



HUMAN TRAFFICKING WORKING GROUP

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GLOBAL PERSPECTIVES ON HUMAN TRAFFICKING: AUSTRALIA

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Discussion question:

Often referred to as ‘modern day slavery’, the trafficking in human beings is a phenomenon that the world is now collectively talking about.

We have no doubt that serious exploitation of women, children and men, whether for purposes of sexual exploitation, or forced manual labour, or removal of vital organs, is an overwhelming global issue. The UN and numerous other international organisations have sponsored research to confirm this. However, despite the global dialogue now focused on human trafficking, data is scarce, in some countries even non-existent. How do we encourage partnerships and cooperation when the phenomenon is so elusive?

Our question to you then is:

Do you believe that Trafficking in Persons is truly occurring or have we manufactured the issue? Are we chasing ghosts?

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Despite greater public awareness and acknowledgement of the problem by government agencies, trafficking in persons in Australia remains a phenomenon not well understood and poorly researched. The true extent of this problem is not fully known, largely due to the clandestine nature of this phenomenon.

- Anecdotal evidence, media reports, and statistical estimates without proper evidentiary bases are the only sources of information currently available about trafficking in persons in Australia.
- The reported case law is also extremely limited, largely because criminal offences relating to sexual servitude and slavery were only introduced into Australian law in 1999 followed by trafficking offences in 2005.

In short, there is a great discrepancy between the many myths about the levels and patterns of trafficking in persons in Australia, and the available evidence about the true extent of the problem. To answer the question whether trafficking in persons is really occurring in Australia or whether we are chasing ghosts, I want to briefly look at the available, open source information on this issue.

There is a significant — and growing — body of publications, reports, and media releases that speculates about the number of trafficking victims and the scale of the ‘trafficking problem’ in Australia.

- Among these sources, there is, however, no consensus about the size and extent of the problem. Most of the available evidence is typically presented in the form of non-statistical data and indirect indicators derived from small-scale surveys.
- There is also a lot of circular cross-referencing between different sources which often blurs or disguises the true origin of the data presented.
- 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 data collection methods.

Official Statistics

- Between July 2002 and June 2007 the Australian Federal Police’s Transnational Sexual Exploitation and Trafficking Teams became aware of between 15 and 29 new cases annually; approximately 250 cases have been investigated since 1999 when sexual slavery laws were first introduced.
- In 2007, the Attorney-General’s Department suggested that less than 100 victims of trafficking were found in Australia since mid-2004.

Australia's comparatively remote location, the lack of any land borders, and its stringent visa requirements and immigration controls are generally seen as the main reasons for the low levels of trafficking into this country.

- It is also noteworthy that all official reports of trafficking for the purpose of sexual exploitation in Australia relate exclusively to women.
- Moreover, there is no evidence of any child trafficking occurring in Australia.

NGOs

The low number of cases and victims reported in official government documents stands in sharp contrast to estimates made by non-government organisations. For example, Project Respect, an Australian human trafficking advocacy group, has for several years suggested that about 1000 trafficked women reside in Australia at any one time.

These high estimates were rejected by the previous federal Government as exaggerated and unreliable. A parliamentary briefing paper has also been critical about the methods used by advocacy groups and NGOs to estimate the number of persons trafficked to Australia, suggesting that "[s]ome of these methods may inflate the extent of the problem". But the same paper also notes that "it is probable that the Government's reliance on the actual number of complaints significantly understates the problem".

Media reports

News media publications in Australia have reported extensively on the topic of human trafficking in recent years.

- These reports show a general transition from the often sensationalist and simplistic coverage in the early years of media coverage, to a more detailed discussion of the issue, with reference made to legal considerations and contextual details, rather than mere stereotypes.
- This is arguably a reflection of the increased level of governmental reporting on, and public discussion of the issue, which has rendered trafficking in persons somewhat less confronting for an Australian audience than when first revealed in 1998 and 1999.

A general educative function is served by the articles, but the absence of concrete data is troubling.

- Australia's news media often lack the consideration of detail necessary to present a balanced and factually accurate view of trafficking.
- Many articles are highly sensationalist in their discussion of the issue, with an emphasis on the lurid nature of the sex industry, organised crime and slavery.

Case law

To this date, there has not been a conviction under Australia's trafficking offences. This is due in part to the fact that the relevant offences were only introduced into the federal *Criminal Code* in 2005. Prior to their enactment, a number of trafficking and trafficking-related cases were prosecuted under sexual slavery and servitude offences which came into operation in 1999. The 'success' of these prosecutions has been, at best, mixed, as a considerable number of cases have been dismissed due to lack of evidence or have been appealed to higher courts. As on October 1, 2008, there have only been four cases resulting in convictions, all involving offences relating to slavery and sexual servitude.

- The limited number of cases may be reflective, on the one hand, of the low levels of trafficking into Australia.
- But on the other hand there is reason to think that many cases especially very sophisticated operations remain undetected.
- Also, in many instances there may be insufficient evidence to launch further investigations and prosecutions.

An analysis of the case law shows that the literature has often made generalisation about trafficking that are based on isolated, anecdotal cases and that are not representative of the wider problem. Each of the cases that have been prosecuted thus far is very unique and none of the cases — and none of the people involved in them — fit into general stereotypes about trafficking, traffickers, and victims of trafficking.

From these cases, it is noteworthy that trafficking in persons for sexual purposes equally involves legal and illegal brothels in Australia.

- There is, to date, no evidence linking trafficking with street prostitution and escort agencies.
- Trafficking for purposes relating to labour exploitation, for example as domestic servants, or for sexual exploitation in private homes (also involving sham marriages) appears to be extremely limited, if not non-existent.

The great majority of trafficking victims in Australia are women from Thailand, many of whom have previously worked in the sex industry. The women usually arrive in Australia on valid tourist visas though some visas were granted on the basis of false documents provided by the traffickers and their aides. Some victims were equipped with airline tickets and cash to make them appear as tourists.

A considerable number of victims arrive in Australia with the knowledge that they will be working in the sex industry.

- Cases in which women were tricked or otherwise deceived about the nature of their prospective work are infrequent.
- There are, to date, no reports of women that have been kidnapped and brought forcibly to Australia.

The victimisation of trafficked women seems to relate specifically to their working conditions and accommodation. All victims that have testified in trafficking proceedings complained about the inflated debt created by their journey, long working hours, threats of violence and deportation, the lack of adequate (or any) payment, poor accommodation, and the health risks associated with their work.

It is surprising then to learn of some — albeit isolated — cases in which women deliberately stay with their traffickers even after their debts had been discharged. In the absence of personal interviews with the victims it is not possible to speculate about their motivations. It is noteworthy however, that many victims were initially drawn into the Australian sex industry by the hope that they will earn enough money to support their families abroad. Some victims were in fact able to transfer some of their income to Thailand.

Conclusion

In conclusion, there is a great divide between the myths and realities about trafficking in persons to Australia. An analysis of available, open-source reports, statistics, and cases, confirms that we are not chasing ghosts, but that trafficking in persons to Australia remains a phenomenon poorly documented and not well understood. Many myths about human trafficking are not supported by any evidence. The realities of human trafficking are not well researched and much of the available information is the result of guesswork rather than of thorough analysis. Until this day, the reality of trafficking in persons — especially the more sophisticated trafficking operations — remains hidden from investigations, academic research, and the media spotlight.