary assessment of data availability, and an outline of the utility and technical requirements for implementing a biennial monitoring program.

The data collection process was piloted in 2016, which involved testing the procedures required to collate, prepare and analyse data on human trafficking and slavery cases transmitted by selected data providers. The viability of an ongoing monitoring program will be assessed based on the outcomes of the pilot testing phase.

AIC Human Trafficking and Slavery Publications

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Samantha Lyneham is Principal Research Analyst at the Australian Institute of Criminology where she manages the Human Trafficking and Slavery Research Program.

