



ARCHIVED - Archiving Content

Archived Content

Information identified as archived is provided for reference, research or recordkeeping purposes. It is not subject to the Government of Canada Web Standards and has not been altered or updated since it was archived. Please contact us to request a format other than those available.

ARCHIVÉE - Contenu archivé

Contenu archivé

L'information dont il est indiqué qu'elle est archivée est fournie à des fins de référence, de recherche ou de tenue de documents. Elle n'est pas assujettie aux normes Web du gouvernement du Canada et elle n'a pas été modifiée ou mise à jour depuis son archivage. Pour obtenir cette information dans un autre format, veuillez communiquer avec nous.

This document is archival in nature and is intended for those who wish to consult archival documents made available from the collection of Public Safety Canada.

Some of these documents are available in only one official language. Translation, to be provided by Public Safety Canada, is available upon request.

Le présent document a une valeur archivistique et fait partie des documents d'archives rendus disponibles par Sécurité publique Canada à ceux qui souhaitent consulter ces documents issus de sa collection.

Certains de ces documents ne sont disponibles que dans une langue officielle. Sécurité publique Canada fournira une traduction sur demande.

Human Smuggling and Trafficking

**An Overview of the Response at the
Federal Level**

Human Smuggling and Trafficking

An Overview of the Response at the Federal Level

Fiona David



**Australian Institute of Criminology
Research and Public Policy Series
No. 24**

© Australian Institute of Criminology 2000

ISSN 1326-6004

Apart from any fair dealing for the purpose of private study, research, criticism or review, as permitted under the *Copyright Act 1968* (Cwlth), no part of this publication may in any form or by any means (electronic, mechanical, microcopying, photocopying, recording or otherwise), be reproduced, stored in a retrieval system or transmitted without prior written permission. Inquiries should be addressed to the publisher.

National Library of Australia Cataloguing-in-Publication entry

David, Fiona.

Human Smuggling and Trafficking: An Overview of the Response at the Federal Level

Bibliography.

ISBN 0 642 24151 1.

1. Illegal aliens—Australia. 2. Illegal aliens—Government policy—Australia. 3. Smuggling—Australia. 4. Smuggling—Australia—Prevention. 5. Emigration and immigration Law—Australia. 6. Transnational crime. 7. Australia—Emigration and immigration—Government policy.

I. Australian Institute of Criminology. II. Title. (Series: Research and public policy series; no. 24).

325.94

Published by the Australian Institute of Criminology
GPO Box 2944
Canberra ACT 2601
Tel: (02) 6260 9221
Fax: (02) 6260 9201
Email: aicpress@aic.gov.au
<http://www.aic.gov.au>

Reports in the Research and Public Policy series are refereed.

Artwork by Brown & Co, Canberra

Printed by Elect Printing, Canberra

Foreword

Human smuggling and trafficking reports have been significant media items in Australia for some time. Given the prominence of migration issues on the public agenda, this report seeks to contribute to present discussions by separating the myths from the facts. This report summarises:

- what we know about human smuggling and trafficking to Australia;
- what we do not know; and
- how the Australian Government has responded.

In Part 1 of this report, it is noted that despite the public interest in interceptions of sea vessels carrying illegal migrants, the largest number of people who are detected by Australian authorities are those who overstay their visa and work illegally. The second largest group are those who are intercepted at Australian airports, either because they are using false or fraudulent travel documents, or because they are found to be intending to work in Australia in contravention of their visa.

There are indications that transnational organised crime groups are becoming increasingly involved in people smuggling and trafficking to Australia. The recent interceptions of sea vessels have uncovered highly organised people-smuggling operations. Similarly, immigration officials at airports report high levels of presentation of fraudulent, stolen, or altered travel documents. The increasing involvement of organised crime groups in the illegal migration process is concerning both from a criminal justice and a human rights perspective.

In Australia, as in other countries of the world, limited evidence is available about the nature and incidence of human trafficking. There is some anecdotal evidence of trafficking activity occurring in various industries, including hospitality, manufacturing, and agriculture. The sector that has received the most media attention, however, is the sex industry. It appears from academic reports that most female undocumented workers working in the sex industry have entered that industry voluntarily, having come to Australia for that purpose. These reports suggest that the issue of deception or coercion is most likely to occur in relation to working conditions,

including the repayment of debts to organisers, rather than the nature of the work involved.

Part 2 of this report presents an overview of the Australian Government's response to the issues of human smuggling and trafficking. These are discussed under the headings of legislation, law enforcement, international cooperation, economic assistance, services for victims of trafficking, education programs, and research and data collection.

The Australian Institute of Criminology (AIC) is currently taking part in the Global Program Against Trafficking in Human Beings, which was launched by the United Nations Office for Drug Control and Crime Prevention in March 1999.

The Global Program will collect data on different routes for smuggling and trafficking human beings, and the structures and methods used for transporting and subsequently exploiting them. A global inventory of best practices used in addressing organised crime involvement in smuggling and trafficking, including special legislation and institutional arrangements, will be created.

Adam Graycar
Director, Australian Institute of Criminology
February 2000

Acknowledgments

This report was prepared with the assistance of staff from the Australian Customs Service, the Department of Immigration and Multicultural Affairs, the Australian Federal Police, the Australian Bureau of Criminal Intelligence, the Attorney-General's Department, and the Human Rights and Equal Opportunity Commission. The author would like to thank Verity Patterson, Terry O'Loughlin, Darryl Cook, Dr Sandy Gordon, Anna Grant, Diana Nelson, and, in particular, Dr Peter Grabosky for their assistance and advice during the preparation of this report.

Contents

Foreword	v
Acknowledgments	vii
Introduction	xi
Terminology and Abbreviations	xiii
Executive Summary	xv
PART 1: THE AUSTRALIAN CONTEXT	
Migration	3
Undocumented Migration	5
Organised Crime	8
Smuggling and Trafficking	9
Conclusion	15
PART 2: OVERVIEW OF THE AUSTRALIAN RESPONSE TO HUMAN SMUGGLING AND TRAFFICKING	
Legislation	19
Slavery, Sexual Servitude and Deceptive Recruiting	19
Organised People Smuggling	20
Protection from Domestic Violence for Applicants for Permanent Residency	20
Child Sex Tourism Offences	22
Anti-Organised Crime Legislation	23
Recent Proposals for Reform: Illegal Workers	24
Law Enforcement	26
Department of Immigration and Multicultural Affairs	26
Australian Customs Service	29
Australian Federal Police	31
International Cooperation	34
Economic Assistance	37
Research and Data Collection	39
United Nations Global Program Against Trafficking in Human Beings	39
Domestic Data Collection	41

Services for Victims of Trafficking	42
Government Services	42
National Standards of Practice for Services Assisting Victims of Sexual Offences	44
Education	47
Conclusion	49
References	50
Appendix A	52

List of Tables

Table 1: Number of Overstayers by Country of Origin—Top 10	5
Table 2: Unauthorised Arrivals Disaggregated by Method of Arrival, 1994–1999	6
Table 3: Overstayers and Unlawful Arrivals (sea and air)	6
Table 4: Document Fraud Detected at Australian Airports 1998–1999	7
Table 5: Top Ten Employer Categories of Located Illegal Workers in 1998–1999	13

Introduction

Australia has always been an attractive destination for potential migrants because of Australia's relative economic and political stability, the "Australian lifestyle", policies aimed at encouraging multiculturalism, and the high profile of Australia as an attractive tourist destination. Migration has always been central to the development of Australia economically and socially. Since 1945, Australia has accepted more than 5.7 million immigrants. Of the current population of 18.6 million, one-quarter were born outside of Australia.

Recently, several high profile incidents of people smuggling have drawn attention to the negative side of migration—human smuggling and trafficking. This report summarises what we know, and what we do not know, about human smuggling and trafficking to Australia. This report also describes the Federal response to these issues, under the headings of "Legislation", "Law Enforcement", "International Cooperation", "Economic Assistance", "Research and Data Collection", "Services for Victims of Trafficking", and "Education".

Terminology and Abbreviations

Terminology

For the purposes of this report, the terms noted below are to be understood in the following manner:

- **Undocumented migrants** includes people who enter a country that is not their country of origin without the proper authority, and people who remain in a country in contravention of their authority. This may include, for example, people who arrive on Australian shores by boat, people who “overstay” their visa, people who work in contravention of their visa, and people who travel using fraudulent documents.
- **Human smuggling** refers to practices that involve a person gaining entry into a country without the necessary permission, whether or not this is undertaken for profit. This may include, for example, people who are hidden below deck on container ships and people who travel on fraudulent documentation.
- **Human trafficking** refers to the recruitment, transportation, or receipt of persons at any stage in the migration process, through deception or coercion, for the purposes of prostitution, other sexual exploitation, or forced labour (United Nations 1999, p. 3). Human trafficking may, or may not, also involve some aspect of human smuggling.

Abbreviations

ABCI	Australian Bureau of Criminal Intelligence
ACS	Australian Customs Service
AFP	Australian Federal Police
AFTA	Australian Federation of Travel Agents
AIC	Australian Institute of Criminology
ALEIN	Australian Law Enforcement Intelligent Net
ALO	Airline Liaison Officers
ASA	The Asylum Seeker Assistance (ASA) Scheme
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CICP	United Nations Centre for International Crime Prevention
CROC	Convention on the Rights of the Child

CRSS	Community Refugee Settlement Scheme
DIMA	Department of Immigration and Multicultural Affairs
ECPAT	End Child Prostitution, Pornography and Trafficking (Australia)
HREOC	Australian Human Rights and Equal Opportunity Commission
IAAAS	Immigration Advice and Application Assistance Scheme
ICCPR	International Covenant of Civil and Political Rights
IHSS	Integrated Humanitarian Settlement Strategy
IOM	International Organisation for Migration
MAL	Movement Alert List
NCA	National Crime Authority
OCO	Oceania Customs Organisation
OSW	Office of the Status of Women, Department of Prime Minister and Cabinet
PAES	Passenger Analysis and Evaluation System
MOU	Memoranda of Understanding
UNICRI	United Nations Interregional Crime and Justice Research Institute
UNODCCP	United Nations Office for Drug Control and Crime Prevention
NASASV	National Association of Services Against Sexual Violence

Executive Summary

Human smuggling and trafficking reports have been significant media items in Australia ever since a boat carrying 60 illegal immigrants arrived undetected at Scotts Head in New South Wales in May 1999. Almost daily, the media reports on the continuing flow of such vessels into Australian waters, and particularly to Ashmore Reef.

Given the prominence of migration issues on the public agenda, this report seeks to contribute to present discussions by separating the myths from the facts and summarises:

- what we know about human smuggling and trafficking to Australia;
- what we do not know; and
- how the Australian Government has responded.

Part 1: The Australian Context

In Part 1 of this report, it is noted that, despite the public interest in interceptions of sea vessels carrying illegal migrants, the largest number of people who are intercepted by Australian authorities are those who overstay their visa and work illegally. The second largest group are those who are intercepted at Australian airports, either because they are using false or fraudulent travel documents, or because they are found to be intending to work in Australia in contravention of their visa. For example, in the year 1998–1999, 13,485 overstayers were located, compared to 2106 unlawful arrivals who had travelled by air and 926 unlawful arrivals who had travelled by sea. There are indications that transnational organised crime groups are becoming increasingly involved in people smuggling and trafficking to Australia. The increasing involvement of organised crime groups in the illegal migration process is a matter of concern both from a criminal justice and a human rights perspective.

In Australia, as in other countries of the world, limited evidence is available about the nature and incidence of human trafficking. There is some anecdotal evidence of trafficking activity occurring in various industries, including hospitality, manufacturing, and agriculture. The sector that has received the most media attention, however, is the sex industry. Academic reports suggest that in this industry, the issue of deception or coercion is most likely to occur in relation to working conditions, including the repayment of debts to organisers, rather than the nature of the work involved.

Part 2: Overview of the Australian Response to Human Smuggling and Trafficking

Part 2 of this report presents an overview of the Australian Government's response to the issues of human smuggling and trafficking. These are discussed under the headings of "Legislation", "Law Enforcement", "International Cooperation", "Economic Assistance", "Research and Data Collection", "Services for Victims of Trafficking", and "Education".

The Australian Institute of Criminology (AIC) is currently taking part in the Global Program Against Trafficking in Human Beings, which was launched by the United Nations Office for Drug Control and Crime Prevention in March 1999. The Global Program, consisting of policy-oriented research and targeted technical cooperation, has been developed by the Centre for International Crime Prevention (CICP) and the United Nations Interregional Crime and Justice Research Institute (UNICRI). CICP is in charge of technical cooperation activities, and UNICRI is in charge of developing standardised research methodology and of coordinating research in the various projects to be carried out under the Global Program (see generally, United Nations 1999).

The Global Program will collect data on different routes for smuggling and trafficking human beings, and the structures and modalities used for transporting and, subsequently, exploiting them. A global inventory of best practices used in addressing organised crime involvement in smuggling and trafficking, including special legislation and institutional arrangements, will be created.

To date, the Federal Government has implemented legislation and various policies to address the issues of human smuggling and undocumented migration generally. It is likely that these will have "flow-on" effects to minimise the incidence of human trafficking and to assist the victims of trafficking. Human smuggling and trafficking are, however, transnational activities. As such, they cannot be stopped by the activities of one country alone. Domestic efforts to stem the activities of smugglers and traffickers will have little effect without the cooperation of origin and transit countries. International cooperation, such as the Asian Regional Initiative Against Trafficking in Women and Children, and the draft Convention Against Transnational Organised Crime, is essential to combat human smuggling and trafficking.

PART 1
THE AUSTRALIAN CONTEXT

Migration

Australia is an attractive destination for potential migrants primarily because of Australia's relative economic and political stability. Australia is also popular as a destination because of the attractiveness of the "Australian lifestyle" and the high profile of Australia as a tourist destination, particularly in the lead-up to the Olympic games in 2000.

While Australia has a legitimate migration program, the migration intake is strictly controlled and there is a set number of places that can be allocated each year. In 1998–1999, Australia's intake was 68,000 in the migration program and a further 12,000 in the humanitarian (refugee) program. The highest number of immigrants in any post-World War II year was 185,000 in 1969–1970 and the lowest was 52,752 in 1975–1976. Australia, a country with a population of less than 4 million, had an intake of 80,000 in the year 1998–1999, compared with 800,000 in the USA, 200,000 in Canada, and 55,000 in New Zealand (DIMA 1999a).

While anyone from any country can apply to migrate to Australia, regardless of their ethnic origin, sex, race, or religion, the success of their application will depend on the applicant's ability to meet the migration criteria of the day. These criteria are set in accordance with Australia's national interests and needs. At present, the emphasis is on skilled migration and family reunification (DIMA 1999a).

Many potential migrants do not, or can not, satisfy the competitive skilled migration requirements. Alternatively, some potential migrants may not want to endure what they perceive to be a protracted, complicated, and expensive migration process—for example, they may only want to work for a short period of time in Australia before returning home. Other potential migrants may be unable to participate in legitimate migration processes, due to political, economic, or social factors in their home country. For these and many other complicated reasons, some people resort to illegal methods to enter, live, and/or work in Australia.

There is also a demand in Australia for cheap, non-regularised labour by employers wanting to maximise profits. This demand, combined with the potential supply of willing workers from South-East Asia, home to some 8.6 per cent of the world's population, creates the environment for large scale undocumented migration (Hugo 1998, p. 76). In January and February 1999, the Department of Immigration (DIMA) located almost 2000 people working illegally in Australia, including 51 people employed by the one employer (Ruddock 1999a).

Undocumented Migration

There are several methods open to potential migrants who want to enter Australia and work illegally. For example, potential migrants can:

1. apply for a tourist visa and travel to Australia in accordance with the usual practices, with the unstated intention of looking for work and/or overstaying their visa;
2. attempt to enter Australia using fraudulent travel documents, such as a fake visa or photo-substituted passport; or
3. attempt to avoid detection by Australian authorities altogether, for example, by attempting to enter secretly by sea.

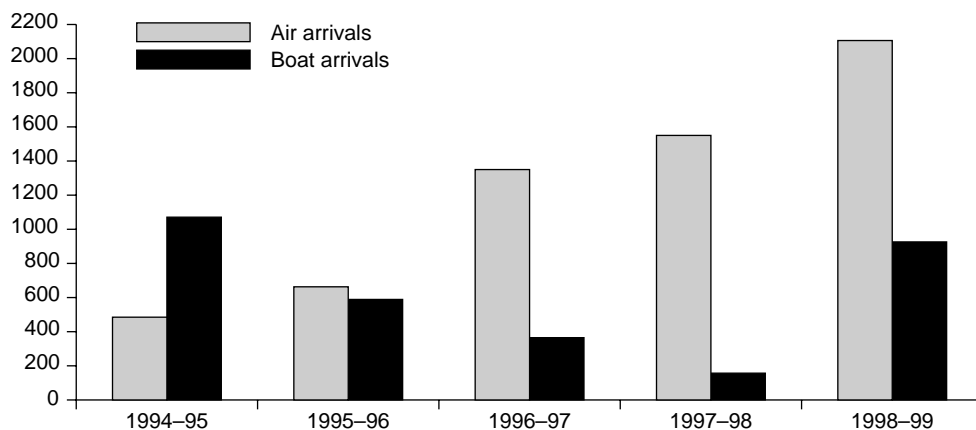
Of these three methods, the first two are by far the most common. For example, in the year 1998–1999, 13,485 overstayers were located, compared to 2106 unlawful arrivals who had travelled by air and 926 unlawful arrivals who had travelled by sea (see Tables 1–3).

Table 1: Number of Overstayers by Country of Origin—Top 10

Priority of Overstay	Number of Overstays as at 30 June 99	Percentage of All Overstayers as at 30 June 99	Number of Visitor Arrivals in 1997–98	Rate of Overstay as at 30 June 99
United Kingdom	5 759	10.8 %	454 255	0.1 %
USA	4 646	8.7 %	325 292	0.1 %
China	3 492	6.6 %	60 055	1.5 %
Indonesia	3 358	6.3 %	82 212	0.5 %
Philippines	2 923	5.5 %	31 328	1.3 %
Japan	2 652	5.0 %	766 186	0.0 %
Korea	2 144	4.0 %	119 447	0.3 %
Malaysia	1 631	3.1 %	112 822	0.1 %
Germany	1 405	2.6 %	129 907	0.1 %
Fiji	1 386	2.6 %	16 196	0.8 %

Source: DIMA 1999d, Table 2, p. 19.

Table 2: Unauthorised Arrivals Disaggregated by Method of Arrival, 1994–1999



Source: DIMA 2000.

Table 3: Overstayers and Unlawful Arrivals (sea and air)

Year	Total Number of Overstayers	Overstayers Located	Unlawful Arrivals: Sea	Unlawful Arrivals: Air
1996–97	45,100	10,138	365	1350
1997–98	51,000	12,679	157	1555
1998–1999	53,143	13,485	926	2106

Source: DIMA 1999d, Table 5, p. 22.

With respect to the second method, immigration officials report high levels of presentation at airports of fraudulent, stolen, or altered travel documents. Types of fraudulent documents presented to immigration officials include bogus supporting documents, counterfeit stamps, forged visas, photo-substituted passports, stolen blank passports, and transposed visas. The would-be immigrants may also pose as the passport holder, or claim to have no travel documentation at all, presumably having disposed of it on the incoming plane (see Table 4).

Despite the prevalence of overstayers and unlawful arrivals by air, it is the interceptions of sea vessels with a cargo of would-be migrants that attracts the most media coverage. The number of people arriving by boat is hardly surprising—Australia is a massive island with a coastline of nearly 37,000 kilometres, most of which is unpopulated. This vast expanse of coastline makes Australia a relatively easy target for smuggling and trafficking operations.

Table 4: Document Fraud Detected at Australian Airports 1998–1999

Type of Fraud	Total for 1998–1999
No passport or visa	715
Photo substitution	148
Transposed Visas	8
Imposters	26
Bogus Passports	54
Counterfeit Passports	21
Other	36
Total	1008

Source: DIMA 1999e, Table 4.3, p. 74.

Perhaps more interesting is the fact that recent interceptions of sea vessels have uncovered highly organised operations transporting large numbers of undocumented migrants who have agreed to pay thousands of dollars to organisers. Police surveillance of organisers in Australia has revealed that they are in regular contact with organisers in the country of origin and the Australian organisers have pre-arranged transport, accommodation, and documentation for the migrants once they are in Australia (Lagan 1999, p. 35; Allen 1999, p. 1). These facts, together with the evidence that people smugglers are now taking several different routes to Australia, suggest the involvement of transnational organised crime groups.

Organised Crime

The involvement of transnational organised crime groups in people smuggling activities is part of a global trend. The partial explanation for this lies in the fact that people smuggling is typically perceived to be a low risk, high gain activity. People smuggling can generate huge profits for organisers. For example, one failed plan to smuggle Somalis into Australia involved 2000 people paying around AUD \$3000 each, or takings of AUD \$6 million (Metherell et al. 1999, p. 1). Similarly, the intercepted vessel "Kayuen", transported 69 people who had paid around \$40,000 each, or takings of AUD \$2.76 million (Lagan 1999, p. 35). Proceeds can then be used to finance further operations. Presumably, boats with "state of the art" technology are considered to be an investment, intended to be used for more than one people smuggling venture.

Smuggling and Trafficking

The involvement of transnational organised crime groups is particularly concerning from a human rights perspective. In their desperation to reach Australia, potential migrants may pay, or agree to pay, large amounts of money to organisers. What these potential migrants may, in fact, be paying for is a journey in extreme conditions on board, an unseaworthy vessel that has little or no prospect of reaching the target destination. In 1992, 180 people died when a boat sank on route from Mogadishu to Yemen—unsubstantiated reports indicated that the boat was ultimately bound for Australia (Ruddock 1999b). Passengers on the “Kayuen” lived below deck, in an area with no sanitation, ventilation, or water supply (Allen 1999, p. 1).

There are some indications to suggest that the relationship between people smuggling and trafficking is close. Overseas experience suggests that the charging of large fees for people smuggling services may result in a virtual “debt bondage” between the migrant and the organisers. The International Organisation for Migration (IOM) notes cases of undocumented Chinese immigrants in the United States who work in restaurants linked to organised crime and spend their nights locked up in prison-like dormitories, after handing over all of their day’s earnings (Kwong 1994, cited in IOM 1995, p. 100).

There is also evidence that individuals involved in smuggling may use extreme violence as a form of control and secure payment from the migrants and their families. A study of living conditions for undocumented migrants inside “safe-houses” in New York found that the migrants were:

... repeatedly punished and tortured by debt collectors who do not hesitate to use cruel and unusual measures to force their captives’ families and relatives to deliver the smuggling fees as soon as possible (Chin 1997, p. 189).

In cases such as these, the line between smuggling and trafficking is blurred. On the one hand, these people have presumably sought out the services of people smugglers, knowing that what they are intending to do is illegal, and

possibly even dangerous. On the other hand, it is unacceptable that anyone should be victimised, for example, by being coerced into paying organisers all of their earnings, or by being forced to work in extreme conditions for little reward. It is arguable that these people, despite their complicity in smuggling activities, are victims of trafficking.

It is well documented that the link between people smuggling and trafficking is particularly close for female migrants. Anne Gallagher, Special Advisor on Trafficking to the United Nations High Commissioner of Human Rights, has noted that in virtually all societies and spheres of activities, women are subject to inequalities in law and, in fact, Gallagher has noted that:

while causes and consequences may vary from country to country, discrimination against women is widespread. It is perpetuated by the survival of stereotypes and of traditional cultural and religious practices and beliefs detrimental to women. (Gallagher 1999, p. 1).

Gallagher has noted that violations of the human rights of women increase their vulnerability to exploitation, including practices such as human trafficking (Gallagher 1999, p. 2).

In Australia, as in most countries of the world, limited evidence is available about the incidence and nature of human trafficking. Statistical data provides very few insights into the incidence of human trafficking to Australia. There are several reasons for this, including the following:

- There is no specific offence of human trafficking under Australian law. As such, no statistics are kept on its incidence.
- The offences of slavery, sexual servitude, and deceptive recruiting are relatively new. To date, there have been no prosecutions.
- Statistics on assault, sexual assault, kidnapping, and like offences are recorded by the police, the courts, and various other agencies. These statistics do not, however, indicate whether the offences involved an element of “trafficking”.
- Statistics on the offence of organised people smuggling do not indicate whether the offence involved “trafficking”.

In the absence of statistics, there is some anecdotal evidence of trafficking activity in Australia. For example, there have been unsubstantiated reports in the media of undocumented migrants working in the Australian sex

industry in situations that can be described as trafficking. For example, the Melbourne newspaper, *The Age*, reported that:

Hundreds of foreign prostitutes are trapped in Australia as sex slaves, being bought and sold while illegally working in local brothels (Forbes 1999, p. 1).

A close reading of media accounts of “trafficking” frequently reveals that the issues of migrant prostitution and trafficking, as defined for the purposes of this report, have been conflated, with little regard for the important differences between these practices.

The academic literature on the subject notes that most undocumented workers in the Australian sex industry have entered that industry voluntarily, having come to Australia for that purpose. These reports indicate that there are very few cases of women having been deceived about the nature of the work they will undertake in Australia. The issues of deception or coercion are more likely to arise in relation to the terms and conditions of their employment, including the amount of their debt and the time in which it will be repaid.

For example, Brockett and Murray have studied the working conditions of migrant sex workers in Australia. They found that in 1993, 80 per cent of all female migrant sex workers in Sydney were from Thailand and 90 per cent of these women were on contracts which outlined the terms and conditions of employment, the scheduled repayment of debt for recruitment and passage, and placement within an establishment (Brockett and Murray 1994, p. 192).

Brockett and Murray note that in the literature on the global sex trade, Asian women are often objectified as victims of a ruthless slave market. The authors argue that this approach is too simplistic and it ignores the rational and difficult choices that these women have made:

We have heard many different perspectives from Thai women; from those who prefer sex work because they earn lots of money, favour Australian men or find life easier; to those who feel embittered, angry and oppressed. Though a few are forced into prostitution or sold to agents by parents—one woman believed she was to work in a restaurant in Bondi but found herself in a Chinatown parlour—most Thai sex workers have chosen the work as the best option available at the time (Brockett and Murray 1994, p. 195).

Brockett and Murray note that once in Sydney, women may become entangled in debt and extortion, and may have to keep working. Occasionally, women are physically forced to keep working and have little freedom to move beyond the parlour setting on their own.

Reports from the Department of Immigration and Multicultural Affairs (DIMA) also indicate that the major issue for female undocumented migrants working in the sex industry is the harsh nature of their working conditions, exacerbated by exploitative contracts. The 1996 DIMA report, *Report into the Trafficking of Women into the Australian Sex Industry*, recorded allegations of restrictions on liberty for undocumented workers in the sex industry, as well as pressures on workers to repay the debt and to make some money for themselves out of the arrangement (cited in DIMA 1999e, p. 31). It was recently noted that these practices create an environment where undocumented workers in the sex industry are:

- disempowered in their relationship with the brothel owner and subject to varying degrees of control;
- under pressure to service as many customers as possible in a short time;
- more likely to be coerced into accepting demands from clients to engage in unsafe sexual practices;
- unable to leave on their own free will as their passports may have been held as security for their debt;
- unable to access or control any of the money they earn;
- often subject to working and accommodation conditions that are unacceptable on health and safety grounds by Australian standards (DIMA 1999e, p. 31).

This report notes the problems of obtaining information about organisers as sex workers may be fearful of reprisals against themselves or their families, or they may wish to use the organisation again. Furthermore:

Even if an unlawful non-citizen sex worker agrees to give evidence, there is little opportunity for such a person to remain in Australia for long enough to give evidence at the trial. The Migration Act requires DIMA to remove unlawful non-citizens as soon as practicable.

DIMA compliance officers liaise with police where they come across evidence of possible sex slavery or sex servitude offences. The police

officers interview the women as potential witnesses and decide whether prosecution is possible. If not, DIMA ensures that the women are removed from Australia. It is also possible for the witnesses to take legal action in their own right in the civil court against the people who had subjected them to the conditions of slavery and sexual servitude (DIMA 1999e, p. 31).

Despite these difficulties, this report notes that there are recent indications that some unlawful non-citizens are prepared to assist in prosecuting organisers (DIMA 1999e, p. 31).

While Australian authorities have intercepted migrants working illegally in the agricultural and manufacturing sectors (see Table 5), little is known about these workers and only some anecdotal evidence is available. A recent DIMA report on illegal workers in Australia contains submissions from concerned industry groups and members of the public. Many of the submissions refer to their personal or collective experiences of undocumented workers employed in Australian industries. For example, one submission refers to the anecdotal evidence of large numbers of illegal overseas workers in Australia's construction industry ("Submission of the Construction Forestry Mining and Energy Union", DIMA 1999c, p. 89). Another submission notes that:

"Illegal workers are often exploited, being paid low wages and working in sub-standard conditions, in particular in the restaurant and clothing industries" (Submission of Mr A, DIMA 1999c, p. 99).

Table 5: Top Ten Employer Categories of Located Illegal Workers in 1998-1999

Employer Category	Number
Hospitality (Restaurant (201), Accommodation or Hotel (141) and Clubs (33))	375
Brothel	189
Factory	176
Rural	128
Shop	64
Commercial Enterprise	50
Hospital/Medical	30
Office	27
Agent/Legal/Professional	19
Cleaning/Domestic/Laundry	15

Source: DIMA 1999d, Table 4, p. 21.

A submission by a farm worker, presently employed in Kununurra, Western Australia noted that:

“There is a large number of illegal workers in Mr B’s area, who are being paid low wages, working long hours and in difficult conditions (Submission of Mr B, DIMA 1999c, p. 101).”

It is not possible to test the validity of these claims, or to assess the extent to which workers in these situations have been deceived or coerced into their situation.

Conclusion

From the available information on people smuggling and trafficking to Australia, it appears that overstaying is by far the most common method of entering and working in the country illegally. People smuggling is a far less common practice, with unlawful entry by air being the most frequently practiced method, followed by unlawful entry by sea. People smuggling to Australia appears to be increasingly sophisticated in nature, suggesting the involvement of organised crime groups. The involvement of these groups is of concern not only from a criminal justice perspective but also from a human rights perspective. The involvement of organised crime groups may increase the likelihood that situations of human smuggling will be elevated to situations more correctly described as human trafficking. This may have particular implications for female undocumented migrants, who may be vulnerable to exploitation due to their unequal status in society. Despite suggestions that this may be the case, there are presently no accurate measures or estimates of the number of people who have been trafficked to Australia.

PART 2
OVERVIEW OF THE AUSTRALIAN
RESPONSE TO HUMAN SMUGGLING
AND TRAFFICKING

Legislation

At the Federal level, the Australian Government has taken a number of steps to deter organisers from participating in human smuggling and trafficking. The theory is to make human smuggling and trafficking a high risk, low gain activity, so that organised crime groups will be deterred from undertaking these activities.

Relevant legislation at the Federal level addresses:

- slavery, sexual servitude, and deceptive recruiting;
- organised people smuggling;
- domestic violence against spouses and defactos applying for permanent residency on the basis of their relationship;
- child sex tourism; and
- organised crime.

Recently, there have been discussions with respect to the introduction of penalties for employing illegal workers, and a system of security bonds for holders of certain classes of visas.

Slavery, Sexual Servitude and Deceptive Recruiting

The law in Australia was recently amended to include statutory offences of “slavery”, “sexual servitude”, and “deceptive recruiting” (*Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999*). Under Australia’s Federal system of government, it is desirable to have both Commonwealth and State offences. The Commonwealth law targets slavery, sexual servitude, and deceptive recruiting with an international connection. It is proposed that the States and Territories will introduce equivalent legislation to allow them to

target local cases of deceptive recruiting and sexual servitude, where there is no known overseas connection.

The relevant offences can be summarised as follows:

- Where conduct amounts to slavery, or exercising the power of ownership over another person, the maximum penalty will be 25 years imprisonment.
- Where a person is engaged to provide sexual services, because of force or threats and is not free to cease or to leave, those responsible will face penalties of up to 15 years imprisonment, or 19 years if the victim is under the age of 18.
- A person who deceptively induces another to provide sexual services will face a penalty of up to 7 years imprisonment, or 9 years if the victim is under 18.

To date, there have been no prosecutions under this legislation (the legislation entered into force on 21 September 1999).

Organised People Smuggling

An offence of “organised people smuggling” has recently been enacted. This offence carries a maximum penalty of 20 years imprisonment. Previously, prosecutors and judges were frustrated by legislation that only permitted penalties of up to 2 years imprisonment. This penalty was not proving to be a significant deterrent for people smugglers when weighed up against the financial incentives involved. There have been several prosecutions under the new amendments.

Protection from Domestic Violence for Applicants for Permanent Residency

Spouses and de facto partners of Australian citizens and permanent residents who seek permanent residency on the grounds of their relationship are initially granted a two-year temporary visa, which is then upgraded to a permanent visa after this time subject to confirmation that the relationship is genuine and ongoing. Concerns were raised that under this two-phase system, spouses and de facto partners who experienced domestic violence

might have to choose between leaving the relationship and being removed, or remaining in the relationship for long enough to be granted permanent residency. To address these concerns, the Australian Government introduced the Domestic Violence Provision to the Migration Regulations in 1991. The Provision allowed spouses/partners to remain eligible for permanent residence if their relationship with the Australian spouse/partner broke down during the two-year temporary residence period and they, or a member of their family unit, had suffered domestic violence (DIMA 1999b).

According to DIMA, the Department regularly monitors and evaluates the effectiveness of the Provision in consultation with the community. There were changes to the Provision in 1995 and the Family Stream of the Migration Program in 1996. As a result of the latter, applicants for spouse and interdependency visas lodged outside Australia are also subject to a period of temporary residency before permanent residency may be granted. These applicants may now also access the Domestic Violence Provision if their relationship breaks down while they are in Australia and they are victims of domestic violence (DIMA 1999b).

Under the Domestic Violence Provision, an applicant may be granted permanent residency if certain judicial forms of evidence (for example, a Family Law Act injunction, a court order, a conviction, or finding of guilt) are provided as proof that domestic violence has occurred. In July 1995, the Provision was amended to extend the acceptable forms of evidence that may be provided to include:

- joint undertakings (recognised by the court) between the applicant and his or her partner;
- statutory declarations (one from the applicant and two from “competent persons” from different professional groups) stating that, in their professional opinion, the applicant had suffered from domestic violence; and
- a record of assault from police is also acceptable as a substitute for one statutory declaration (DIMA 1999b).

These forms of evidence are prescribed in the Migration Regulations.

Within DIMA, certain officers, Domestic Violence Contact Officers, are trained to assist people in applying for permanent residency on the grounds of domestic violence. Their role is to provide information related to the

Provision and they may also provide details of organisations which offer welfare and legal services.

Child Sex Tourism Offences

In 1994, the Australian Parliament took the innovative measure of introducing criminal penalties for sexual conduct occurring with minors overseas. The *Crimes (Child Sex Tourism) Amendment Act 1994* (Cth) introduced a new Part IIIA—Child Sex Tourism into the Crimes Act. These amendments introduced offences relating to sexual acts with children under the age of 16 committed overseas. The philosophy underpinning the legislation is that the responsibility for protecting children from sexual exploitation rests with the country in which the conduct occurred. The Australian legislation is, therefore, a backstop to catch those Australians who escape the criminal justice system of the country where the crimes occurred (Australian Government 1996, p. 20).

In summary, the activities that are penalised include:

- Sexual intercourse with a child under 16, while outside of Australia (*Crimes Act*, s50BA).
- Inducing a child to engage in sexual intercourse with a third person outside of Australia (*Crimes Act*, s50BB).
- Participating in sexual conduct, such as indecency, involving child under 16 while outside of Australia (*Crimes Act*, s50BC).
- Acting, or omitting to act, whether within Australia or not, with the intention of benefiting from, or encouraging, such an offence (ss50DA and 50DB). Examples include advertising an offer to assist a person to commit such an offence, or assisting a person to travel outside Australia in order to commit an offence.

In order to be liable to prosecution under the Act, the offender must have been, at the time of the alleged offence, an Australian citizen, or a resident of Australia, or a body corporate incorporated under a law of the Commonwealth or a State or Territory, or any other body corporate that carries on its activities principally in Australia (*Crimes Act*, s50AD). Maximum penalties for these offences range from 12 to 17 years imprisonment.

There are defences available to the child sex tourism offences. These include:

- That the defendant believed, at the time of the sexual intercourse or act of indecency, that the child was 16 or over (*Crimes Act*, s50CA). In considering the defence, the jury may consider the reasonableness of the alleged belief (*Crimes Act*, s50CD).
- That the defendant and the child were genuinely married (*Crimes Act*, s50CB).

The amendments make provision for the use of video-link evidence if the witness is outside of Australia and the attendance of the witness would cause unreasonable expense, inconvenience, distress, harm to the witness, or cause the witness to become so intimidated or distressed that their reliability as a witness would be significantly reduced (*Crimes Act*, s50EA).

The success of the child sex tourism offences is evidenced by the fact that there have been six successful prosecutions under the legislation. These include:

- *Carr* (District Court of New South Wales, Criminal Jurisdiction, 26 April 1996);
- *Harman* (Melbourne County Court, 8 December 1997);
- *Pearce* (Queensland Court of Appeal, 8 August 1997);
- *Ruppert* (County Court of Victoria, 19 August 1998);
- *Steel* (District Court of New South Wales 10 December 1998); and
- *Lee* (Perth District Court, 28 May 1999).

Anti-Organised Crime Legislation

The *National Crime Authority Act* 1984 (Cth) established the National Crime Authority (NCA), a specialist investigative body with powers in relation to “relevant offences”, which is defined to include activities involving *inter alia*:

- 2 or more offenders and substantial planning and organisation; and
- the use of sophisticated methods and techniques (Urbas 1999, pp. 12–16).

While the Act does not create new offences or affect prosecution of existing offences, the NCA has taken a leading role in providing intelligence which

has shaped the development of other legislation. An example of this is the *Proceeds of Crime Act 1987* (Cth). This Act is designed to deprive persons involved in organised crime of their profits. It is intended that by so doing, it will attack the primary motive for profit and prevent the re-investment of that profit in further criminal activity (Bowen 1987, p. 2314). The principal objects are stated in section 3 of the Act:

- (a) to deprive persons of the proceeds of, and benefits derived from, the commission of offences against the laws of the Commonwealth or the Territories;
- (b) to provide for the forfeiture of property used in, or in connection with, the commission of such offences; and
- (c) to enable law enforcement authorities effectively to trace such proceeds, benefits, and property.

The *Proceeds of Crime Act* does not itself operate in the Australian States but similar legislation has been enacted in all jurisdictions. Some have since moved beyond the original legislative scheme by including non-conviction-based confiscation, or so-called “civil forfeiture” provisions (Urbas 1999, pp. 12–16).

Provision is made in the *Proceeds of Crime Act 1987* (Cth) for the recognition and enforcement of foreign and international forfeiture orders, as registered under the *Mutual Assistance in Criminal Matters Act 1987* (Cth) and the *International War Crimes Tribunals Act 1995* (Cth). Similarly, Australian forfeiture orders are enforceable in foreign jurisdictions which are parties to such mutual arrangements (Urbas 1999, pp. 12–16).

Recent Proposals for Reform: Illegal Workers

The Federal Government is presently considering various reforms to combat the rising number of undocumented workers and attempts at illegal entry to Australia. A recent report on the issue concluded that *inter alia*:

- An Overseas Information Campaign be developed to discourage people from trying to enter Australia unlawfully and working illegally.
- A Work Right Declaration Form be introduced to enable employers to more readily and efficiently check employee’s right to work, and to serve as proof that checking has been undertaken.

- A system of sanctions be introduced to discourage business owners, agents, and employers from recruiting illegal workers.

The report gave limited support for the introduction of security bonds, stating that such a system should only be introduced “if there is a strong prospect that it would lead to a reduction in both rejection rates and non-return rates” (DIMA 1999d, p. 16).

Law Enforcement

Three main agencies have law enforcement responsibilities that are relevant to people smuggling and trafficking, from Australia's perspective as a destination country. These are the Department of Immigration and Multicultural Affairs (DIMA), the Australian Customs Service (ACS), and the Australian Federal Police (AFP). As each Department deals with a different part of the system, inter-departmental cooperation is essential. Following is a brief overview of the activities of each of these Departments that is potentially relevant to human smuggling and trafficking.

Department of Immigration and Multicultural Affairs

DIMA is tasked with managing the movement of people into and out of Australia. Its mission is to contribute to Australia's economic, social, and international interests through programs directed to the lawful and orderly entry and stay of people, settlement of migrants and refugees and their acquisition of citizenship, and appreciation of the advantages of cultural diversity within a framework of national unity (DIMA Homepage, <http://www.immi.gov.au/departments/dept.htm>).

DIMA implements a number of policy initiatives that are potentially relevant to human smuggling and trafficking, including the following:

- **Airline Liaison Officers (ALOs):** the primary role of ALOs is to provide expert advice to airline staff on the acceptability of travel documentation and the identification of inadmissible passengers. ALOs generally have permission to operate freely within the terminal complex and have the airline's authority to operate within their system, including on board the aircraft. There are currently ALOs attached to Qantas in Singapore, Bangkok, and Hong Kong, and attached to British Airways in Kuala Lumpur (DIMA 1999f, pp. 70–71). Other positions are under negotiation.

- **Fines for Airlines:** each time an airline brings inadmissible passengers into Australia, it may be fined \$3000, under section 229 of the Migration Act 1958 (Cth). In the year 1998–1999, 4945 infringement notices were issued and \$9.2 million in fines was paid by various airlines (McKinnon 2000, p. 3).
- **Intelligence Gathering on Immigration Malpractice:** DIMA has investigation units in Brisbane, Sydney, Melbourne, and Perth. In the past, these units have worked in joint task forces with other organisations such as State and Federal police and the Australian Customs Service. DIMA also has specialist officers, Principal Migration Officers (Compliance), in Beijing, Guangzhou, Hong Kong SAR, Beirut, Bangkok, Jakarta, and Manila to help identify foreign nations of concern to Australia through liaison with local police and immigration officials (DIMA 1999f, pp. 57–60). Additional Principal Migration Officers (Compliance) are being appointed to a number of other key overseas posts, including Shanghai, Colombo, New Delhi, Ankara, Dili, and Pretoria.
- **Training:** immigration officials undergo specialised training to equip them to assess whether applicants have a genuine claim to enter Australia and to detect organised malpractice.
- **Movement Alert List (“MAL”):** DIMA maintains a database against which all applicants for visas to Australia are checked prior to issue. MAL contains records of persons of character and health concern to Australia, as well as lost, stolen, and bogus travel documents (DIMA 1999f, p. 71)
- **Sponsored Travel:** DIMA has in place procedures to check on the background of those Australians who may be associated with the travel of unaccompanied minors to Australia. DIMA must be satisfied that the sponsor is of good character.
- **International Liaison:** DIMA undertakes liaison with other countries and their agencies. For example, DIMA passes back to the country of origin information collected on organisers of unauthorised arrivals to help local authorities with possible prosecutions. International liaison also takes place at the Ministerial level. For example, the Minister for Immigration and Multicultural Affairs led a delegation to Bangkok in April 1999 to discuss regional cooperation and international measures to combat unauthorised arrivals. In April 1999, the Secretary of the Department led

a delegation to China for discussions on unauthorised boat arrivals. The delegation highlighted Australian concerns over illegal people movements and sought to extend existing Chinese Government cooperation. Discussions centred on measures that have been taken, or can be taken, to stem the flow of unauthorised arrivals (DIMA 1999f, p. 68).

- **Return of Illegal Migrants:** DIMA has a policy of returning those who enter Australia without a genuine claim to their country of origin as quickly as possible. In some cases, the “turnaround” is very quick. For example, Australia has a working arrangement with China with respect to the return of Chinese nationals. Australian officials provide the details to Chinese officials and the flight arrangements for the undocumented migrants to be returned, the Chinese officials then give approval for their return. In other cases, the process may be more complicated, as DIMA have to verify the identity and origin country of the person concerned and undertake negotiations for their return with that country of origin (DIMA 1999f, p. 67).
- **Data-matching:** DIMA has on going data-matching programs with Centrelink and the Australian Taxation Office to assist in the identification and location of people overstaying or working in breach of visa conditions. A pilot data-match with the Health Insurance Commission has been undertaken with a view to establish a long-term data-match program in future. By the end of the program year, 140 locations occurred through data-matching, 633 through referrals by other agencies, and 645 through referral by police. All data exchange arrangements are being undertaken in accordance with the Privacy Commissioner’s data-matching guidelines and remain subject to appropriate scrutiny (DIMA 1999f, p. 59).
- **Domestic Education Campaigns:** DIMA conducts an Employer Awareness Campaign aimed at supporting and encouraging employers to recruit only people who have the legal right to work in Australia. Key elements of the Campaign include an employer information kit, the publication of a guide on how to check people’s work status, information sessions with employers and employers’ groups, and advertisements in backpacker publications, on departmental forms and publications, and the DIMA Internet home page (DIMA 1999f, p. 12).

- **Overseas Education Campaigns:** DIMA distributes a range of publicity material to countries of origin and transit for undocumented migrants. The material is designed to warn people of the risks associated with trying to enter Australia illegally and the penalties smugglers have to face (Ruddock 1999c).
- **Refugee and Humanitarian Program:** as a signatory to the 1951 United Nations Convention and the 1967 Protocol Relating to the Status of Refugees, Australia has an obligation to provide protection to people in Australia who come within the Convention's refugee definition. In 1999, 12,000 places were notionally allocated to the 1999–2000 Humanitarian Program, comprising 10,000 resettlement places for people from overseas and 2000 places for people already in Australia who are found to be in need of protection. To ensure that the focus continues to be on helping victims of human rights abuses who may have no option other than to be resettled, a degree of flexibility is allowed in how the program places are managed (DIMA 1999d).
- **Women at Risk Program:** this is a sub-program within the Refugee and Humanitarian Program which is aimed at affording protection for vulnerable women for whom resettlement is the only option (Ruddock 1998). During 1998–1999, 367 Women at Risk visas were issued to women in danger. The average processing time for these visas is 33 weeks, but efforts are being made to reduce this time (DIMA 1999f, p. 80).

Australian Customs Service

The Australian Customs Service is a large and diverse organisation and many of its functions are central to the fight against human smuggling and trafficking. For example, Customs facilitates the legitimate movement of people, goods, vessels, and aircraft across the Australian border, while maintaining appropriate compliance with Australian law. This includes processing passengers at Australian border entry points and coastal surveillance to detect and deter unlawful activity. Customs also undertakes functions on behalf of other agencies, including DIMA and the AFP.

- **Coastal Surveillance:** Australia has a coastline of 37,000kms which is monitored by Coastwatch, the coastal surveillance arm of Customs. Recently, the Prime Minister of Australia allocated an additional \$124 million to improve Australia's capacity to detect and deter

unauthorised arrivals. Annual funding for Coastwatch-related activities increased from \$35.4 million to \$60 million. This will fund two new aircraft, an enhanced in-country radar maintenance capability, and the establishment of a new National Surveillance Centre. The funding will also provide additional staff to undertake intelligence analysis and increased contractor performance assessments (ACS 1999, p. 33).

- **Waterfront Closed Circuit Television Surveillance:** a project was commenced in 1999 to install closed circuit television surveillance at 23 seaports around Australia. The entire network, which will be monitored at port, and on state and national levels, is expected to be fully operational by June 2000 (ACS 1999, p. 35). The system will be used for a range of operational activities, including monitoring suspected human smuggling or trafficking activities.
- **Frontline:** this is a cooperative venture between industry and Customs, formalised through a Memorandum of Understanding (MOU). There are currently over 750 members of Frontline. Frontline members use their own expertise to identify suspicious activity within their industry and provide this information to Customs for action. Frontline members are trained by Customs to identify and report all potential border integrity matters, including illegal migration. During the year 1998–1999, Frontline members provided 636 referrals to Customs, resulting in the detection of 144 instances of illegal activity (ACS 1999, p. 41)
- **Customs Watch:** this program facilitates the gathering of information relevant to Customs from the general community. The program has a freecall number for the reporting of illegal or suspicious land, sea, or air activity to Customs officials. During 1998–1999, Customs received in excess of 1100 calls, resulting in 71 detections. The public reported four sightings of suspect illegal entrant vessels to Customs (ACS 1999, p. 41).
- **Passenger Analysis and Evaluation System (PAES):** the PAES is Australia's primary border control system. The system is maintained by Customs, and used by Federal and State law enforcement agencies, to monitor and respond to travel into and out of Australia by persons of interest. This system is used to monitor travel by people who are thought to be involved in human smuggling and trafficking.
- **Debriefing:** Customs and DIMA officers jointly conduct interviews with selected undocumented migrants to ascertain information relevant to the voyage and vessel.

- **Oceania Customs Organisation (OCO):** Customs supports the OCO Secretariat and the organisation. The role of the OCO is to coordinate the activities of Pacific region countries, which includes cooperation with respect to people smuggling issues.
- **Cooperative Assistance Activities:** Customs contributes to institutional strengthening programs in multilateral and bilateral forums. This contribution includes law enforcement training in the areas of investigation, intelligence, and enforcement in the passenger processing and border operations environment. Customs has developed and provided intelligence software to a number of Pacific Islands to assist them in their general law enforcement capacity.

Australian Federal Police

The Australian Federal Police (AFP) is the major instrument of Commonwealth law enforcement. Its role is to enforce Commonwealth criminal law and to protect Commonwealth and national interests from crime in Australia and overseas (AFP 1999, p. 79).

The AFP's role in enforcing Part IIIA (Child Sex Tourism) of the *Crimes Act* 1914 (Cth) and the *Migration Act* 1958 (Cth) is particularly relevant to the issues of human smuggling and trafficking. Similarly, the AFP gives special emphasis to countering and investigating organised crime and transnational crime (AFP 1999, p. 79). The AFP has specific investigative and intelligence resources allocated to people smuggling, and supplements these with additional resources in response to particular incidents.

Activities that may be relevant to people smuggling and trafficking, include the following:

- **The Arrest and Charging of Persons Involved in People Smuggling:** In 1998–1999, these include the arrest of 9 fisherman in Western Australia on charges relating to people smuggling from Bangladesh; 4 Indonesian fisherman charged after smuggling 32 Kurds into Australia; 4 people arrested in far north Queensland, while awaiting the arrival of a suspect illegal entry vessel carrying 78 illegal entrants, all of whom were subsequently detained; and a further 3 Indonesian fisherman apprehended for smuggling people into Australia from Bangladesh (AFP 1999, p. 27).

- **Investigations under Part IIIA (Child Sex Tourism) of the *Crimes Act 1914 (Cth)*:** The AFP investigates allegations of child sex offences committed by Australians while travelling overseas. These investigations have resulted in several arrests and several successful prosecutions (AFP 1999, p. 27).
- **Intelligence Gathering:** the AFP contributes information, along with all State and Territory police services, to the Australian Bureau of Criminal Intelligence (ABCI). The ABCI was established primarily to facilitate the exchange of criminal intelligence between Australian law enforcement agencies. To this end, the ABCI maintains the Australian Law Enforcement Intelligence Net (ALEIN), and the Australian Criminal Intelligence Database, as repositories for law enforcement intelligence, including intelligence on people smuggling and trafficking. ALEIN is an important investigative and analytical tool that assists in the identification of offenders and facilitates cross-jurisdictional discussion on the topic of transnational crime. A People Smuggling Desk has recently been included in ALEIN, thereby providing users, on a national basis, with access to current assessments, media reports, and training presentations on the issue to raise their understanding and awareness of this issue.
- **National Child Sex Offender System:** this system is currently being developed by the ABCI. It will include information about suspected and convicted child sex offenders. All State police services and the AFP will contribute to, and use, this database.
- **Liaison Officers:** the AFP has 28 liaison officers in 16 countries around the world. Liaison officers maintain a high profile within the international law enforcement community through their attendance at various conferences and seminars, and by facilitating the exchange of information on matters including people smuggling and trafficking. The liaison officer network is directed from Canberra which, in turn, ensures the provision of timely advice to local agencies on criminal activity overseas that impacts on Australian interests (AFP 1999, p. 31).
- **International Liaison:** in addition to the liaison officers, Australia maintains strong international law enforcement links through its membership with Interpol and its general links with many countries in the region, some of which are potential sources of undocumented migrants. There is ongoing liaison between Australian and international

agencies, including the passing back to the country of origin information collected by Australian agencies about organisers of unauthorised arrivals, to help local authorities with possible prosecutions.

- **Cooperative Assistance Activities** in the Asia-Pacific region, including:
 - The provision of training on sexual offence investigation by members of the AFP to police and other law enforcement practitioners in the Philippines, Thailand, Fiji, Vanuatu, the Solomon Islands, and Bangladesh (Australian Government 1996, p. 23).
 - Strategic intelligence training to Singapore law enforcement agencies jointly conducted by the AFP, ABCI, and the Office of Strategic Crime Assessment.
 - Strategic attachment of AFP officers with national police forces in Vanuatu and Indonesia.
 - Assistance to the Royal Solomon Islands Police to review criminal intelligence structures and procedures.
 - Training packages relating to intelligence, forensic procedures, and fraud, which have been developed for delivery in the Asia-Pacific region (AFP 1999, pp. 32–33).

International Cooperation

Human smuggling and trafficking are, by nature, transnational activities. Responses to these problems can only be effective if members of the international community act cooperatively.

Australia is an active participant in a number of international fora that consider the issues of smuggling and trafficking in persons. The Australian Minister for Immigration attended the International Symposium on Migration in Bangkok in April 1999. The Symposium adopted the *Bangkok Declaration on Irregular Migration*. This document addresses the question of international migration, with particular attention to regional cooperation on irregular/undocumented migration (see Appendix A).

The Australian Human Rights and Equal Opportunity Commission (HREOC) is also represented on the Asia Pacific Forum of National Human Rights Institutions (the Forum). The Forum was established in 1996, its members include independent national human rights commissions from Australia, India, Indonesia, Fiji, New Zealand, Philippines, and Sri Lanka. The Forum provides institutions with an opportunity to learn from each other's experiences, to strengthen collectively each other's position, and to contribute to regional debates on human rights. HREOC has taken on the responsibility of the secretariat of the Forum for a period of three years. It has received funding for this purpose from AusAID, a reflection of the support the Forum has received from the Australian Government.

In 1999, the Forum accepted an initiative of the United Nations High Commissioner for Human Rights to establish a regional network of trafficking focal points. As a result of this initiative, each commission is in the process of nominating an appropriate member of staff to be the contact point on issues relating to trafficking with a particular focus on women and children. Once established, this contact point liaises with the Office of the High Commissioner for Human Rights and the Forum. Australia's contact point is currently located in the office of the Sex Discrimination Unit of HREOC.

Australia is party to a number of international instruments relating to the trafficking in persons, including:

- 1904 *International Agreement for Suppression of the White Slave Traffic* and 1949 Protocol
- 1910 *Convention for Suppression of the White Slave Traffic* and 1949 Protocol
- 1921 *Convention for Suppression of the Traffic in Women and Children* and 1947 Protocol
- 1933 *Convention for the Suppression of Traffic in Women of Full Age* and 1947 Protocol
- 1926 *Convention to Suppress the Slave Trade and Slavery*, and its 1953 Protocol
- 1956 *Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery*
- 1930 ILO *Convention Concerning Forced or Compulsory Labour*
- 1957 ILO *Convention concerning the Abolition of Forced Labour*
- *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*
- *Convention on the Rights of the Child (CROC)*
- *International Covenant of Civil and Political Rights (ICCPR)*
- *Hague Convention on Protection of Children and Co-operation in Respect of Inter-Country Adoption*

Australia is actively participating in the negotiations surrounding the preparation of the new Convention against Transnational Organised Crime and three Optional Protocols. Two protocols are expressly devoted to reinforce international cooperation against the smuggling of migrants and the trafficking of human beings. The focus of the optional protocol relating to trafficking of migrants is on the prevention and suppression of smuggling of migrants, with special attention being paid to the distinction between the criminalisation of trafficking and the protection of victims of that activity. The focus of the protocol on trafficking in persons is on trafficking in women and children.

Australia is party to several MOUs, with respect to the sexual abuse of children:

- *MOU between the Government of Australia and the Government of the Republic of the Philippines for Joint Action to Combat Child Sexual Abuse and Other Serious Crimes*
- *MOU between the Government of Australia and the Government of Fiji for Joint Action to Combat Child Sexual Abuse and Other Serious Crimes*

The MOU with the Philippines outlines the procedures to be followed in cases where a minor applies for a visa to travel to Australia without their parent(s) or legal guardian(s). There are strict guidelines for the requirement of consent of parents, legal guardian, or the Department of Social Welfare and Development in the Philippines to the proposed travel.

When the child is travelling with one parent, evidence of the child's relationship to that adult is required, as is the consent of the non-accompanying parent or proof of custody. When a child is travelling without a parent, the consent of both parents and a certificate from the Department of Social Welfare and Development is required. Non-related adults are also checked against any local information that is available as to their suitability or otherwise.

Australian embassies also endeavour to check into applications for travel by minors in other countries, but the process is not always as detailed in the absence of cooperation between Australia and the host country.

Economic Assistance

The provision of economic assistance to countries or regions that are the source of illegal migrants is likely to provide the long-term solution to the problems of human smuggling and trafficking. For example, the fostering of foreign investment in a particular region might create alternative employment opportunities in that area, minimising the incentive, at least for some, to travel abroad for work (Hugo 1998, p. 92). As Hugo notes:

Clearly the root cause of much illegal migration is the widespread poverty and wide differences in the levels of well-being of people in South-East Asia and ultimately, it will only be curbed by improving the lives of people in the origin areas (Hugo 1998, p. 93).

The Australian Government's international aid program assists in the prevention of human smuggling and trafficking, particularly from Asia, by addressing the root causes of disadvantage and poverty in the region. Projects aimed at facilitating sustainable economic development, and projects focusing on the delivery of basic education, provide the most direct assistance to those groups at risk of being trafficked. Recent projects include:

- **Basic Education:** In 1998–1999, AusAID provided \$49.5 million in basic education services in the Asia region, with \$6.4 million specifically targeted to women and girl children.
- **Targeted Education:** AusAID provided \$170,000 for training courses to sensitise the tourism industries in Cambodia, Indonesia, the Philippines, Thailand, and Vietnam to child trafficking and sexual exploitation issues.
- **Economic Development:** AusAID funds general interventions to improve governance, infrastructure, and access to social services all contribute to economic development and will help raise household incomes over time. Raising household incomes reduces the incentive over time to “sell” family members to traffickers, or to migrate in potentially dangerous circumstances. Similarly, the aid portfolio has a range of microfinance

initiatives that provide financial services to vulnerable groups throughout the region, including the Philippines, Thailand, and Vietnam.

- **Projects for Victims of Trafficking:** AusAID provides funding for several projects that provide support for victims of trafficking. These include:
 - the Philippines-Australia Vulnerable Groups Facility, which provides targeted funding to support essential programs for vulnerable groups such as minorities, children, indigenous people, and women. Many of the key social services supported by the fund strengthen the capacity of safety net programs to respond to the needs of trafficking victims, including the provision of counselling, basic education, and other life skills. The fund will provide up to \$45 million in support over the next three years (AusAID 2000, p. 2).
 - a program in Cambodia, which targets street children, many of whom have been trafficked into major urban centres to work in the sex industry. This three-year project is worth \$876,000 and its major components include vocational training, provision of transitional accommodation, and child rights advocacy (AusAID 2000, pp. 1–2).

Research and Data Collection

The Australian Institute of Criminology (AIC) is currently taking part in the Global Program Against Trafficking in Human Beings, launched by the United Nations Office for Drug Control and Crime Prevention in March 1999. The Program consists of policy-oriented research and targeted technical cooperation in relation to smuggling and trafficking in human beings. To this end, the AIC has seconded a Research Analyst to the Program for a period of 12 months. The value of this in-kind donation is approximately US \$80,000.

United Nations Global Program Against Trafficking in Human Beings

In order to better enable governments and the international community to respond to the worldwide problems of human smuggling and trafficking, the United Nations Office for Drug Control and Crime Prevention (UNODCCP) launched the *Global Program Against Trafficking in Human Beings* in March 1999. The Program aims to bring to the forefront the involvement of organised crime groups in human smuggling and trafficking and promote the development of effective criminal justice responses to these problems. The Global Program, consisting of policy-oriented research and targeted technical cooperation, has been developed by the CICP and the United Nations Interregional Crime and Justice Research Institute (UNICRI). CICP is in charge of technical cooperation activities and UNICRI is in charge of developing standardised research methodology and coordinating research in the various projects to be carried out under the Global Program (see generally, United Nations 1999).

The Global Program will collect data on different routes for smuggling and trafficking human beings and the structures and modalities used for transporting and, subsequently, exploiting them. A global inventory of best practices used in addressing organised crime involvement in smuggling and

trafficking, including special legislation and institutional arrangements, will be created.

In close cooperation with respective governments, non-government organisations, and other institutions concerned, a series of “demonstration projects” will be implemented in selected countries. The demonstration projects will assist governments in:

- Counteracting groups involved in human smuggling and trafficking.
- Strengthening crime prevention strategies against the smuggling and trafficking of humans.
- Improving victim witness protection and victim assistance for victims of human smuggling and trafficking.

The processes, impacts, and possible side effects of the demonstration projects will be evaluated in close cooperation with national counterparts. By the end of the three-year Program, a global strategy against human smuggling and trafficking will be formulated in close consultation with relevant national and international organisations and experts and presented for adoption by the international community at a global forum.

The AIC is providing research expertise for the first project of the Program, known as *Coalitions Against Trafficking in Human Beings in the Philippines*. It is expected that this Project will serve as the model, for future United Nations projects on human smuggling and trafficking.

To date, the AIC has:

- Completed a desk review of existing literature on smuggling/trafficking from the Philippines, and in the Asian region.
- Participated in the UN Start-Up Mission to the Philippines, and made recommendations upon return.
- Completed a “Rapid Assessment: Smuggling and Trafficking from the Philippines”, which has been made available to the Government of the Philippines. This document can be found on:
<http://www.aic.gov.au/research/traffick/index.html>

Planned future research and technical cooperation activities by the Global Program, contained in the Project Document, are based on the results of this AIC work. According to the Project Document, in the next 6 months, the

AIC, in conjunction with the United Nations Interregional Crime and Justice Research Institute (UNICRI), will:

- Develop a database containing information on trafficking in human beings, including trafficking in children, gained from non-government organisations.
- Conduct a survey of non-government organisations, with respect to the involvement of organised crime groups in human trafficking and smuggling, including the smuggling and trafficking of children.
- Produce a cross-analysis report on interregional trafficking routes emanating from the Philippines to, for example, Hong Kong and Japan, trafficking patterns and the national/international institutional responses to this phenomenon.

This is an important project, as little empirical work has been done in this field. There is no shortage of anecdotal reporting, but a solid social science research project will add substantially to our knowledge. Results of this work will be reported at a later stage and will contribute to the United Nations' global work on combating transnational organised crime and trafficking of human beings.

Domestic Data Collection

Various agencies, including the AIC, ABCI, Customs, and Australian Quarantine Services are participating in an AFP initiative, Operation Glide, to establish an information collection plan with respect to "maritime crime", including human smuggling and trafficking that occurs by sea. The AIC is providing expert advice in relation to the development of this database, having had a long involvement with information collection plans, such as the National Homicide Monitoring Program.

Services for Victims of Trafficking

Services for victims of crime are generally provided by Australian State and Territory governments, either alone or in conjunction with non-government organisations (Cook et al. 1999). There is a variety of services offered by the Federal Government that might be relevant to victims of trafficking. These include a range of services offered by DIMA to assist recent arrivals to Australia, including refugees; national standards of practice for services assisting victims of sexual violence; and government cooperation with the education campaign about child sex tourism, undertaken by End Child Prostitution, Pornography and Trafficking (ECPAT) Australia.

Government Services

DIMA provides a range of services for immigrants, including:

- **The Asylum Seeker Assistance (ASA) Scheme:** this scheme provides financial assistance to disadvantaged protection visa applicants who are unable to meet their basic needs, such as food, accommodation, clothing, and health care, during the decision-making process. The ASA is administered by the Australian Red Cross under an agreement with the Department (DIMA 1999f). This measure provides protection to the most vulnerable asylum seekers, many of whom will be women and children, without impacting adversely on other measures introduced to maintain the integrity of the Protection Visa process (DIMA 1999f).
- **Integrated Humanitarian Settlement Strategy (IHSS):** this is a national framework for improving humanitarian settlement services for those most in need. The framework incorporates needs assessment, information, and referral to specialised services, such as torture and trauma services, and to broader settlement services delivered by a network of government and community based organisations

(DIMA 1999f, pp. 89–90). In the year 1998–1999, funding was extended to the following:

- \$2.8 million to 34 community-based organisations to employ workers to provide assessment and referral services to humanitarian entrants;
- \$2 million to the National Forum of Services for the Survivors of Torture and Trauma to support the early health intervention program for humanitarian entrants; and
- \$1 million to 21 migrant Resource Centres for Employing Humanitarian Resource Workers (DIMA 1999f, p. 89).

- **Community Refugee Settlement Scheme (CRSS) services:** as part of the IHSS, voluntary groups provide support for eligible humanitarian program entrants for up to six months after their arrival. A grant is paid to the group to assist with the initial expenses involved in settling the entrants (DIMA 1999f, p. 90).

Training and support was provided to the CRSS groups to enable them to effectively link entrants into services such as Centrelink, employment agencies, health programs, and schools. There are about 250 active groups in Australia (DIMA 1999f).

- **On-Arrival Accommodation:** Refugees and eligible humanitarian program entrants not being settled through the CRSS may use short-term accommodation provided by the Department in about 290 flats in Sydney, Melbourne, Brisbane, Perth, and Adelaide (DIMA 1999f, p. 90).

Entrants are given information about accommodation and general services and are linked to a wide range of settlement services, such as Centrelink, health services and employment agencies (DIMA 1999f, p. 90).

- **Immigration Advice and Application Assistance Scheme (IAAAS):** this scheme aims to provide:
 - protection visa application assistance to all asylum seekers who may be in immigration detention;
 - visa application assistance and immigration advice services to eligible disadvantaged asylum seekers and other visa applicants in the community; and
 - transitional funding in 1997–98 to train eligible community-sector migration agents to help them meet new competency requirements for registration flowing from changes to the arrangements for migration agent industry regulation.

To be eligible for application assistance, asylum seekers or other visa applicants in the community must be experiencing financial hardship or have suffered torture and trauma and have a case of merit (DIMA 1999f, p. 94).

Immigration advice under the IAAAS is available for people in the community who are unable to gain access to the services of a registered migration agent for reasons such as financial hardship, non-English speaking background, cultural background, illiteracy, remote location, or physical or psychological disability—including as a result of past torture and trauma (DIMA 1999f, p. 94).

National Standards of Practice for Services Assisting Victims of Sexual Offences

As noted previously, services for victims of crime, including services for victims of sexual assault, are provided by the Australian State and Territory governments. The Federal Government's role is presently limited to funding the establishment of the National Association of Services Against Sexual Violence (NASASV) and the development of a set of Australia wide service standards for such services.

In 1997, the Office of the Status of Women (OSW) funded the development of *The National Standards of Practice Manual for Services Against Sexual Violence* in recognition of the need for a consistent approach to sexual violence across Australia. The Manual establishes a number of Standards that are potentially relevant to victims of trafficking in Australia who may seek out such services. For example, the Manual places considerable emphasis on the importance of access and equity:

Access implies recognising cultural diversity as well as identifying and addressing barriers and structural disadvantages experienced by members of the community.

Equity implies the fair treatment of all service users, a just allocation of resources, and positive discrimination towards those facing additional barriers to services.

Service provision respects the cultural context of victims/survivors such as their race, ethnicity and language, and factors such as geographical location, socio-economic background, gender, age, sexuality and level of ability (NASASV 1998, p. 1).

These principles will be particularly relevant to services which assist victims of trafficking. Marginson notes that there are several factors that may increase the vulnerability of immigrant women to violence, and that may also act as obstacles to their seeking support or protection. These factors may include:

- A lack of knowledge about domestic violence and sexual assault.
- Stress and trauma caused by the immigration experience and immigration status.
- Lack of knowledge about the police, the role they may play in domestic and sexual violence, and a reluctance to seek police intervention.
- Lack of knowledge and/or reluctance to use community services.
- Cultural and religious values.
- Racism

(Marginson 1999, p. 47).

Marginson argues that a number of strategies are needed to address these factors, particularly:

- changing organisational environments;
- sensitising service providers and political institutions;
- empowering the community through community education; and
- lobbying political decision-makers.

The Standards developed by NASASV are a good first step towards changing the organisational environment of services provided for victims of sexual violence and sensitising service providers. For each Standard, the Manual provides “Indicators”, or measurable and practical actions, that demonstrate that standards have been achieved. In relation to the issue of whether services are culturally appropriate to all members of the diverse populations of the community, the Indicators include:

- whether staff have been trained on racism, and culturally accessible and appropriate service provisions;
- consultation with appropriate community representatives on culturally relevant service delivery;

- the use of a variety of strategies to ensure relevance to people of diverse backgrounds and needs;
- the involvement of workers from diverse cultural and social backgrounds;
- the commitment of resources to address specific barriers which may face people from diverse backgrounds;
- training for the staff in the use of interpreters; and
- the implementation of policies in relation to working with interpreters, such as confidentiality, choice, option, control for users, and debriefing for interpreters.

Standard 4 in the Manual requires services to commit adequate resources to evaluation of their programs.

Education

Considerable progress has been made in recent years to raise public awareness of the issue of child sex tourism and the fact that it is a crime which can lead to a term of imprisonment. Since 1994, ECPAT Australia, a non-government organisation, has been distributing leaflets warning against child sex tourism and the penalties under the child sex tourism legislation. Several Federal Government departments, alongside private organisations and the Government of Thailand, have cooperated in this process. For example, the ECPAT Australia leaflet *Australian Laws for Travellers* is being distributed by:

- Australian Customs Officers at all airports;
- Travellers vaccination centres;
- Australian passport offices;
- Australian embassies around the world;
- Royal Thai Embassy and Consulates around Australia;
- Tourism Authority of Thailand;
- Many travel agents in ticket wallets; and
- GPOs across Australia.

ECPAT Australia also participated in the 1995 and 1997 Melbourne and Sydney Holiday and Travel Shows. These shows attracted over 300,000 visitors including future travellers and travel industry members.

ECPAT Australia has collaborated with the Australian travel industry to develop a code of practice intended to remind Australian tourists that they may be confronted with opportunities which attract criminal liability. As outlined in ECPAT Australia's website (www.ecpat.org.au), ECPAT Australia has produced a travel industry information kit entitled *Child Sex Tourism, Travel Agents and the Law*. This kit has now been distributed to every travel agent in Australia. Travel agents across Australia are also displaying the

ECPAT logo sticker on their windows to show their support for ending child sex tourism. Many Australian travel and tourism educators have received ECPAT resource material and are being encouraged by the national accreditation panel to include this as part of tourism training curriculum.

The Australian Federation of Travel Agents (AFTA) have added a strong condemnation of child sex tourism into their industry code of ethics:

AFTA members will not provide or assist in the provision of any travel services which, to their knowledge, is to be used for a purpose involving the sexual exploitation of children.

This clause was adopted on 21 August 1996. Similar declarations have been agreed upon by international tourism agencies such as the International Air Transport Association, International Hotels Association, the Universal Federation of Travel Agencies Association, and the World Tourism Organisation.

ECPAT Australia and Lonely Planet publications have worked together to provide travel guide authors with information regarding Australian and international laws so that this information may be included in the Lonely Planet guide book collection. ECPAT has also ensured that education regarding child sex tourism and Australian legislation is widely available. The child sex tourism legislation is included in the legal studies curriculum in schools and in travel industry training courses.

Conclusion

Human smuggling and trafficking are matters of increasing concern to the Australian Government. Recent interceptions of vessels attempting to smuggle people to Australia have highlighted the increasing sophistication of people smuggling operations and the involvement of organised crime groups in this activity. While it is not clear whether the increase in people smuggling is matched by a similar increase in human trafficking to Australia, there are indications that undocumented migrants, including those who have overstayed their visas, entered on fraudulent documentation, or even been smuggled into the country undetected, are vulnerable to exploitation by traffickers.

The Federal Government has implemented legislation and various policies to address the issues of human smuggling and undocumented migration generally. It is likely that these will have “flow-on” effects to minimise the incidence of human trafficking and to assist the victims of trafficking. Human smuggling and trafficking are, however, transnational activities. As such, they cannot be stopped by the activities of one country alone. Domestic efforts to stem the activities of smugglers and traffickers will have little effect without the cooperation of origin and transit countries. International cooperation, such as the Asian Regional Initiative Against Trafficking in Women and Children, is essential to combat human smuggling and trafficking.

References

- Allen, J. 1999, "Revealed: The Plot to Get 69 Chinese Illegals Ashore", *The Illawarra Mercury*, 19 May 1999, p. 1.
- AusAID 2000, "AusAID Contribution to Australian Government Paper for ARIAT Conference", unpublished communication, AusAID, Canberra.
- Australian Customs Service (ACS) 1999, *Annual Report 1998–1999*, Australian Customs Service, Canberra.
- Australian Federal Police (AFP) 1999, *Annual Report 1998–1999*, Australian Federal Police, Canberra.
- Australian Government 1996, *World Congress Against the Commercial Sexual Exploitation of Children: Stockholm, August 27–31, 1996*, Australian Government Delegation Briefing Documents, Australian Government, Canberra.
- Bowen, L. 1987, *Hansard—House of Representatives*, 30 April 1987, p. 2314, cited in Urbas, G. 1999, "Legislative Responses to Organised Crime", AIC unpublished manuscript, Australian Institute of Criminology, Canberra.
- Brockett, L. and Murray, A. 1994, "Thai Sex Workers in Sydney" in R. Perkins, G. Prestage, R. Sharp and F. Lovejoy (eds), *Sex Work and Sex Workers in Australia*, University of New South Wales Press, Sydney.
- Chin, K. 1997, "Safe House or Hell House? Experiences of Newly Arrived Undocumented Chinese", in P. Smith (ed.), *Human Smuggling: Chinese Migrant Trafficking and the Challenge to America's Immigration Tradition*, Centre for Strategic and International Studies, USA.
- Cook, B., David, F. and Grant, A. 1999, "Victims' Needs, Victims' Rights: Policies and Programs for Victims of Crime in Australia", *Research and Public Policy Series*, no. 19, Australian Institute of Criminology, Canberra.
- Department of Immigration and Multicultural Affairs (DIMA) 1999a, "Key Facts in Immigration", *DIMA Fact Sheet 2*, Department of Immigration and Multicultural Affairs, Canberra.
- DIMA 1999b, "Domestic Violence Provision", *DIMA Fact Sheet 36*.
- DIMA 1999c, "Australia's Offshore Humanitarian Resettlement Program", *DIMA Fact Sheet 40*.
- DIMA 1999d, *Review of Illegal Workers in Australia: Improving Immigration Compliance in the Workplace*.
- DIMA 1999e, *Protecting the Border: Immigration Compliance*.

- DIMA 1999f, *Annual Report 1998–1999*.
- DIMA 2000, “Unauthorised Arrivals by Air and Sea”, *DIMA Fact Sheet 81*.
- Forbes, M. 1999, “Our Secret Slave Trade”, *The Age*, 21 August 1999, p. 1.
- Gallagher, A. 1999, “The Role of National Institutions in Advancing the Human Rights of Women—A Case Study on Trafficking in the Asia Pacific Region”, paper presented at the Fourth Annual Meeting of the Asia Pacific Forum of Human Rights Institutions, Philippines, 6–8 September 1999, <http://www.apf.hreoc.gov.au/>
- Hugo, G. 1998, “Undocumented International Migration in South-East Asia”, in C. Firdausy (ed.), *International Migration in Southeast Asia: Trends, Consequences, Issues and Policy Measures*, 1998, CIPTAMENTARI SAKTIABADI, Victoria.
- International Organisation for Migration (IOM) 1995, *Overview of International Migration*, International Organisation for Migration, Geneva, http://www.iom.int/migration_web
- Kwong, P. 1994, “Wake of the Golden Venture China’s Human Traffickers”, *The Nation*, October 17 1994, pp. 422–25, cited in International Organisation for Migration 1995, *Overview of International Migration*, International Organisation for Migration, Geneva.
- Lagan, B. 1999, “The People Smugglers”, *The Sydney Morning Herald*, 22 May 1999, p. 35.
- McKinnon, M. 2000, “Record Fines as Illegals Flood Airlines”, *The Courier Mail*, 3 January 2000, p. 3.
- Marginson, M. 1999, “Immigrant and Refugee Women as Victims of Crime”, in Victims Referral and Assistance Service (Victoria), *Support for Victims of Crime: Responding to the Challenges of Diversity: Different Cultures, Different Needs*, proceedings of the conference, April 1999, Victims Referral and Assistance Service, Victoria.
- Metherell, M., Martin, L., and Lagan, B. 1999, “Tricked African Migrants Open Fire on Boat”, *The Sydney Morning Herald*, 24 May 1999, p. 1.
- National Association of Services Against Sexual Violence (NASASV) 1998, *National Standards of Practice Manual for Services Against Sexual Violence*, National Association of Services Against Sexual Violence, Victoria.
- Ruddock, P. 1998, “The 1997–98 Humanitarian Program Outcome”, Ministerial Press Statement 100/98, 5 August 1998.
- Ruddock, P. 1999a, “More Illegal Workers Detained”, Ministerial Press Statement 41/99, 5 March 1999.
- Ruddock, P. 1999b, “Reports that 2000 Somalis May be Trying to Enter Australia Illegally by Boat”, Ministerial Press Statement 83/99, 23 May 1999.
- Ruddock, P. 1999c, “New Campaign to Stop Illegal Entrants”, Ministerial Press Statement 155/99, 29 October 1999.
- United Nations Global Program Against Trafficking in Human Beings 1999, *Global Program Against Trafficking in Human Beings: An Outline for Action*, United Nations Global Program Against Trafficking in Human Beings, Vienna, http://www.unicri.it/html/trafficking_in_human_beings.htm
- Urbas, G. 1999, “Legislative Responses to Organised Crime”, AIC unpublished manuscript, Australian Institute of Criminology, Canberra.

Appendix A

The Bangkok Declaration on Irregular Migration

We, the Ministers and representatives of the Governments of Australia, Bangladesh, Brunei Darussalam, Cambodia, China, Indonesia, Japan, Korea, Lao PDR, Malaysia, Myanmar, New Zealand, Papua New Guinea, the Philippines, Singapore, Sri Lanka, Thailand, and Vietnam, as well as the Hong Kong Special Administrative Region (hereinafter referred to as “the participating countries and Region”), meeting at the invitation of the Royal Thai Government in Bangkok on 23 April 1999, on the occasion of the International Symposium on Migration, held on 21–23 April 1999, under the chairmanship of H.E. Bhichai Rattakul, Deputy Prime Minister of Thailand, to address the question of international migration, with particular attention to regional cooperation on irregular/undocumented migration:

1. Realizing that international migration is a complex phenomenon which is rooted in human history and is closely associated with social and economic aspirations of each country and region;
2. Recognizing that the process of globalization and liberalization, including the increasing interdependence of economies, has contributed to large flows of people in the Asia-Pacific region, thus providing both opportunity and challenge for governments in the region;
3. Noting that both the supply (push) factor and demand (pull) factor from concerned countries have led to the outflow of migrants from the countries of the region;
4. Being aware that international migration, particularly irregular migration, has increasingly become a major economic, social, humanitarian, political and security concern for a number of countries in the Asia-Pacific region;
5. Noting with concern that the ongoing financial and economic crisis in many Asian countries has led to rising unemployment and other social

problems, and has had differing impacts on irregular migrants and on the countries of origin, transit and destination;

6. Noting further that the periodic natural disasters in some Asian countries badly affect their economies and lead to rising unemployment and irregular migration;
7. Gravely concerned by the increasing activities of transnational organized criminal groups and others that profit from smuggling of and trafficking in human beings, especially women and children, without regard to dangerous and inhumane conditions and in flagrant violation of domestic laws and international standards;
8. Underlining that comprehensive, coherent and effective policies on irregular/undocumented migration have to be formulated within the context of a broader regional framework based on a spirit of partnership and common understanding;
9. Noting that over 65 per cent of the world's poorest people live in the Asia-Pacific region, hence poverty and differences in level of development among countries in the region remain important causes of irregular migration;
10. Recognizing a need for international cooperation to promote sustained economic growth and sustainable development in the countries of origin as a long-term strategy to address irregular migration;
11. Noting that there is a number of international conventions and instruments dealing with humanitarian issues relating to migration;
12. Respecting the sovereign rights and legitimate interests of each country to safeguard its borders and to develop and implement its own migration/immigration laws, and also recognizing the obligations of the country of origin to accept its nationals back, and the obligation of the countries of transit and destination to provide protection and assistance where appropriate, in accordance with their national laws;
13. Recognizing the important role and contribution of regional consultative mechanisms, such as the Asia Pacific Consultations on Refugees, Displaced Persons, and Migrants, and the Manila Process, on issues relating to irregular migration;
14. Noting with appreciation the participation of countries from various regions, United Nations bodies and specialized agencies,

- intergovernmental organizations, as well as non-governmental organizations, in sharing their views and experiences in dealing with migration issues;
15. Noting also with appreciation the discussion papers prepared by the Institute for Population and Social Research, Mahidol University, and the International Organization for Migration (IOM), which provided useful points of discussion and recommendations for the management of irregular migration;
 16. Acknowledging with gratitude the timely initiative of H.E. Dr. Surin Pitsuwan, Minister of Foreign Affairs of Thailand, the dynamic chairmanship of H.E. Bichai Rattakul, Deputy Prime Minister of Thailand, as well as the excellent arrangements provided by the Royal Thai Government, with the valuable support of the IOM;

Declare as follows:

1. Migration, particularly irregular migration, should be addressed in a comprehensive and balanced manner, considering its causes, manifestations and effects, both positive and negative, in the countries of origin, transit and destination;
2. The orderly management of migration and addressing of irregular migration and trafficking will require the concerted efforts of countries concerned, whether bilaterally, regionally or otherwise, based on sound principles of equality, mutual understanding and respect;
3. Regular migration and irregular migration should not be considered in isolation from each other. In order to achieve the benefits of regular migration and reduce the costs of irregular migration, the capacity of countries to manage movement of people should be enhanced through information sharing and technical and financial assistance. In this context, UNITAR, UNFPA, and IOM, joint sponsors of the International Migration Policy and Law Course (IMPLC), are invited to hold, in the near future, a course for middle to senior government officials from the region;
4. A comprehensive analysis of the social, economic, political and security causes and consequences of irregular migration in the countries of origin, transit and destination should be further developed in order better to understand and manage migration;

5. As the causes of irregular migration are closely related to the issue of development, efforts should be made by the countries concerned to address all relevant factors, with a view to achieving sustained economic growth and sustainable development;
6. Countries of origin, as well as countries of transit and destination, are encouraged to reinforce their efforts to prevent and combat irregular migration by improving their domestic laws and measures, and by promoting educational and information activities for those purposes;
7. Donor countries, international organizations and NGOs are encouraged to continue assistance to developing countries, particularly the least-developed countries, in the region aimed at poverty reduction and social development as one means of reducing irregular migration;
8. The participating countries and region should be encouraged to pass legislation to criminalize smuggling of and trafficking in human beings, especially women and children, in all its forms and purposes, including as sources of cheap labor, and to cooperate as necessary in the prosecution and penalization of all offenders, especially international organized criminal groups;
9. The participating countries and Region should exchange information on migration legislation and procedures for analysis and review, with a view to increasing coordination to effectively combat migrant traffickers;
10. The countries of origin, transit and destination are encouraged to strengthen their channels of dialogue at appropriate levels, with a view to exchanging information and promoting cooperation for resolving the problem of illegal migration and trafficking in human beings;
11. Greater efforts should be made to raise awareness at all levels, including through public information campaigns and advocacy, of the adverse effects of migrant trafficking and related abuse, and of available assistance to victims;
12. Concerned countries, in accordance with their national laws and procedures, should enhance cooperation in ascertaining the identity of undocumented/illegal migrants who seemingly are their citizens, with a view to accelerating their readmission;
13. Timely return of those without right to enter and remain is an important strategy to reduce the attractiveness of trafficking. This can be achieved

- only through goodwill and full cooperation of countries concerned.
Return should be performed in a humane and safe way;
14. Irregular migrants should be granted humanitarian treatment, including appropriate health and other services, while the cases of irregular migration are being handled, according to law. Any unfair treatment towards them should be avoided;
 15. The participating countries and Region should each designate and strengthen a national focal point to serve as a mechanism for bilateral, regional and/or multilateral consultations and cooperation on questions of international migration;
 16. A feasibility study should be conducted on the need to establish a regional migration arrangement, linked to existing international bodies, to provide technical assistance, capacity building and policy support as well as to serve as an information bank on migration issues for the countries in the Asia-Pacific region. The countries in the region are meanwhile encouraged to utilize and strengthen the already existing bilateral and multilateral arrangements;
 17. The participating countries and Region will follow-up on the above mentioned issues of irregular migration at the political and senior official levels in ways which may be deemed appropriate;
 18. This document shall be given the widest publicity and dissemination possible to encourage governments, non-governmental organizations, the private sector and civil society to join in a collective regional effort to alleviate the adverse effects of irregular migration and to prevent and combat trafficking of human beings, especially women and children.

Bangkok, THAILAND

23 April 1999

This document can be found on:

<http://www.immi.gov.au/illegals/appenda.html>