

Current extent of slavery and people trafficking in Australia

Investigations, prosecutions and convictions

- 3.1 During the course of the inquiry the Attorney-General's Department (AGD), the Australian Federal Police (AFP) and the Commonwealth Director of Public Prosecutions (CDPP) provided details about the number of investigations, prosecutions and convictions that had been undertaken for the slavery and trafficking offences set out in the *Criminal Code*.¹
- 3.2 In its evidence to the Committee, the AGD stated that since 2004, the AFP had 'undertaken more than 350 investigations and assessments into allegations of people trafficking and related offences.'²
- 3.3 Of those 350 investigations, over seventy-five per cent conducted by the AFP were in Melbourne and Sydney (see table 1.1 below).³
- 3.4 The AFP did however comment that the figures on these crimes may not necessarily be representative of the problems due to underreporting, stating:

I think there is a difficulty in the sense that you cannot definitively get a number on the offence rate because there are difficulties with under-reporting and there are quite significant reasons that these crimes are under-reported, particularly for people who are victimised in the sex industry, or in a forced marriage context

1 Slavery and trafficking offences are set out in divisions 270 and 271 of the Commonwealth *Criminal Code*. The slavery offences (division 270) were enacted in 1999 and the specific people trafficking provisions were enacted in 2005.

2 Attorney-General's Department, *Submission 8*, p. 3.

3 Attorney-General's Department, *Supplementary Submission 48*, p. 2.

there are a lot of cultural and religious stigma attached to reporting these crime types. So I do not know that there is a way to definitively get an answer on the full extent of the problem.⁴

Table 1.1 Locations of the 350 investigations and assessments under Divisions 270 and 271 of the Commonwealth Criminal Code

| Operational Office | Referrals |
|--------------------|------------|
| Adelaide | 5 |
| Brisbane | 33 |
| Cairns | 12 |
| Canberra | 19 |
| Darwin | 1 |
| Hobart | 2 |
| Melbourne | 107 |
| Perth | 13 |
| Sydney | 158 |
| Total | 350 |

Source Attorney-General's Department, *Supplementary Submission 48*, p. 2.

3.5 The AGD also provided details of the investigations between 2010 and 2012 noting that:

AFP Human Trafficking Teams (HTT) commenced 41 new investigations in 2011-12, compared with 35 new investigations in 2010-11. Approximately 59 per cent of the investigations in 2011-12 related to trafficking for sexual exploitation. Since 2004, the CDPP has obtained 15 convictions for trafficking-related offences.⁵

3.6 The AGD added that of those fifteen convictions, 'ten of those individuals were convicted of slavery offences, three of sexual servitude offences and two of people trafficking offences.'⁶

3.7 At a public hearing, the CDPP advised the Committee that:

- the AFP had referred 46 defendants who had committed potential offences under divisions 270 or 271 of the Commonwealth *Criminal Code* to the CDPP;
- the CDPP charged 42 of the 46 defendants with offences (four defendants were not charged with offences because there was insufficient evidence);
- of the 42 defendants that were charged, 15 were convicted;

4 Mrs Sengstock, Australian Federal Police, *Transcript*, 19 March 2013, p. 5.

5 Attorney-General's Department, *Supplementary Submission 48*, p. 2. See Appendices D, E and F.

6 Attorney-General's Department, *Submission 8*, p. 5.

- five defendants were acquitted;
- the CDPP withdrew charges against 11 defendants before trial;
- there were four defendants to whom the jury discharged on the first trial and the CDPP decided to withdraw charges and not go to a retrial;
- trials for two defendants ended in a hung jury and the CDPP decided to withdraw the charges rather than go to a retrial;
- three defendants are awaiting trial at the moment; and
- there are two defendants who were charged and then the CDPP referred the matter to be prosecuted by the State Director of Public Prosecutions under corresponding State charges.⁷

3.8 The Victoria Police were also able to provide some information on their experiences with trafficking in their State. At a public hearing, the Victoria Police stated that to date it had encountered trafficking in Victoria primarily around the sex industry. They did, however, acknowledge that while labour trafficking and servile marriage were becoming emerging issues, they 'do not have really good visibility as of yet.'⁸

3.9 The Victoria Police also elaborated on the prevalence of labour trafficking in Victoria stating:

Labour trafficking was first raised with us as an issue when the Australian Institute of Criminology's Fiona David did a study. One of the community focus groups was in Mildura and it was interesting in starting to talk to a few of those community groups that in fact trafficking had occurred, to the point that there were quite significant and very serious offences that have occurred. One was around a person who was employed for a farmer who had held the person to a certain degree of coercion about their visa arrangements and for that purpose received sexual favours. That was not something we were aware of and as that discussion emerged it became more and more obvious about the potential within these environments for that sort of activity, not necessarily that serious but labour trafficking all the same. That really underpinned our belief that it is an issue that is not something that sits elsewhere in the world, it is actually on our doorstep and we need to do something significant there.⁹

7 Ms Hinchcliffe, Commonwealth Director of Public Prosecutions, *Transcript*, 21 November 2012, p. 4. See Appendix E.

8 Detective Superintendent Jouning, Victoria Police, *Transcript*, 8 May 2013, p. 25.

9 Detective Superintendent Jouning, Victoria Police, *Transcript*, 8 May 2013, p. 26.

Non-Government Organisations' assistance for trafficked victims

- 3.10 The Salvation Army Safe House for Trafficked Persons noted that not all trafficked victims choose to seek the assistance of the police and proceed with an investigation or criminal proceedings.
- 3.11 The Salvation Army stated that it had case-managed and delivered assistance to 84 individuals since 2008. Of those, 34 individuals made reports to the AFP (28 female, six male). Eighteen of those 34 individuals chose to engage with the AFP and seven individuals received a negative assessment from the AFP.¹⁰
- 3.12 The Salvation Army also noted that it had:
- received 23 referrals for slave-like marriage;
 - lodged 19 protection visas on behalf of clients (of which 13 have been granted);
 - lodged six claims before Fair Work; and
 - were providing support to 12 dependants in Australia and overseas.¹¹
- 3.13 The Salvation Army added that it had assisted or come into contact with 38 individuals who have worked in the sex industry, stating:
- In terms of the number of clients we have assisted or come into contact with, who have worked in the sex industry, I believe the number is 38. That does not mean we have case-managed all of those people; it is people we have come into contact with. Thirty-six of those were women who knew that they would be working in the sex industry before they migrated to Australia. Out of the 38 we have come into contact with, only two were deceptively recruited to work in the sex industry.¹²

Research on slavery and people trafficking

- 3.14 The Australian Institute of Criminology (AIC) is responsible for the research component of Australia's whole of government response to trafficking in persons.

10 Ms Stanger, The Salvation Army, *Transcript*, 23 April 2013, p. 10.

11 Ms Stanger, The Salvation Army, *Transcript*, 23 April 2013, p. 10.

12 Ms Stanger, The Salvation Army, *Transcript*, 23 April 2013, pp. 10-11.

- 3.15 The AIC noted that it had initiated research projects on trafficking and marriage arrangements, labour trafficking, trafficking in the construction industry, and migrant sex worker vulnerabilities and protections to trafficking.¹³
- 3.16 The AIC noted that some migrant women in Australia had experienced trafficking and slavery-like conditions within their marriage arrangements, stating:
- ...some migrant women have experienced the type of exploitation associated with trafficking and slavery within various marriage arrangements, such as love marriages, arranged marriages, and marriages resulting from online marriage brokering and internet dating sites.¹⁴
- 3.17 The AIC also noted a report that it was about to release on issues in the marriage context. The report found that:
- ...in the small number of cases identified in the study, marriage visa classes had been used to facilitate trafficking, slavery-like exploitation or associated risky scenarios. Marriages have been identified where there was no intention on the part of the husband for the marriage to be genuine, which you might call a sham marriage – a bit like the Kovacs case: the husband is already in a relationship, and the marriage is really to facilitate a form of labour trafficking.¹⁵
- 3.18 On the incidence of labour trafficking in Australia, the AIC stated that ‘while the precise size of the labour trafficking problem remains unknown, there have been instances of unreported and/or unrecognised labour trafficking.’¹⁶
- 3.19 The AIC was also able to provide some information on the vulnerabilities to trafficking and slavery type crime in the sex industry from an upcoming report stating:
- The research we have done is not meant to provide an accurate view of the exact level of vulnerability in the sex industry because we do not know what the population of the sex industry is and also we use convenience sampling. But it does give some idea of the exposure to recognised vulnerabilities to trafficking and slavery type crime, using, for example, the ILO indicators. The research overall suggests that exposure to vulnerabilities is not the

13 Australian Institute of Criminology, *Submission 18*, pp. 5-6.

14 Australian Institute of Criminology, *Submission 18*, p. 5.

15 Ms Beacroft, Australian Institute of Criminology, *Transcript*, 21 November 2012, p. 18.

16 Australian Institute of Criminology, *Submission 18*, p. 5.

norm in the sex industry but that what you can find is that there are a very small number of sex workers who are potentially connected with a niche. That is coming back to that point I made earlier about an engineered niche where there is high vulnerability.¹⁷

3.20 On their findings, the AIC added:

There are some interesting findings – for example, the use of brokers increases the vulnerability of a sex worker. Interestingly, some of the disadvantaged backgrounds that one might have thought would have also increased too – for example, low English proficiency or lower education – did not emerge as significant.¹⁸

3.21 The AIC did, however, highlight that knowledge and data on trafficking is very limited and ‘there have been attempts to overcome this by doing estimates’.¹⁹ The AIC elaborated:

We have got a very serious problem internationally and in Australia. A lot of conclusions that might be drawn from the data that is currently available have to be taken in that light. To the extent that they are based on not just data but estimates, which involves methodologies that then complicate the reliability, many agencies have said that estimates – the ones that are repeatedly cited – are very problematic.²⁰

3.22 The AIC added:

It has been widely accepted that accurate information and data on many aspects of trafficking in persons is difficult to obtain. This can be explained by the clandestine nature of the crime; the lack of domestic, regional and international data collection standards; and variances in domestic legislation. This is not a problem exclusive to Australia, it is a global issue and attempts are being made to address this in various ways. Nevertheless, a strong evidence base is central to the development of strategies to address trafficking.²¹

3.23 The AIC also put forward the view that this crime may not be reported by the victims, stating:

17 Ms Beacroft, Australian Institute of Criminology, *Transcript*, 21 November 2012, p. 19.

18 Ms Beacroft, Australian Institute of Criminology, *Transcript*, 21 November 2012, p. 19.

19 Ms Beacroft, Australian Institute of Criminology, *Transcript*, 21 November 2012, p. 11.

20 Ms Beacroft, Australian Institute of Criminology, *Transcript*, 21 November 2012, p. 12.

21 Australian Institute of Criminology, *Submission 18*, p. 4.

Another hurdle for research and reducing the crime is that it may not be reported by victims. Where a service, usually highly specialised, does identify a potential trafficking in persons type crime, it seems only some matters proceed to investigation and then prosecution.²²

3.24 The AIC also pointed out that while the number of convictions may not show the actual level of trafficking:

...the actual number of convictions is not necessarily indicative of the actual level of trafficking in persons-type crime (eg unreported/historical focus on sex industry by law enforcement). They do indicate, however, that there are problems in three sectors, being the sex industry, ...non-sex industry, ...and marriage arrangements...²³

3.25 The Australian Crime Commission (ACC), an agency that delivers specialist law enforcement intelligence analysis and investigative capabilities, also agreed that obtaining accurate data on the extent of trafficking in Australia was difficult, stating:

The clandestine nature of people trafficking, along with difficulties in detection and probable high levels of underreporting makes the collection of accurate information and data on people trafficking difficult.²⁴

3.26 The ACC were able to provide some more information about the extent of trafficking in Australia, noting some of the findings from their *Organised Crime in Australia 2011* and *Organised Crime Threat Assessment 2012* reports that:

- Most victims of trafficking into Australia have been women trafficked for the purpose of exploitation in the sex industry (in both legal and illegal brothels). However, victims are increasingly being identified in other industries, including the agricultural, construction and hospitality industries.
- The hospitality, agricultural, construction and legal and illegal sex industries are key targets of exploitation by human traffickers. Some victims are also trafficked for other purposes, such as domestic servitude. In many cases, victims believe they are coming to Australia to study or work legitimately. Some victims are trafficked into Australia knowing that they will undertake a particular type of work, but are then held in debt-bondage or slavery-like conditions.

22 Australian Institute of Criminology, *Supplementary Submission 52*, p. 3.

23 Australian Institute of Criminology, *Supplementary Submission 52*, p. 4.

24 Australian Crime Commission, *Supplementary Submission 53*, p. 4.

- In Australia, the extent of organised crime involvement in the labour hire industry has not been assessed. However, recent research has indicated that labour trafficking exists in a broader context of exploitation of migrant workers, particularly those in low-skilled professions. Workers perceived to be at most risk of exploitation are those on 457 visas, migrants working in the agricultural sector or as domestic workers, international students and those working in the maritime/seafarer sector.
- Almost 70 per cent of these investigations related to trafficking for the purposes of sexual exploitation and the remainder related to exploitation in other industries.
- Cases of trafficking for sexual exploitation have largely involved small crime groups rather than large organised crime groups. The small crime groups use family or business contacts overseas to facilitate recruitment, movement and visa fraud. People trafficking matters have also generally involved other crime types, including immigration fraud, identity fraud, document fraud and money laundering.
- People traffickers are alert to matters raised in court by investigators and prosecutors, and to indicators that alert authorities to potential criminality which are discussed in open source publications. In response, people trafficking syndicates are changing their modus operandi to avoid detection and, if detected to make elements of the offence harder to prove to the standard that satisfies the courts and juries.²⁵

3.27 Both the AIC and ACC noted that they were actively working to obtain better data on people trafficking.

3.28 The AIC stated it would 'develop a relevant framework of indicators for monitoring trafficking in persons in Australia and the region', adding that:

The Framework will be supported by a Guide for Collecting Information and Data on Trafficking in Persons in Australia and the Region, to guide government and non-government sectors in their information and data collection. This Guide will ensure that relevant and comparable information and data is collected across all sectors. Subject to the agreement of relevant agencies and ethics approvals, as part of its future monitoring the AIC will analyse information and data consistent with this Guide from both government and non-government sectors.²⁶

3.29 The ACC stated that it was gathering information and intelligence relating to people trafficking through the recently established National Human Trafficking Desk:

25 Australian Crime Commission, *Submission 6*, pp. 4-5.

26 Australian Institute of Criminology, *Supplementary Submission 52*, p. 8.

In June 2012, the Australian Federal Police (AFP), the Australian Crime Commission (ACC) and state and territory police agencies collaborated to establish a National Human Trafficking Desk (HT Desk) on the Australian Criminal Intelligence Database and Australian Law Enforcement Intelligence Network (ACID/ALEIN). This system is administered by the ACC.

Although in its infancy, the HT Desk functions as a centralised point for the collection and dissemination of information and intelligence relating to people trafficking. The HT Desk is accessible to nominated users from all contributing agencies.²⁷

Community perceptions of slavery and people trafficking in Australia

3.30 During the course of the inquiry a number of Non-Government Organisations (NGOs) and civil society organisations put forward their views on the prevalence of trafficking in Australia.

3.31 Anti-Slavery Australia (ASA) reported on the prevalence of trafficking in the sex industry as well as forced labour, forced marriage and organ trafficking, stating:

In Australia, fewer than 400 people have been officially identified as being trafficked in the period of 2005 to 2011. The majority of people identified have been women exploited in the sex industry, however there have been increasing reports of men and women trafficked into other industries and experiencing other forms of exploitation such as forced labour in the hospitality industry, agriculture and in private homes. There have been reported cases of forced marriage and a reported case of organ trafficking.²⁸

3.32 The Josephite Counter-Trafficking Project (JCTP) stated that 'men, women and children have been brought into Australia under false pretences and have ended up in debt bondage and working in terrible slave-like conditions.'²⁹ The JCTP also noted a growing awareness of labour trafficking as well as trafficking in the sex industry.³⁰

27 Australian Crime Commission, *Supplementary Submission 53*, p. 6.

28 Anti-Slavery Australia, *Submission 34*, pp. 11-12.

29 Josephite Counter-Trafficking Project, *Submission 10*, p. 3.

30 Josephite Counter-Trafficking Project, *Submission 10*, p. 3.

3.33 Walk Free, the Federation of Ethnic Communities' Councils of Australia (FECCA) and the Australian Council of Trade Unions (ACTU) also commented on labour trafficking in Australia.³¹ FECCA highlighted the country of origin of trafficking victims stating:

...victims in Australia are predominantly from culturally diverse backgrounds – largely being transported from countries such as Malaysia, Thailand and South Korea to work in industries including prostitution and hospitality.³²

3.34 The ACTU believed that there had been an increase in labour trafficking, stating:

There are an increasing number of victims in the agriculture, construction, manufacturing, and hospitality sectors as well as domestic work.³³

3.35 The ACTU also commented on the vulnerability of certain parts of the labour workforce to trafficking, stating:

- a high proportion of the workforce in the agriculture sector is working illegally which exposes workers to the risk of exploitation and debt bondage;
- the risk of forced labour and labour trafficking in the construction and manufacturing sectors is linked with the high use of temporary visa arrangements;
- a high proportion of workers in the meat industry hold lower levels of education and literacy attainment and little knowledge of industrial rights which exposes workers to the risk of exploitation;
- domestic workers are vulnerable to labour trafficking due to very limited social and other support networks and as they are frequently dependent on their employer for all of their accommodation, food and transportation;
- international students are particularly vulnerable to exploitation as they are under significant financial pressure due to working time restrictions, inadequate non-wage support, and over representation in poorly paid work and cash-in-hand work.³⁴

31 Walk Free, *Submission 20*, p. 1; Federation of Ethnic Communities' Councils of Australia, *Submission 14*, p. 3.

32 Federation of Ethnic Communities' Councils of Australia, *Submission 14*, p. 3.

33 Australian Council of Trade Unions, *Submission 28*, p. 4.

34 Australian Council of Trade Unions, *Submission 28*, pp. 4-5.

3.36 The National Tertiary Education Union (NTEU) also believed that international students were vulnerable remarking that ‘international students have been used (and continue to be used) as source of exploitable labour.’³⁵ The NTEU added:

Given the numbers, it is concerning to note that student visas are one of the preferred mechanisms for trafficking of people intended underpaid/unpaid labour, to be brought in to Australia, and, to a lesser extent, in sexual trafficking.³⁶

3.37 Family Voice Australia held the view that trafficking of women into Australia for sexual servitude was a problem³⁷ and highlighted the US Department of State *Trafficking in Persons* (TIP) Report which states:

Australia is primarily a destination country for women subjected to forced prostitution and to a lesser extent, women and men subjected to forced labor.³⁸

3.38 Collective Shout, the Coalition Against Trafficking in Women Australia, Christian Faith and Freedom, Project Respect and the Australian Christian Lobby agreed with the view of Family Voice that trafficking of women for sexual servitude was a problem in Australia.³⁹

3.39 In particular, Christian Faith and Freedom put forward the view that trafficking victims were from Asian countries, stating:

Australia has been reported as being a destination country for human trafficking, with victims being trafficked from predominantly China, Korea and Thailand, with many being coerced into exploitative conditions.⁴⁰

3.40 The Scarlet Alliance, however, suggested that trafficking was not widespread:

What we know from anecdotal evidence and from our extensive contact with sex workers is that trafficking is not a widespread phenomenon in Australia.⁴¹

35 National Tertiary Education Union, *Submission 15*, p. 3.

36 National Tertiary Education Union, *Submission 15*, p. 5.

37 Family Voice Australia, *Submission 2*, p. 1.

38 US Department of State, 2012, *Trafficking in Persons Report*, p. 73.

39 Collective Shout, *Submission 5*, p. 2; Coalition Against Trafficking in Women Australia, *Submission 19*, p. 2; Christian Faith and Freedom, *Submission 32*, p. 19; Project Respect *Submission 38*, p. 4; Australian Christian Lobby, *Submission 42*, p. 3.

40 Christian Faith and Freedom, *Submission 32*, p. 19.

41 The Scarlet Alliance, *Submission 26*, p. 5.

- 3.41 The Salvation Army, Australian Catholic Religious Against Trafficking in Humans (ACRATH), Ms Kittu Randhawa and Ms Avyi Patitsas all voiced their concerns over the presence of slave-like sham marriages in Australia.⁴²
- 3.42 As noted above, the Salvation Army highlighted that it had assisted 23 victims of forced marriage from other countries in its Safe House for Trafficked Persons.⁴³
- 3.43 ACRATH also highlighted that they had been contacted about women who have been brought into Australia for sham marriages and found their way to family violence shelters.⁴⁴
- 3.44 Many organisations that provided evidence for this inquiry agreed with the AIC and ACC's comments that trafficking in Australia is largely under-reported.
- 3.45 The JCTP stated 'it is impossible to have exact numbers for people who have been trafficked to Australia due to high levels of under-reporting.'⁴⁵
- 3.46 ASA agreed stating that 'the 400 identified victims is under-representative of the full nature and extent of slavery, slavery-like conditions and people trafficking within Australia.'⁴⁶
- 3.47 The ACTU also believed that trafficking in Australia goes largely under-reported, in particular for labour trafficking:
- It is likely that the number of reported cases of labour trafficking in Australia understates the scale of the problem. This is due to incidences going unrecognised, under-reporting by victims, and the challenges of addressing illegal activity. Therefore, it is recommended that the statistics not be taken as providing the full picture of the issue of trafficking in Australia.⁴⁷
- 3.48 While acknowledging that people trafficking is a serious problem, the Law Council of Australia agreed with the AIC that the current data on trafficking is unreliable:

42 Australian Catholic Religious Against Trafficking in Humans, *Submission 21*, p. 12; Ms Kittu Randhawa, *Submission 9*, p. 1; Ms Avyi Patitsas, *Submission 24*, p. 1.

43 Ms Stanger, The Salvation Army, *Transcript*, 23 April 2013, p. 9.

44 Ms Carolan, Australian Catholic Religious Against Trafficking in Humans, *Transcript*, 8 May 2013, p. 14.

45 Josephite Counter-Trafficking Project, *Submission 10*, p. 3.

46 Anti-Slavery Australia, *Submission 34*, p. 12.

47 Australian Council of Trade Unions, *Submission 28*, p. 4.

The absence of completely reliable data regarding the incidence of people trafficking and slavery at the global, regional and domestic levels makes it difficult to ascertain the true extent of these problems throughout the world.⁴⁸

Committee comment

- 3.49 The evidence received for this inquiry has highlighted that obtaining accurate data about the extent of slavery and trafficking in Australia is extremely complex.
- 3.50 The Committee acknowledges the work of the AIC and ACC to obtain better data on people trafficking through the development of a relevant framework of indicators for monitoring trafficking in persons in Australia and the establishment of the National Human Trafficking Desk.
- 3.51 The strengthening of the offences for slavery and trafficking in the Commonwealth *Criminal Code* should also provide another means of gauging the extent of slavery and trafficking in Australia.
- 3.52 It will be important for the Australian Government to closely monitor the outcomes of all these initiatives.
- 3.53 Slavery and people trafficking are serious crimes and a violation of an individual's basic human rights. We must take appropriate action to combat these heinous crimes.
- 3.54 It is important to consider a suite of mechanisms and tools to combat these crimes which includes the strengthening of legislation, increased investigations and prosecutions, as well as increasing community awareness.
- 3.55 As noted above, there are more vulnerable members of our society which traffickers target for exploitation. The evidence has highlighted that some individuals on visas (particularly student visas, 457 visas for skilled workers, and prospective marriage and partner visas) can be vulnerable.
- 3.56 It is important to make sure that individuals who apply for a visa to enter Australia are made aware of their rights. Increased education and awareness can act as a preventative mechanism to decrease the chances for exploitation.

48 Law Council of Australia, *Submission 29*, p. 6.

- 3.57 The Committee therefore sees a benefit in ensuring that overseas students, skilled migrant workers and prospective partners obtain appropriate information on their rights. In order to make it accessible and understandable the information should be translated into the visa applicant's language and provided as part of the visa application.

Recommendation 1

The Committee recommends that the Department of Immigration and Citizenship, in conjunction with the Interdepartmental Committee on Human Trafficking and Slavery and relevant non-government organisations, develop a fact sheet to provide visa applicants appropriate information on their rights as part of the visa application process. The information should be available in the visa applicant's language.