



Australian Government

TRAFFICKING IN PERSONS

The Australian Government Response

1 May 2009 – 30 June 2010

THE SECOND REPORT OF THE
ANTI-PEOPLE TRAFFICKING INTERDEPARTMENTAL COMMITTEE

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Foreword

We are pleased to present this second report of the Anti-People Trafficking Interdepartmental Committee. Trafficking of people is a heinous crime involving serious contraventions of human rights, often with traumatic and lifelong consequences for victims.

While trafficking is often linked in popular commentary only with sexual servitude, people are trafficked for exploitation in many settings, including forced labour in construction, hospitality, agriculture and domestic settings.

The Australian Government remains committed to combating all forms of trafficking and to working in partnership with government and non-governmental organisations here and abroad to prevent people trafficking, investigate and prosecute the perpetrators and protect and support the victims.

Over the past year, the government has made a number of important reforms to assist victims of trafficking, to give law enforcement agencies better tools to fight serious and organised crime, and to protect the rights of workers.

Notably, in June 2009 we announced important changes to the People Trafficking Visa Framework and the Support for Victims of People Trafficking Program to provide more flexible assistance for victims and their families.

In November 2009, we put in place the Organised Crime Strategic Framework to enhance measures to prevent, investigate and prosecute organised criminal activity and to recoup the proceeds of organised crime groups. During the past year, the Australian Federal Police undertook major national investigations into organised people trafficking syndicates in concert with its counterparts in the Republic of Korea and Malaysia.

Australia continues to play an active role in international efforts to combat people trafficking, including through the Bali Process, through technical assistance and capacity building and through the provision of development assistance.

Non-governmental organisations play a vital role in supporting people who have been trafficked and in raising community awareness. We are pleased to have been able to support the important work of a number of key anti-trafficking organisations.

Australia's anti-people trafficking strategy is built around four central pillars: prevention; detection and investigation; criminal prosecution; and victim support and rehabilitation. This report details the activities of Australian Government agencies and their partners in this important endeavour.

The Hon Brendan O'Connor MP

Minister for Home Affairs and Justice

The Hon Kevin Rudd MP

Minister for Foreign Affairs

The Hon Chris Bowen MP

Minister for Immigration and Citizenship

The Hon Kate Ellis MP

Minister for the Status of Women

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Abbreviations

Asia Region Law Enforcement Management Program	ARLEMP
Asia Regional Trafficking in Persons Project	ARTIP
Association of Southeast Asian Nations	ASEAN
Attorney-General's Department	AGD
Australian Agency for International Development	AusAID
Australian Crime Commission	ACC
Australian Federal Police	AFP
Australian Institute of Criminology	AIC
Bridging F visa	BVF
Commonwealth Director of Public Prosecutions	CDPP
Criminal Justice Stay visa	CJSV
Department of Education, Employment and Workplace Relations	DEEWR
Department of Families, Housing, Community Services and Indigenous Affairs	FaHCSIA
Department of Foreign Affairs and Trade	DFAT
Department of Immigration and Citizenship	DIAC
Financial Action Task Force	FATF
Interdepartmental Committee	IDC
Non-governmental organisation	NGO
Office for Women	OfW
Senior Migration Officer (Integrity) (Trafficking)	SMOIT
Transnational Sexual Exploitation and Trafficking Team	TSETT
United Nations Convention against Transnational Organized Crime	UNTOC

Executive Summary

In 2009, in response to a recommendation of the Australian National Audit Office, the Australian Government agreed to undertake more systematic annual reporting of outcomes under its anti-people trafficking strategy. In June 2009, the Minister for Home Affairs, the Hon Brendan O'Connor, tabled in the Parliament the first report of the Anti-People Trafficking Interdepartmental Committee, covering the period from January 2004 to 30 April 2009. This, the IDC's second report, covers the period 1 May 2009 to 30 June 2010.

The Australian Government remains committed to working in partnership with other governments and international organisations and with civil society to prevent people trafficking, bring the perpetrators to justice, and protect and support victims. An important part of this is ensuring that Australia's anti-people trafficking strategy remains relevant and responsive to emerging trends and issues.

Accordingly, in June 2009 the government announced important changes to the People Trafficking Visa Framework and to the Support for Victims of People Trafficking Program. The changes have simplified the visa framework, given victims and their immediate family members greater certainty about their immigration status, and provided more flexible support for victims of this crime. The reforms are the result of extensive consultation with the non-governmental sector and with government agencies.

The government's industrial relations reforms, including the *Worker Protection Act 2009*, introduced new safeguards to protect the rights of overseas workers. The Fair Work Ombudsman has undertaken more than 800 investigations involving overseas workers, recovering more than \$500,000 in unpaid entitlements.

To date, people trafficking investigations here have involved transnational and organised crimes. In November 2009, the government released its Organised Crime Strategic Framework. In February 2010, the Parliament enacted new laws to put into effect the government's reforms to more effectively prevent, investigate and prosecute organised criminal activity and to target the proceeds of these crimes.

In 2009–10, the Australian Federal Police undertook 38 investigations into people trafficking matters, conducting major operations with counterpart agencies in the Republic of Korea and Malaysia. Seventy per cent of these investigations related to trafficking for sexual servitude. At 30 June 2010, there were six trafficking-related matters before the Australian courts, three of which were in the appeal phase.

In 2009–10, the Support for Victims of People Trafficking Program provided assistance to 24 new clients (65 clients in total), the majority of whom were from Malaysia and the Republic of Korea. Sixteen were trafficked into the sex industry. In December 2009, two unaccompanied minors were referred to the Support Program as suspected victims of labour trafficking.

The second meeting of the National Roundtable on People Trafficking was convened in June 2009. The government provided financial support (\$1 million over three years) for four Australian non-governmental organisations to expand their efforts to combat people trafficking. The Attorney-General's Department worked with the Judicial College of Australia to develop additional information resources for judges, including a twilight seminar convened by the college in June 2009.

The Australian Institute of Criminology embarked on new research projects to fill gaps in knowledge on issues such as community attitudes to people trafficking, people trafficking in the Pacific region, and offenders. Reports on each of these areas of new research will be released in 2010–11.

Australia continues to take an active role in international efforts to combat people trafficking, including through the Bali Process and the Conference of Parties to the *United Nations Convention against Transnational Organized Crime*.

The Attorney-General's Department, Australian Federal Police and the Department of Immigration and Citizenship worked with international partners on a wide range of activities aimed at building regional capacity and reducing opportunities for people traffickers to operate in the region.

Addressing factors that make people vulnerable to trafficking is an important part of Australia's national and international strategies to prevent trafficking. In 2010–11, Australia will provide approximately \$4.3 billion worth of official development assistance to help reduce poverty and promote sustainable development. Creating safe and sustainable employment opportunities and assisting people to make informed choices in life will help to reduce the number of people becoming victims of traffickers. The aid program also addresses violence against women and children, and includes a number of specific activities to combat people trafficking.

Over the next year, there will be a continued focus on issues related to trafficking of people for exploitation outside the commercial sex industry and on options to increase support for victims and witnesses.

Introduction

People trafficking is a complex crime and a major violation of human rights.

There is little reliable data about the nature and extent of people trafficking at a global, regional or domestic level. However, there is general consensus that people trafficking affects almost every country in the world, whether as a source, transit or destination country – or as a combination of these.

The nature of people trafficking varies from region to region. Its most visible form involves trafficking in women and children for sexual exploitation. But around the world men, women and children are trafficked for a wide range of other purposes, including forced labour in industries such as hospitality, construction, forestry, mining or agriculture; domestic and sweatshop labour; illicit adoption; street begging; forced recruitment into militias or armed forces; and the harvesting of body organs.

Opportunities to traffic people into Australia are low because of our strong migration controls and geographic isolation. However, Australia is a destination country for victims of trafficking, mainly from Asia (particularly Thailand, Malaysia and the Republic of Korea).

The Australian Government remains committed to working with other governments domestically and internationally, and with intergovernmental and non-governmental organisations, to prevent people trafficking, prosecute the perpetrators and protect and support victims.

Australia's response to people trafficking reflects our obligations as a Party to the *United Nations Convention against Transnational Organized Crime* (since 2004) and its supplementary *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (since 2005).

Australia has taken a comprehensive, whole-of-government approach to combating people trafficking.

Australia implemented its strategy to eradicate people trafficking in late 2003. Since that time, and in addition to ongoing initiatives, the government has committed more than \$50 million to support a range of anti-trafficking initiatives, including:

- specialist teams within the Australian Federal Police to investigate trafficking and sexual exploitation offences
- legislation to criminalise people trafficking and trafficking-related activities
- a victim support program that provides individualised case-managed assistance to eligible victims of trafficking, including access to accommodation, financial assistance, legal advice, training and social support

- research into national and regional trafficking activities by the Australian Institute of Criminology
- the Australian Policing Strategy to Combat Trafficking in Persons
- visa arrangements to enable suspected victims and witnesses of trafficking to remain in Australia and support the investigation and prosecution of trafficking offences
- specialist immigration officers posted in Thailand, China and the Philippines, who focus on people trafficking issues and aim to prevent trafficking in source countries, and
- reintegration assistance for trafficking victims who are returned to key source countries in the Asia-Pacific region.

These initiatives reflect the four central pillars of Australia's anti-people trafficking strategy: prevention; detection and investigation; criminal prosecution; and victim support and rehabilitation. Together, this suite of measures is intended to address the full cycle of trafficking from recruitment to reintegration and to give equal weight to the critical areas of prevention, prosecution and victim support.

Australia's anti-people trafficking strategy is overseen by an Interdepartmental Committee (IDC), chaired by the Attorney-General's Department, with membership from the following agencies:

- AusAID
- Australian Crime Commission
- Australian Federal Police
- Australian Institute of Criminology
- Commonwealth Director of Public Prosecutions
- Department of Education, Employment and Workplace Relations
- Department of Foreign Affairs and Trade
- Department of Immigration and Citizenship
- Department of the Prime Minister and Cabinet, and
- Office for Women in the Department of Families, Housing, Community Services and Indigenous Affairs.

The IDC is responsible for monitoring the implementation of the strategy, reporting to government on its effectiveness, and ensuring that emerging issues are addressed on a whole-of-government basis. Relevant agencies remain responsible for the administration of the individual components of the strategy.

An Operational Working Group has been established as a subcommittee of the IDC to resolve operational issues that arise in the management of individual cases. The group has an important role in referring emerging policy issues for the IDC's consideration.

In April 2009 the Australian National Audit Office tabled in Parliament a review of the management of the anti-people trafficking strategy. One of the recommendations arising from the review was that there should be more systematic annual reporting of outcomes under the anti-people trafficking strategy. The government recognised that there would be considerable benefit in the production of a single, consolidated annual report. On 17 June 2009, the Minister for Home Affairs, the Hon Brendan O'Connor MP, tabled in Parliament the first report of the Anti-People Trafficking IDC, covering the period from the implementation of the strategy in January 2004 to April 2009. In his statement to Parliament, the Minister gave an undertaking that in the future, the Committee would report on outcomes annually.

This is the second report of the Anti-People Trafficking IDC and covers the period from 1 May 2009 to 30 June 2010.

Improving support for victims of trafficking

Australia is committed to ensuring that its anti-people trafficking strategy remains relevant and responsive to emerging trends and issues.

There has been an ongoing focus over the life of the strategy on enhancing services for victims of trafficking.

Enhanced protections for victims

In 2008–09, the government undertook a review of the effectiveness of the People Trafficking Visa Framework and the Support for Victims of People Trafficking Program in consultation with government and non-governmental organisations (NGOs). The inaugural National Roundtable on People Trafficking, held in June 2008, provided further input through consultation with trafficking-specific non-governmental organisations, service providers, victims of crime organisations, professional bodies such as the Law Council of Australia, and employer and union representatives.

On 17 June 2009, at the second meeting of the Roundtable, the Australian Government announced changes to Australia's anti-people trafficking strategy to provide better support for victims. The changes were informed by community sector feedback, and are in line with international best practice and the UN High Commissioner for Human Rights' Recommended Principles and Guidelines on Human Rights and Human Trafficking.

The changes simplify and add flexibility to the visa framework. Importantly, they give victims and their immediate family members greater certainty about their immigration status. They also enable a wider range of victims to access support and improve services to victims and their families.

The new arrangements came into effect on 1 July 2009. They recognise the particular vulnerabilities of victims of trafficking and provide a more flexible framework to support victims and their families.

Changes to the operation of the visa framework and Support Program include:

- **De-linking victim support from visas.** Victims of trafficking were previously required to hold a particular type of visa under the visa framework to access victim support. This sometimes led to victims requesting the cancellation of a valid visa, which might later disadvantage them in terms of visa eligibility. From 1 July 2009, victims of trafficking on any valid Australian visa have been able to access support under the Support Program.

This change offers greater flexibility to victims of trafficking and ensures that victims who hold valid visas on referral to the program are not disadvantaged by having to request cancellation of their visas in order to receive support.

- **Extending the initial stage of the Support Program from 30 to 45 days, and making it available to suspected victims irrespective of whether they are willing to assist police.** Previously, victims of trafficking were issued with a Bridging F visa that was valid for up to 30 days and entered the program on an initial Assessment Stream, also for 30 days. From 1 July 2009, support under the Assessment Stream of the Support Program is available for 45 days to all suspected victims of trafficking who hold a valid visa. If the person is unlawfully in Australia, they can be granted a Bridging F visa for 45 days. This provides an extended recovery period and time for victims to assess their options. The full Assessment Stream is now also available to all victims of people trafficking, irrespective of their willingness and ability to assist with an investigation and prosecution of a people trafficking offence.
- **Providing a period of up to 90 days assistance to victims who are willing, but not able to assist with an investigation and prosecution of a people trafficking offence.** Before the changes, victims who were not able to assist with an investigation and prosecution of a people trafficking offence were assisted to return to their country of origin, unless they could satisfy criteria of another visa enabling them to remain in Australia. Under the new arrangements, victims of trafficking who are willing, but not able, to participate in the criminal justice process may be eligible for up to 90 days support under the Support Program (45 days support under the Assessment Stream and 45 days support under a new Extended Intensive Support Stream). This extended period of support is provided on a case-by-case basis and is designed to provide additional assistance to victims affected by factors such as trauma. If the suspected victim of trafficking does not hold a valid visa, a second Bridging F visa for up to 45 days may also be granted.
- **Introducing a 20-day transition period for victims leaving the Support Program.** Under the previous arrangements, victims of trafficking who left the Support Program were provided with transitional assistance on an informal basis. This arrangement has now been formalised to ensure that a consistent level of service is provided to all victims on the Support Program.
- **Removing the temporary visa stage in the Witness Protection (Trafficking) visa process.** Victims who have given evidence against people traffickers may face retribution if they return to their home country and may therefore need to remain in Australia for their own protection. Witness Protection (Trafficking) visas allow a person who has made a contribution to the investigation or prosecution of an alleged trafficking offence, and who would be in danger if they returned to their home country, to remain permanently in Australia. This reform reduces the Witness Protection (Trafficking) visa to a one-stage process and reduces the pathway to a permanent visa for eligible victims by at least two years.

- **Lowering the threshold for issuing a Witness Protection (Trafficking) certificate from having made a 'significant contribution' to having made a 'contribution' to an investigation or prosecution.** Victims of trafficking have to be issued with a Witness Protection (Trafficking) certificate by the Attorney-General to be eligible for the Witness Protection (Trafficking) visa. Previously, a certificate could be issued where a person had made a significant contribution to, and cooperated closely with, a prosecution of a trafficking offence or an investigation of a trafficking offence that did not proceed to trial. Under the new arrangements, the threshold for issuing the certificate has been reduced from making a 'significant contribution' to making a 'contribution'.
- **Enabling immediate family members who are outside Australia to be included in an application for a Witness Protection (Trafficking) visa.** From 1 July 2009, all immediate family members of a victim, including those who are outside Australia, are eligible to be included in the application for a Witness Protection (Trafficking) visa.
- **Commencing the process for a Witness Protection (Trafficking) visa earlier than at the completion of a prosecution process by setting an independent trigger.** Under the previous arrangements, victims of trafficking and their immediate family members inside Australia were invited to apply for a Witness Protection (Trafficking) visa after the prosecution process was finalised. From 1 July 2009, victims of trafficking and their immediate family members both inside and outside Australia can be invited to apply for a Witness Protection (Trafficking) visa earlier in the criminal justice process in response to an independent trigger. While the process can be initiated at any time in the prosecution process, the independent trigger requires the AFP to consider whether this process should be initiated 90 days after charges have been laid. If the AFP has referred a matter for prosecution to the Commonwealth Director of Public Prosecutions (CDPP) and the latter decides not to prosecute, the AFP may still initiate this process. In this case, the independent trigger would be the date of the CDPP's advice not to prosecute, plus 90 days.

People Trafficking Visa Framework

The Australian Government's comprehensive People Trafficking Visa Framework enables foreign nationals who are suspected victims of trafficking to remain lawfully in Australia if they do not already hold a valid visa.

The visa framework for trafficked people has three stages.

- A person identified by the AFP as a suspected victim of people trafficking may be eligible for a Bridging F visa (BVF) for up to 45 days. A BVF can also be granted to immediate family members in Australia. There are no work rights associated with a BVF, but people receive intensive victim support through the Support for Victims of People Trafficking Program. There is also an option to grant a second BVF for a further 45 days (taking the total to 90 days), during which time the person will continue to receive intensive victim support. The second BVF will be available on a case-by-case basis.

- After the expiry of a BVF, a Criminal Justice Stay visa (CJSV) may be issued to a trafficked person at the request of the police. A CJSV allows the holder to remain in Australia for as long as they are required for law enforcement purposes. A person on a CJSV is allowed to work and receives support under the Justice Support Stream of the Support Program. CJSV holders have access on a needs basis to Special Benefit, Rent Assistance and a Health Care Card administered by Centrelink (if they are eligible); assistance in securing longer term accommodation; Medicare and the Pharmaceutical Benefits Scheme; legal services and interpreters; assistance to obtain employment and training (including English language training); and links to social support.
- A trafficked person who has made a contribution to an investigation or prosecution of an alleged trafficking offence may be eligible for a Witness Protection (Trafficking) (Permanent) visa if they would be in danger on return to their home country. This visa allows the holder to remain in Australia permanently. A Witness Protection (Trafficking) (Permanent) visa may be granted to a person if:
 1. the Attorney-General certifies that:
 - the person made a contribution to, and cooperated closely with, the prosecution of a person who was alleged to have trafficked a person or who was alleged to have forced a person into exploitative conditions (whether or not the person was convicted), or
 - the person made a contribution to, and cooperated closely with, an investigation in relation to which the Director of Public Prosecutions has decided not to prosecute a person who was alleged to have trafficked a person or who was alleged to have forced a person into exploitative conditions,
 2. the person is not the subject of a prosecution for an offence that is directly connected to that prosecution, and
 3. the Minister for Immigration and Citizenship considers the person would be in danger if returned home.

Between 1 January 2004 and 30 June 2009, 119 suspected victims of trafficking were granted Bridging F visas, 76 suspected victims were granted Criminal Justice Stay visas (under the People Trafficking Visa Framework), 17 suspected victims were granted Witness Protection (Trafficking) (Temporary) visas, and, of that group of 17, two victims and three of their dependants were granted Witness Protection (Trafficking) (Permanent) visas.

Between 1 July 2009 and 30 June 2010, under the new arrangements, 15 suspected victims of trafficking were granted Bridging F visas, 11 suspected victims were granted Criminal Justice Stay visas (under the People Trafficking Visa Framework), and 15 victims and six of their dependants were granted Witness Protection (Trafficking) (Permanent) visas. Seven of these victims had previously been granted Witness Protection (Trafficking) (Temporary) visas. No Witness Protection (Trafficking) (Temporary) visas were granted, as that visa class ceased on 30 June 2009.

Table 1: Trafficking visas issued, 2004–05 to 2009–10

Visa type	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10
Bridging F visa	31	11	16	34	39	33
Criminal Justice Stay visa	23	8	18	18	30	23
Witness Protection (Trafficking) (Temporary) visa	0	0	4	13	0	n.a.
Witness Protection (Trafficking) (Permanent) visa	0	0	0	0	5	21

Note: The number of visas granted is greater than the number of suspected victims, as BVFs and CJSVs can be granted more than once to the same person.

CASE STUDY 1:

The Department of Immigration and Citizenship's trafficking and liaison team

DIAC's NSW Trafficking and Liaison Team (TLT) is a significant source of referrals of suspected trafficking cases to the NSW-based AFP Transnational Sexual Exploitation and Trafficking Team (TSETT). The DIAC team follows up on intelligence suggestive of trafficking, and is acutely aware of the importance of building rapport and trust with possible victims. This is reflected in its approach: the choice of neutral and safe locations for any meeting, a willingness to interview as many times as is needed, and being on call to lend support. Once satisfied that indicators of trafficking exist, the DIAC TLT ceases interviewing and immediately refers the matter to the AFP TSETT for investigation. Meanwhile, the DIAC TLT continues to monitor the suspected victim's immigration status, supporting them in resolving the matter should they become unlawful.

Ms X was identified upon entry as a possible victim of people trafficking. A South-East Asian female travelling on an electronic travel authority, Ms X was accompanied by a possible escort, a male who had left Australia soon after their arrival.

The DIAC TLT was notified, and the team leader, Officer M, monitored Ms X's situation on DIAC systems. After she lodged a student visa application, Officer M arranged to interview her when she came into the office. After the interview, where Ms X seemed quite tense and had no idea of her course of study details, Officer M provided her phone number and invited Ms X to call if there was anything she wanted to talk about. That night Ms X phoned Officer M after hours, expressing a wish to discuss a non-visa matter away from the DIAC office. Officer M arranged to meet her at a café the following day.

The next morning, over breakfast, Ms X revealed how she had become involved with people traffickers by answering an advertisement about study in Australia. She told of being escorted to Australia, where she learned she was destined for the sex industry. When she refused to cooperate, the organiser locked her up for a month; she was only released when a friend came to Australia in search of her.

Another interview followed at the DIAC office and the matter was referred formally to TSETT, which commenced a full investigation. Following her referral to the Red Cross, Ms X entered the victim support program.

Support for Victims of People Trafficking Program

Australia provides a comprehensive range of support services for suspected trafficking victims through its Support for Victims of People Trafficking Program.

Possible victims may be identified through a number of avenues, including immigration officials, law enforcement agencies, NGOs, hospitals, medical practitioners, consulates and government departments. They are referred to the AFP for assessment and, where appropriate, entry to the Support Program.

Most victims of trafficking identified in Australia have been women working in the sex industry (in both legal and illegal brothels). Generally the women have been recruited from countries with a poor socioeconomic environment and are attracted by the perception of improved economic opportunities in Australia.

The Support Program provides assistance for both male and female victims of trafficking. It is demand driven, with the aim of supporting clients to meet their basic needs for safety, food, accommodation, mental and physical health and wellbeing, and promoting independence.

The Office for Women administers the Support Program, which is delivered on the ground by a contracted case management service provider. In March 2009, the Australian Red Cross was contracted to deliver case management services for the Support Program, following a two-stage tender process.

The Australian Red Cross provides a 24 hour a day, 7 day a week, 365 day a year national response across Australia to urgently assist clients as required, and allocates an individual case manager to each client referred to the Support Program. Case managers are responsible for ensuring the appropriate delivery of support services to meet the client's individual needs. They help clients to access a range of support services, which may include:

- suitable accommodation that meets the AFP's security requirements
- income support
- medical treatment (through Medicare and the Pharmaceuticals Benefits Scheme, or as approved)

- counselling
- legal and migration advice
- appropriate skills development training, including vocational guidance, and
- social support.

Clients who have dependent children living with them may receive assistance with arranging child care, schooling, counselling and medical support. They can also be assisted to access parenting support or education as needed.

Intensive support (similar to that provided under the Assessment Stream) is also available for victims of trafficking who return to Australia to give evidence pertaining to a people trafficking prosecution. Recipients are entitled to short-term accommodation and a weekly living and food allowance.

Statistical profile of the Support Program

In the period from 1 May 2009 to 30 June 2010, 24 new clients (22 women and 2 men) entered the Support Program. At 30 June 2010, 14 of these new clients remained on the Support Program.

A total of 155 clients had been referred to the Support Program since its inception in January 2004. Most victims of trafficking identified in Australia were women working in the sex industry. Twenty-three clients were victims of labour trafficking outside the sex industry.

The majority of new clients (16) entering the Support Program between 1 May 2009 and 30 June 2010 were trafficked into the sex industry (in both legal and illegal brothels). Eight clients were located in non-sex industries.

In December 2009, two unaccompanied minors were referred to the Support Program as possible victims of labour trafficking. Both clients exited the Support Program in early 2010, as the AFP had found no evidence of trafficking. The clients were referred to the relevant state government child protection authority for ongoing support.

Most new clients referred to the Support Program during the reporting period were from Malaysia (11) and the Republic of Korea (six). Only one client from Thailand, the traditional source country for victims of trafficking, was referred during this time.

Most new clients (14) referred to the Support Program in this period were located in New South Wales.

There were a total of 65 clients on the Support Program during 2009–10, compared to 59 clients in 2008–09. At 30 June 2010, 51 clients were on the Support Program compared to 42 clients at 1 May 2009.

Table 2: New clients referred to the Support Program between 1 May 2009 and 30 June 2010, by state and territory

State/territory	Number of new clients
New South Wales	14
Victoria	6
Queensland	3
Australian Capital Territory	1
Total	24

Table 3: Number of clients on the Support Program, by financial year

	2005–06	2006–07	2007–08	2008–09	2009–10
Number of clients	41	48	60	59	65

Table 4: Number of clients on the Support Program, by sex

	Number at 1 May 2009	Number at 30 June 2010	Total
Female	41	50	144
Male	1	10	11

Table 5: Total Support Program client numbers, by industry exploitation type and gender, January 2004 to 30 June 2010

	Other forms of labour exploitation	Sexual exploitation	Total from 1 January 2004 to 30 June 2010
Male	11	0	11
Female	12	132	144
Total	23	132	155

Table 6: Clients on the Support Program, by industry sector, at 30 June 2010

	Other forms of labour exploitation	Sexual exploitation	Total
Male	1	0	1
Female	4	46	50
Total	5	46	51

Table 7: Number of clients on the Support Program, by stream of support

Stream	As at 1 May 2009	As at 30 June 2010	Total number of clients between 1 January 2004 and 30 June 2010
Assessment	2	1	52
Extended intensive support	0	0	5
Justice Support	40	50	97
Temporary Trial	0	0	1
Total	42	51	155

Figure 1: Clients on the Support Program, by country of origin at 30 June 2010

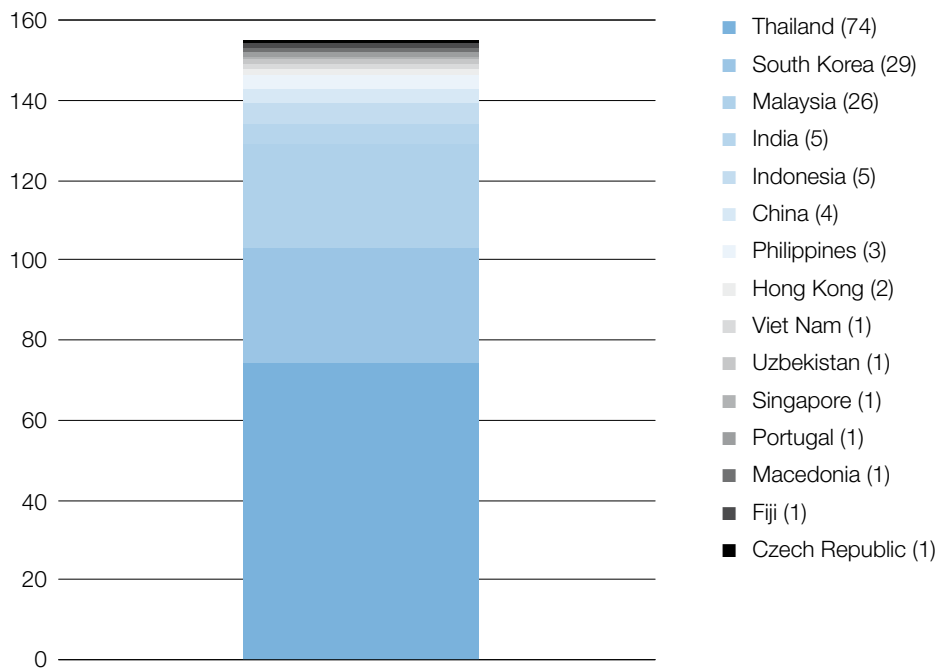
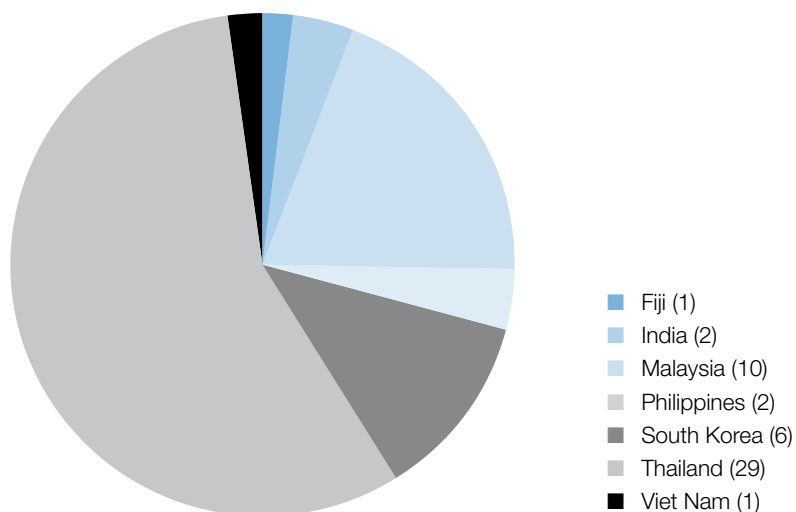


Figure 2: Clients on the Support Program, by country of origin/citizenship at 30 June 2010



Challenges in delivering the Support Program

As a result of their experience of being trafficked, many clients on the Support Program are particularly vulnerable and have complex and diverse needs. Providing individualised support to meet those needs can be challenging. The challenges faced in delivering the Support Program include the following:

- **Access to safe, appropriate and affordable accommodation.** There have been occasional challenges in accessing affordable and safe accommodation, particularly at short notice. This has generally been the case for new clients, and those transitioning onto the Justice Support Stream, who require secure, independently funded long-term accommodation.
- **Access to employment assistance.** Clients wishing to seek employment may face challenges in accessing employment assistance. Clients may be able to access support through Job Services Australia, but some clients may need more intensive levels of support than are generally available. Clients have also reported a lack of understanding by employers about the Criminal Justice Stay visa, which may present a barrier to employment.
- **Access to education and other services.** Clients on temporary visas are required to pay fees to educational institutions for English as a second language and other courses. The fees charged for courses vary and can quickly exceed the educational allowance allocated to each client on the Support Program. In common with other vulnerable people in the community, some clients have difficulty accessing adequate and tailored counselling and mental health services.

The Office for Women is working with the Australian Red Cross and relevant government agencies to identify appropriate strategies to address these identified challenges.

CASE STUDY 2: A Support Program client

Ms S was deceived and trafficked into the sex industry. On referral to the Support Program, Ms S indicated that she did not wish to continue to work in the sex industry and wanted to learn English.

Ms S has been on the Support Program for 18 months. With the support and advocacy of the Australian Red Cross, she was able to enrol in TAFE. She has now completed two semesters of English as a second language and next semester will enrol in advanced English. She plans to study aged care in the future.

Ms S is now living in stable accommodation and has a number of supports in the community to reduce the isolation that she had reported feeling in Australia. Once she felt that aspects of her life such as accommodation and education were more settled, she was ready to engage in counselling to talk about the trauma of her trafficking experience. She has been attending regular counselling appointments and reports that this is having a positive impact.

Ms S has recently participated in a PhotoVoice project run by the Australian Red Cross. Through her involvement in the project, she has learned new skills and had the opportunity to work in a group environment. She has reported that this experience has helped her increase her confidence and express herself in a new way.

Ms S has also recently completed a transition to independence plan with her caseworker. The plan identified her achievements in Australia and her goals for the future, including obtaining stable employment. Ms S and her caseworker are working towards the goals in the plan.

Ms S considers that the support she has received to stabilise her situation in Australia will assist her when it comes time to participate as a witness in a trial.

Improved protections for vulnerable workers

Discussions about people trafficking sometimes conflate issues of trafficking, forced labour and substandard working conditions.

People are in a situation of forced labour if they enter work or service against their will and cannot leave it without penalty or threat of penalty. Forced labour is defined in the *Criminal Code Act 1995* dictionary by reference to section 73.2(3):¹

forced labour means the condition of a person who provides labour or services (other than sexual services) and who, because of the use of force or threats:

- a) is not free to cease providing labour or services; or
- b) is not free to leave the place or area where the person provides labour or services.

While many victims of trafficking end up in situations of forced labour, not all victims of forced labour are trafficked. The International Labour Organization estimates that globally some 12.3 million people are victims of forced labour, and that 2.4 million of those people are subjected to forced labour as a result of people trafficking. There is also an important distinction to be drawn between people in forced labour situations and those who may be working in substandard employment situations.

Australia's workplace law and practice – supported by migration law and relevant state laws – requires all people who undertake productive work in Australia to be engaged in accordance with its provisions (including salary, employment conditions and standards, workers' compensation, and occupational health and safety) and to receive the same protection as Australian nationals (in terms of investigation by the competent Australian authority of all underpayment and exploitation claims).

Australian employers who sponsor and employ foreign workers are covered by the *Migration Act 1958*. There are a number of obligations that employers must be willing and able to meet to sponsor foreign workers, including complying with any requirements regarding the pay and conditions of workers that are set out under the Migration Act and workplace relations laws.

However, migrant workers may be vulnerable to exploitation by those who facilitate their journey to Australia or by their employers in Australia. Labour trafficking may result in exploitation of migrant workers through forced labour, debt bondage or slavery. It is also possible for Australian citizens and permanent residents to be trafficked for labour exploitation within Australia.

¹ Forced labour is defined as 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily' (International Labour Organization Convention no. 29, 1930).

Fair Work Ombudsman

Australia's workplace relations system changed from 1 July 2009, when the *Fair Work Act 2009* came into effect.

The Fair Work Ombudsman is established by the Fair Work Act and subsumed the operations of the Workplace Ombudsman and the Workplace Authority on 1 July 2009. The Fair Work Ombudsman is responsible for providing education, assistance and advice about the Commonwealth workplace relations system. In addition, the agency is also responsible for impartially enforcing compliance with the Fair Work Act and related instruments.

Offences relating to trafficking of persons do not fall within the operational remit of the Fair Work Ombudsman. Where the Fair Work Ombudsman identifies behaviour in the course of its investigations that could amount to trafficking of persons, evidence is referred to the AFP.

The Fair Work Act contains minimum entitlements for all employees in the federal workplace system, including short- and long-term migrant workers, and international students (except where they are undertaking vocational work placements organised through educational institutions). The Act imposes a safety net of 10 national employment standards, including maximum weekly hours of work, leave and public holiday entitlements, notice of termination, redundancy pay and the right to request flexible working arrangements. The safety net also includes minimum wages and conditions contained in industrial instruments and the national minimum wage for award- and agreement-free employees.

The Fair Work Ombudsman is active in the education and enforcement of workplace rights for foreign workers. In enforcing compliance, the agency makes no distinction between legal and illegal workers where there are contraventions against foreign workers.

In the period from 1 July 2009 to 30 June 2010, Fair Work Ombudsman activities included:

- approximately 800 investigations involving subclass 457 Business (Long Stay) and other visa holders, recovering more than \$500,000 in unpaid entitlements, and
- targeted audits within industry sectors that commonly employ foreign workers, such as the horticulture, security and retail industry sectors.

Matters involving foreign workers are frequently pursued through the courts, given individuals' vulnerability in the workplace and the general deterrence effect these actions can have on illegal workplace arrangements. Examples of penalties imposed by the courts as a result of action undertaken by the Fair Work Ombudsman include:

- in April 2010, \$35,342 against an Adelaide-based trolley collecting company and its director for failing to keep employment records for more than 50 mostly young foreign workers suspected of being grossly underpaid, and
- in October 2009, \$52,000 against a Sydney director, Frank Huang, whose companies (China Huge International and Chi Telecom, both put into liquidation) had underpaid seven of their workers a total of almost \$90,000; some of the underpaid workers were Chinese nationals with limited English.

While these cases do not fall within the criminal offences of slavery or trafficking, they illustrate the important role of the Fair Work Ombudsman in protecting the rights of migrant workers who are exploited in Australia.

Beyond its direct compliance activity, the Fair Work Ombudsman's services targeted to foreign workers and students include:

- a free translation service to the community, 24 hours a day, 7 days a week
- provision of the Fair Work Information Statement and information about the Fair Work Ombudsman and Fair Work Australia in 27 community languages
- an international students' webpage with a factsheet, checklists and information on workplace rights, with translated information in six languages, and
- a workplace rights guide for international students, which has been distributed to universities, TAFEs and private education providers through open days and similar events.

The Fair Work Ombudsman continues to develop relationships with community organisations that work with foreign workers to better enable agencies to target and service that group.

457 Business (Long Stay) visa reforms

Following extensive stakeholder consultations between 2006 and 2008, major reforms to the subclass 457 Business (Long Stay) visa program were implemented in 2009. In developing the reforms, the Australian Government sought an appropriate balance between allowing for fast, streamlined processes for reliable sponsors while protecting the rights of overseas workers, and allowing for sanctions against non-compliant sponsors.

On 14 September 2009, the *Migration Legislation Amendment (Worker Protection) Act 2008* introduced legal obligations for sponsors and stronger sanctions for non-compliance. Measures of particular relevance to trafficking include:

- the ability for visa holders to change employers more easily (without making a new visa application), so they are less vulnerable to exploitation
- Immigration Inspectors with expanded powers to enter premises and procure evidence to determine whether sponsorship obligations are being met
- sponsors' obligation to pay travel costs to enable sponsored people to leave Australia, and
- sponsors' obligation not to recover certain costs from a primary (or secondary) sponsored person (chiefly the costs, including migration agent costs, related to recruitment or to becoming an approved sponsor).

Employer sanctions legislation review

On 21 May 2010, the Minister for Immigration and Citizenship announced a review of the penalties facing Australian employers who recruit illegal workers, appointing an independent legal expert to provide options for making the legislation more robust and strengthening the suite of penalties available.

Enhancing Australia's response to serious and organised crime

People trafficking is a complex form of transnational organised crime. A range of people may be involved in the trafficking process, including those engaged in recruitment, transportation and harbouring of trafficking victims, and in providing false identification or immigration documentation.

The Australian Government is committed to disrupting, investigating and prosecuting organised crime in all its forms. In the first national security statement to the Australian Parliament in December 2008, the then Prime Minister, the Hon Kevin Rudd, declared organised crime a matter of national security. In order to address the growing concern posed by organised crime in Australia, the government announced that it would clearly define the government's role in combating serious and organised crime and enhance coordination among federal agencies.

On 25 November 2009, the Attorney-General, the Hon Robert McClelland MP, and the Minister for Home Affairs, the Hon Brendan O'Connor MP, released the Commonwealth Organised Crime Strategic Framework.

The Attorney-General's Department led development of the framework on behalf of the Heads of Commonwealth Operational Law Enforcement Agencies.

The Framework establishes a comprehensive and coordinated response to target the most significant threats from organised crime in order to reduce its impact on the community. It aims to ensure effective collaboration among policy, regulatory, law enforcement and intelligence agencies to combat organised crime.

The Framework aims to improve information and intelligence sharing between law enforcement and related government agencies, thereby creating a more accurate picture of organised crime in Australia and enhancing the government's ability to address organised crime in all its forms.

The key elements of the Framework are the Organised Crime Threat Assessment, the Organised Crime Response Plan, and the implementation of multi-agency approaches, such as task forces.

The biennial Organised Crime Threat Assessment, produced by the Australian Crime Commission, identifies the key threats posed by organised crime and provides a strong basis for coordinated action to respond to those threats.



In February 2010, the Australian Parliament passed the Crimes Legislation Amendment (Serious and Organised Crime) Bill 2009 and the Crimes Legislation Amendment (Serious and Organised Crime) Bill (No. 2) 2009. This legislation implements reforms to more effectively prevent, investigate and prosecute organised crime activity, and target the proceeds of organised crime groups.

The reforms focus on enhancing measures for confiscating the proceeds of crime and strengthening national law enforcement coordination and capability. The strategy aims to remove the profitability of criminal activity and increase the likelihood of criminals being caught.

The legislation implements measures agreed to by state and territory Attorneys-General and strengthens existing laws, including by:

- introducing new criminal offences targeting those involved in organised crime
- strengthening criminal asset confiscation and anti-money laundering regimes
- broadening access to telecommunications interception for the investigation of organised crime offences
- extending criminal liability to individuals who jointly commit a Commonwealth offence, and
- improving the operation of the National Witness Protection Program by increasing protection for current and former participants and officers.

Investigation and Prosecution

One of the performance indicators of Australia's anti-people trafficking strategy is the prosecution and conviction of people involved in criminal activities associated with people trafficking.

People trafficking matters are complex and difficult to prosecute. For this reason, Australian Government law enforcement agencies work together to ensure that matters are investigated and prosecuted, and that victims get the support they need.

The United Nations Convention against Transnational Organized Crime and its Trafficking Protocol establish a framework for international cooperation, including various forms of assistance for the conduct of investigations and prosecutions, and for the extradition of offenders. This is particularly important in the Australian context, as all people trafficking investigations to date have involved transnational crimes.

The AFP maintains an extensive international network of officers posted in Australian overseas missions. The officers provide a conduit for Australian and overseas law enforcement agencies to exchange information and progress investigations.

The AFP Transnational Sexual Exploitation and Trafficking Team investigates people trafficking for the purpose of transnational sexual and labour exploitation. Team members are based in Canberra, with investigators in Brisbane, Sydney and Melbourne and with additional support from generic Crime Operations, which has members in each capital city across Australia.

Most victims of trafficking who have come to the attention of authorities have been in Sydney and Melbourne, which may reflect the population concentration and the size of the local sex industries in those cities. It is possible that people trafficking also occurs in other parts of Australia, albeit on a smaller scale, which makes it more difficult to detect. Police investigations also reveal that victims are frequently moved around the country, especially between the mainland state capitals.

Primary legislative provisions

Criminal Code Act 1995

Slavery and trafficking offences are set out in Divisions 270 and 271 of the Commonwealth *Criminal Code Act 1995*.

The slavery offences (division 270) apply to all persons, regardless of whether the conduct occurs within or outside of Australia. Enacted in 1999, these offences have a maximum penalty of 25 years imprisonment.

The Australian Parliament enacted specific people trafficking provisions in 2005, fulfilling Australia's legislative obligations under the Trafficking Protocol. The offences are not limited to trafficking that involves sexual slavery or sexual servitude but cover trafficking in all its forms. The legislation provides for:

- people trafficking offences, in which the trafficker organises or facilitates the transportation of the victim into, out of or within Australia, by using force, threats or deception or by being reckless as to the exploitation of the victim
- 'debt bondage' offences, to prevent traffickers from using unfair debt contracts and other similar arrangements to force victims into providing sexual services or other labour to pay off large debts² (the debt bondage offences provide an alternative in cases in which it may be difficult to prove the commission of one of the more serious offences), and
- specific offences for trafficking in children, which criminalise organising or facilitating the transportation of a child into, out of or within Australia, where there is intention for the child to be used, or recklessness as to whether the child will be used, to provide sexual services or will be exploited. (The elements of this offence are different from the elements of trafficking in adults, as it does not require force or deception.)

With the exception of offences related to domestic trafficking, all these offence provisions have extended geographic jurisdiction, and can cover circumstances in which the crime has taken place in Australia and overseas, or in which the crime has been committed outside Australia by an Australian company, citizen or resident.

Table 8: Criminal Code provisions

Section	Offence	Maximum penalty
270.3(1)	Possess or exercise right of control over a slave	25 years
270.3(2)	Commercial transactions involving a slave	17 years
270.6(1)	Causing another person to enter into or remain in sexual servitude (see s. 270.4(1) for the definition of sexual servitude)	15 years/20 years (aggravated offence) ^a
270.6(2)	Conducting a business involving the sexual servitude of another (see s. 270.6(3) for the definition of conducting a business)	15 years/20 years (aggravated offence) ^a
270.7(1)	Intentionally inducing another person to enter into an engagement where the other person is deceived about providing sexual services, the nature of the sexual services to be provided, the extent to which the person will be free to leave or cease providing sexual services, the involvement of exploitation or debt bondage or the confiscation of travel or identity documents (see s. 270.6(2) for the definition of sexual service and s. 271.1 for the definition of deceive)	7 years/9 years (aggravated offence) ^a

² 'Debt bondage' is defined in the Act as occurring when a person pledges their services or the services of another person as security for a debt where the reasonable value of those services is not applied to repay the debt or the length and nature of the services respectively is not limited or defined.

271.2(1), (1A), (1B), (1C)	Trafficking offences involving the use of force or threats, or recklessness as to whether the trafficked person will be exploited (see s. 271.5 for domestic trafficking offences)	12 years/20 years (aggravated offence) ^b
271.2(2), (2A)	Trafficking offences where the trafficked person is deceived about providing sexual services or involvement of exploitation or debt bondage or confiscation of travel or identity documents	12 years/20 years (aggravated offence) ^b
271.2(2B), (2C)	Trafficking offences where there is an arrangement for the trafficked person to provide sexual services but they are deceived about the nature of those sexual services, the freedom to leave or cease providing sexual services, or any debt owed in connection with the arrangement	12 years/20 years (aggravated offence) ^b
271.4(1), (2)	Trafficking in children offences where there is intention to use the child, or recklessness as to whether the child will be used, to provide sexual services or be otherwise exploited (see s. 271.7 for domestic trafficking in children offences)	25 years
271.8(1)	Intentionally causing another person to enter into debt bondage	12 months/2 years (aggravated offence) ^b

- a aggravated sexual servitude/deceptive recruiting/debt bondage offences refer to an offence committed against a person under 18 years (see s270.8, s271.9)
- b aggravated trafficking offences are where the offender intended the victim to be exploited by the offender or another person or subjected the victim to cruel, inhuman or degrading treatment or the offender is reckless as to a danger of death or serious harm to the victim (see s271.3 and s. 271.6).

Employer sanctions offences

The *Migration Amendment (Employer Sanctions) Act 2007* made it an offence to knowingly or recklessly employ or refer for work a person who does not have a valid visa or who is working in breach of their visa conditions.

The legislation includes aggravated offences where a person is being exploited through forced labour, sexual servitude or slavery (s. 245AH). Penalties for those convicted are up to \$13,200 and two years imprisonment for individuals, and up to \$66,000 per illegal worker for companies. Where an aggravated offence is found to have occurred, penalties are up to \$33,000 and five years imprisonment for individuals and up to \$165,000 per illegal worker for companies.

Table 9: Migration Act provisions

Section	Offence	Maximum penalty
234	False papers etc. Providing false documents and statements ^a	10 years
236	Offences relating to visas	10 years
245AB	Allowing an unlawful non-citizen to work	2 years/5 years (aggravated offence ^b)
245AC	Allowing a non-citizen to work in breach of a visa condition	2 years/5 years (aggravated offence ^b)
245AD	Referring an unlawful non-citizen for work	2 years/5 years (aggravated offence ^b)
245AE	Referring a non-citizen for work in breach of a visa condition	2 years/5 years (aggravated offence ^b)

a There are various other provisions in the Migration Act that also relate to fraud.

b Aggravated employer sanction offences occur where a worker is being exploited (that is, is in a condition of forced labour, sexual servitude or slavery in Australia) and the offender knows of, or is reckless as to, that circumstance.

Investigations

Between January 2004 and June 2010, the AFP Transnational Sexual Exploitation and Trafficking Team (TSETT) undertook over 270 investigations and assessments of allegations of trafficking-related offences.³ These assessments and investigations have led to 39 matters being referred to the Commonwealth Director of Public Prosecutions. Most were for matters related to sexual servitude; a smaller number of investigations involved labour exploitation as the primary criminal conduct.

The AFP undertook 38 investigations and assessments in relation to people trafficking in 2009–10, compared with 17 investigations and assessments in 2007–08.⁴ Approximately 70 per cent of the investigations were related to trafficking for sexual exploitation, and the remainder related to trafficking for other forms of labour exploitation.

There were no reports of government or law enforcement involvement in people trafficking.

During the reporting period, 81 per cent of people interviewed who were identified as victims of trafficking cooperated with an investigation and/or prosecution.

3 Assessment refers to cases in which the AFP does not commence an official investigation but evaluates information and intelligence received and determines the appropriate action to be taken (for example, referral to another agency or deems no investigation to be necessary).

4 Approximately 58 per cent were related to trafficking for sexual exploitation; the remainder related to trafficking for other forms of labour exploitation.

Of these investigations and assessments, 31 per cent related to Malaysian nationals⁵ and 23 per cent related to Republic of Korea nationals. The remainder were drawn from countries across Asia.

Previous reports indicated that Thailand was the dominant source country: since 2003–04, 35 per cent of all AFP people trafficking investigations and assessments have related to Thai nationals, and 26 per cent to Republic of Korea nationals. However, only 10 per cent of investigations and assessments in 2009–10 related to Thai nationals. The number of allegations of suspected trafficking of Thai nationals has reduced significantly since mid-2008, with a commensurate increase in the number of reports of suspected trafficking of sex workers from the Republic of Korea. Analysis of recent statistics suggests that the Republic of Korea may have become the main source country for trafficked sex workers to Australia.

In March 2010, the AFP hosted the visit of a senior criminal prosecutor from the Republic of Korea Supreme Prosecutor's Office and Director of the Republic of Korea Narcotics and Organised Crime Department. The delegation travelled to Australia to meet with AFP TSETT management to strengthen relationships and promote international cooperation between Australia and the Republic of Korea in relation to people trafficking investigations. While in Australia, delegates were given detailed briefings about the suspected trafficking of women from the Republic of Korea to Australia to work in the sex industry and the upward shift in the number of allegations regarding nationals of the Republic of Korea.

The relationship with Republic of Korea law enforcement agencies was also strengthened by the visit of the AFP Senior Liaison Officer Hong Kong and a senior TSETT team leader to Seoul and Busan in May 2010. During the visit, detailed briefings were provided to the Republic of Korea National Police, the Supreme Prosecutor's Office and the Busan Metropolitan Police Agency in relation to the AFP's investigation of the suspected trafficking of Republic of Korea sex workers. Agencies from the Republic of Korea reciprocated by providing information relevant to current AFP trafficking investigations.

Significant AFP Operations

Investigation of people trafficking matters can be long, complex and resource intensive, particularly given their transnational nature.

There are significant practical challenges in investigating crime across international borders, including the challenges of communication, and differences in legal and political systems and national institutions. Victims, traffickers and evidence can be located in more than one other country, and the same set of circumstances can generate investigations and prosecutions in more than one jurisdiction. Larger operations can involve concurrent investigations in multiple locations throughout Australia, and require the support of the AFP's overseas liaison network.

⁵ Investigational bias should be taken into account for the inflated Malaysian figure. Since 2003–04, Malaysians have accounted for only 13 per cent of all AFP human trafficking investigations and assessments.

Between June and December 2009, the Sydney, Melbourne and Brisbane TSETT teams conducted a national investigation into a Republic of Korea people trafficking syndicate allegedly operating in three states. This investigation resulted in the arrest in Melbourne of a man from the Republic of Korea, who was extradited to Sydney on multiple immigration and passport offences. The man was sentenced to two years and seven months imprisonment.

In May 2010, Melbourne TSETT, with the assistance of Consumer Affairs Victoria and DIAC, executed 20 search warrants at a licensed brothel, on various suspects' vehicles and on residences where suspected victims of trafficking from the Republic of Korea were accommodated. Approximately 30 foreign sex workers, several of whom exhibited trafficking indicators, were interviewed. None of the individuals interviewed was prepared to acknowledge that they were the victim of sexual servitude or related crimes.

Based upon information provided by the AFP, arrest warrants have been issued in the Republic of Korea for three Australian-based Republic of Korea syndicate members.

The suspected trafficking and labour exploitation of four Malaysian minors was investigated between November 2009 and February 2010. Each child was located and found not to have been trafficked.

In February 2010, Melbourne TSETT assisted DIAC in the execution of a search warrant at a caravan park at Mooroopna, Victoria, in relation to unlawful non-citizens who were suspected of being illegally employed at local farms. The operation apprehended 90 unlawful non-citizens but did not identify any trafficking or labour exploitation issues.

In October 2009, a woman was charged with possessing a slave, debt bondage, attempting to pervert the course of justice, allowing non-citizens to work in breach of visa conditions, allowing unlawful non-citizens to work and operating an unlawful brothel. A man was also charged with engaging in sexual intercourse without the consent of the other person, committing an act of indecency without the consent of the other person and operating an unlawful brothel.

In October 2009, the Royal Malaysian Police arrested two key members of a syndicate trafficking sex workers from Malaysia to Australia. The investigation and subsequent arrests were based upon intelligence provided by the AFP. Malaysian media reported that, following the arrests, Malaysian police rescued nine women believed to be the latest victims of the syndicate. These arrests are a great example of the AFP working cooperatively with foreign law enforcement to successfully disrupt the operations of a significant trafficking syndicate in Australia.

In May 2010, a Sydney-based man and woman were charged with offences against the *Migration Act 1958* when they allowed a Filipina to work for them in breach of her visa conditions. The charges arose after an investigation into additional allegations that the Filipina was trafficked to Australia and was forced to work as a domestic helper against her will.

8*
news without borders

theSun | FRIDAY OCTOBER 9, 2009



BERJAYA
HOTEL & RESORTS

Two arrested for trafficking in women for vice

By Charles Ramendran
news@berjaya.com

KUALA LUMPUR: Close liaison between Australian and Malaysian police led to the arrest of a man and his girlfriend yesterday said to be behind the supply of local and foreign women for vice activities overseas.

Acting on a tip-off from Australian police, an anti-vice, gambling and 'seamy' activities team from Bukit Aman raided a rented house in Pandan Perdana at 1am, where the 44-year-old man and his girlfriend, aged 35, were staying.

Federal police CID deputy director DCF Datuk Hadi Ho Abdullah

said the couple were the main suspects in the syndicate and had used Malaysia as a transit point for their activities.

He said the suspects had used forged passports, visas, student visas and other documents in the trafficking of local and foreign women from Asian countries.

He said the women, all in their 20s, were sent to Australia and several European countries to work

as prostitutes.

Hadi said the suspects had amassed no less than RM2 million in gains in a year.

He said police would invoke the Anti-Money Laundering Act to freeze their assets.

"We believe we have busted a major human trafficking syndicate and will look for others linked to it, such as runners and travel document forgers. Human trafficking is a very

hot issue and we are taking steps to address it," he said.

"We are working closely with Australian police and this success was a result of information they had shared with us."

Hadi also said a group of 10 Indonesian anti-human trafficking unit police personnel had arrived here on Wednesday for discussions on working with local police to clamp down on crime in the region.

NEW STRAITS TIMES | FRIDAY, OCTOBER 9, 2009

Cops bust human trafficking ring

By Fadhil A. Ghani
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KUALA LUMPUR: A joint operation by Australian and Malaysian police led to the crippling of a major human trafficking syndicate with the arrest of a couple here yesterday.

The raiding party also rescued nine women, including a foreigner, who were about to be sent to Australia to work in the flesh trade there.

Following a tip-off from their Australian counterparts, a team from Bukit Aman, led by Assistant Commissioner Samud Sidek raided a house in Pandan Perdana, Ampang after midnight yesterday.

The raiding party arrested a couple, a 44-year-old man and a 35-year-old woman, whom they believed were the main players in the syndicate.

The nine women were later rescued from an undisclosed location in the city.

Initial investigations showed that the couple were part of a syndicate which brought in foreign women here, provided them with false travel documents before sending them to Australia, Germany and Holland.

The duo were believed to have been operating from their rented unit for the past year, during which time they raked in almost RM2 million from trafficking women.

The couple's role was to arrange for forged passports and tourist and student visas for the women who were mostly from Asian countries.

Federal Criminal Investigation Department deputy director 1 (intelligence and operations) Datuk Hadi Ho Abdullah said Malaysia was the transit point where the victims were given the forged travel documents.

Hadi said the syndicate members would trick the victims into making them believe

there were well-paid jobs here.

"But once they arrive here, the syndicate will take charge of these women, providing them with forged Malaysian travel documents before they are sent to other countries."

The women are said to be between 20 and 30 years old and are each sold for between RM30,000 and RM50,000 to syndicates in the countries where they are sent to.

Police are recording the statements of the nine women who were rescued yesterday to get more information on the syndicate.

"The couple is being held under the Emergency Ordinance."

"We will also use the Anti-Money Laundering Act to confiscate their assets and cash," said Hadi.

Police are now on the lookout for the other syndicate members believed to be still in



THE SYNDICATE TAKES CHARGE OF THESE WOMEN, PROVIDING THEM WITH FORGED MALAYSIAN TRAVEL DOCUMENTS BEFORE THEY ARE SENT TO OTHER COUNTRIES.

— Datuk Hadi Ho Abdullah
Federal CID deputy director 1

the Klang Valley.

Hadi added that Malaysian police are cooperating with their counterparts in the region, including Australia, to curb the human trafficking menace.

Referrals

In Australia, people trafficking cases brought to the attention of authorities have been detected both through official activity and through individuals or their co-workers seeking assistance. Some cases have been referred by state police. In other cases victims of trafficking have called police, asked their clients to help them or contacted their national embassy in Australia.

Non-governmental organisations are increasingly playing a role in referrals. In 2009–10, five referrals were received from NGOs – approximately 13 per cent of total referrals for 2009–10.

DIAC has a network of compliance officers in every state and territory in Australia. DIAC officers conduct field operations to locate foreign nationals who have breached their visa conditions or who are unlawfully in Australia. These officers are provided with specific training to identify possible indicators of people trafficking activity during compliance operations. They are trained to ask various questions designed to elicit information that might indicate a person has been trafficked. Any indicators are referred to the AFP for further assessment, irrespective of the visa status of the person concerned.

Trafficking can occur whether people move by legal (that is, with valid travel documentation) or illegal means. Between 1 July 2009 and 30 June 2010, 32 reports of possible people trafficking (relating to 33 cases) were referred to the AFP for assessment by DIAC. A number of victims were in Australia unlawfully; others had entered on a variety of visa types, including tourist, student and working holiday visas. Many had accessed electronic visas.

Also during this period, Melbourne- and Sydney-based TSETT assisted DIAC with approximately 25 compliance visits at various work sites in both metropolitan and regional/rural areas.

As the threshold for referrals is low, not all matters will result in police investigations. However, this information will contribute to the broader intelligence picture.

Changes in criminal methodology

In Australia, 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 trafficking offenders are sophisticated, and flexible enough to adapt to law enforcement activity, prosecutorial strategies and changes in migration regulations. People trafficking investigations have revealed changes in the techniques used by traffickers, and in the conditions experienced by their victims. For example, investigations suggest that it is increasingly unusual for a victim of trafficking to be physically restrained (locked up) or overtly controlled, or to have their passport/identification papers confiscated.

CASE STUDY 3: A people trafficking syndicate

People trafficking syndicates are sophisticated, and they will often expend a great deal of effort to facilitate the entry of victims into Australia.

A people trafficking syndicate investigated by the AFP during the reporting period targeted the different requirements for, and methods of, obtaining a student visa to enter Australia. A Malaysian citizen applying for a visa will be assessed against Assessment Level 1 criteria. These are the provision of a valid passport, clean medicals, and a valid enrolment with a registered education provider. An application can be made easily through the electronic visa system. A Chinese citizen applying for a visa will be assessed against Assessment Level 3 or Level 4 criteria. For study in Australia, this requires the applicant to pass English literacy tests.

Victims of the syndicate under investigation were primarily Chinese. To avoid the literacy tests they were being routed via Malaysia, on their legitimate Chinese passports. The victims were then issued with false passports that declared them to be Malaysian nationals. The false passports were of a high quality and difficult for border authorities to detect. The syndicate would then fly victims from Malaysia to Bangkok on their legitimate Chinese passports. Victims would depart for Australia from Bangkok on their false Malaysian passports, which demonstrates an effort by the syndicate to avoid detection of the false travel documentation by Malaysian border authorities. Thai authorities are less likely to detect any anomalies because many Malaysians speak Chinese; however, Malaysian authorities could potentially identify the victim as a non-Malaysian citizen.

A student visa, while having a 20-hour per week work restriction, appeared to be favoured by this syndicate over a working holiday visa. The extended time of residence for students (up to five years versus 12 months for a working holiday visa) and the difficulty of proving the breach of work hours were possible deciding factors.

If successful, this methodology has the additional advantage of allowing the syndicate to generate a bank account in a false name using the fraudulent passports. This creates covert avenues for both tax evasion and money laundering.

The syndicate viewed Sydney as a difficult entry point into Australia, and preferred to have victims enter via Brisbane or Perth.

Many victims of trafficking have greater freedom of movement and access to mobile phones. In 2009–10, the AFP received only eight reports of people trafficking in which passports were seized as a method of control. This represents approximately 21 per cent of all referrals for 2009–10.

People traffickers are alert to matters raised in court by investigations and prosecutors, and to red-flag indicators discussed in open-source publications. In response, people trafficking syndicates are changing their modus operandi to avoid detection and, if detected, to make

the elements of the offence harder to prove to the standard that satisfies the court and a jury. For example, in 2009–10, the AFP received one partially corroborated report of people trafficking in which physical confinement was used as a method of control.⁶

Prosecutions

Securing prosecutions is a key objective of the Australian Government's anti-people trafficking strategy.

The Commonwealth Director of Public Prosecutions is an independent prosecuting service established by the Parliament of Australia to prosecute alleged offences against Commonwealth law. The CDPP has no investigative function, and matters are referred to the CDPP from the AFP and other investigative agencies.

Decisions about whether to proceed with people trafficking prosecutions are guided by the *Prosecution Policy of the Commonwealth*. This means the CDPP must be satisfied that:

- there are reasonable prospects of a conviction being secured, and
- the prosecution would be in the public interest.

In making this decision, the prosecutor must evaluate how strong the case is likely to be when presented in court. This evaluation continues throughout each phase of the trial process. The decision can only be made based on admissible evidence. Not all the information gathered during the course of the investigation will necessarily be admissible. The evaluation must take into account such matters as the availability, competence and credibility of witnesses and their likely effect on the arbiter of fact, and the admissibility of any alleged confession or other evidence. The prosecutor should also have regard to any lines of defence open to the alleged offender and any other factors that could affect the likelihood of a conviction.

The cooperation of suspected victims is essential to the investigation and prosecution of people trafficking. The major impediment to prosecuting trafficking-related offences is the reluctance of people to give evidence of the offence, particularly as they (or their families) may have been the subject of violence or threats of violence. Because people trafficking prosecutions rely heavily on the evidence of individual victims, corroboration of that evidence is often necessary to meet the high standard of proof required to be met in criminal proceedings. Corroborating this evidence is often challenging.

Six people were convicted in 2009–10. At the end of the reporting period, there were six trafficking-related matters before the Australian courts, involving eight defendants. At 30 June 2010, three of the six matters were in the appeal phase. As the trafficking offences only entered into force in August 2005, the majority of matters prosecuted have involved slavery offences under Division 270 of the *Criminal Code Act 1995*.

⁶ One further allegation of human trafficking involving physical confinement was received but found to be unsubstantiated.

Table 10: Charges in finalised matters, by Criminal Code provision

	270.3(1)	270.3(2)	270.6(1)	270.6(2)	270.7(1)	271.2(1B)	271.2(2)	271.2(2B)	271.8(1)
DOBIE, Keith									
DS									
HO, Kam Tin									
HO, Ho Kam									
KOVACS, Melita									
KOVACS, Zoltan									
LEECH, Sarisa									
McIVOR, Trevor									
NETTHIP, Namthip									
SEIDERS, Johan									
TANG, Wei									
TANUCHIT, Kanokporn									
YOTCHOMCHIN (KENT), Somsri									

Prosecutions of interest

This section summarises notable prosecutions in 2009–10. More detailed information on these matters can be found in Appendix 1.

During the reporting period, the matter of *R v Wei Tang* was heard in the Victorian Court of Appeal. On 17 August 2009, the court rejected all but one of the grounds of appeal against sentence and rejected the argument that the sentence imposed was manifestly excessive in the circumstances as they were known to the sentencing judge.

However, the court was satisfied that the effect of the sentence imposed was, impermissibly, to punish Wei Tang twice for the same conduct and that that sentencing error had the effect of reopening the sentencing discretion, which the court held must be exercised afresh by it. In resentencing, the court held that developments since sentence was first imposed gave rise to additional mitigating factors that were not known to the sentencing judge. Consequently, taking those matters into account, the court concluded that the total effective sentence should be nine years, with a non-parole period of five years.

On 29 September 2009, Kam Tim Ho and Ho Kam Ho were convicted in the Supreme Court of Victoria on six and four charges, respectively, of possessing and exercising a power of ownership over a person under the slavery provisions of the Commonwealth *Criminal Code Act 1995*. They were subsequently sentenced to 14 years imprisonment with a

non-parole period of 11 years, and 10 years imprisonment with a non-parole period of seven years, respectively. On 22 October 2009, both men sought leave to appeal their sentences in the Supreme Court; the matter is ongoing.

On 4 November 2009, Sarisa Leech was convicted in the Supreme Court of Victoria on two charges of possessing and exercising a power of ownership over a person under the slavery provisions of the Criminal Code Act. She was subsequently sentenced to six years imprisonment with a non-parole period of three years and six months. On 11 November 2009, she sought leave to appeal her conviction and sentence in the Supreme Court; the matter is ongoing.

CASE STUDY 4:

The role of the Witness Assistance Officer

In November 2008, the CDPP commenced the Pilot Witness Assistance Service and employed one full-time Witness Assistance Officer based in Sydney. The officer is available to provide information and support to victims and witnesses of Commonwealth crimes prosecuted by the CDPP, including victims of people trafficking, slavery, sexual servitude, debt bondage and labour trafficking.

During the reporting period, the Witness Assistance Officer was involved with two sexual servitude matters prosecuted by the Sydney office: *R v Namthip Netthip* and *R v Mclvor & Tanuchit*. The former matter was resolved via a plea, and the Witness Assistance Officer played a liaison role with the allocated AFP officer and provided updates to allocated Red Cross staff throughout the court proceedings.

The matter of *R v Mclvor & Tanuchit* first went to trial in 2007. Following an appeal, the matter was listed for a retrial in May 2010. Five Thai women returned to court to give evidence at the second trial. The Witness Assistance Officer spent a significant amount of time providing information and face-to-face support to the witnesses, attending both conferences and most of their court appearances with them. All of the women spoke of the stress and trauma associated with having to return to court to give their evidence in a second trial and displayed visible signs of this throughout the proceedings. They also stated that the process of giving evidence was more difficult the second time around. In order to assist the women to receive appropriate support outside of court, the Witness Assistance Officer liaised with allocated Australian Red Cross workers throughout the trial and provided updates concerning their clients' court attendance and the court proceedings in general.

During the reporting period, the Witness Assistance Officer has also operated in a training role. For example, in June 2009 the officer and a CDPP prosecutor delivered a training session to national Australian Red Cross service providers titled 'Providing Support to Witnesses during the Prosecution Process'.

It is anticipated that the Witness Assistance Officer will be involved in the delivery of further training sessions to relevant stakeholders in the future.

On 6 December 2007, Queensland couple Zoltan and Melita Kovacs were convicted of possessing and exercising a power of ownership over a person under the slavery provisions of the Criminal Code Act and sentenced to eight years imprisonment (with a non-parole period of three years and nine months) and four years imprisonment (with a non-parole period of 18 months) respectively. On 23 December 2008, the Queensland Court of Criminal Appeal set aside their convictions and ordered a retrial on the grounds that the trial judge erroneously admitted evidence and failed to correctly direct the jury to ignore that evidence according to section 21A(8) of the *Evidence Act 1977* (Qld). On 18 February 2010, Zoltan Kovacs entered a plea of guilty and was resentenced to eight years imprisonment (with a non-parole period of 15 months, taking into account time spent in custody and also sentences to be served on other unrelated charges). Following a retrial in the Cairns Supreme Court, Melita Kovacs was again found guilty and subsequently resentenced to four years imprisonment (with a non-parole period of 291 days). On 15 March 2010, Melita Kovacs sought leave to appeal her sentence in the Supreme Court, and the matter is ongoing.

Working with state and territory law enforcement

Review of the Australian Policing Strategy to Combat Trafficking in Persons

When Australia's anti-people trafficking strategy was established in 2003, its focus was on combating trafficking for exploitation in the sex industry because that was where the majority of victims had been identified. This is reflected in the Australian Policing Strategy to Combat Trafficking in Women for Sexual Servitude, which was agreed by Police Ministers in 2006.

The Strategy seeks to provide a national framework for all Australian police services to work together to combat people trafficking. It recognises that, while the AFP has the lead role in the investigation of trafficking offences, state and territory police play a major role in supporting multi-jurisdictional investigations and investigating conduct resulting in sexual servitude. They are also often the first to respond to a situation of suspected people trafficking. However, where sexual servitude involves people trafficking, the protocol is for the jurisdiction to refer suspected offences and offenders to the Australian Government authorities for investigation.

Authorities are now identifying victims of trafficking in other industry sectors, and the Commonwealth is seeking to broaden the Strategy to encompass all forms of people trafficking. The revised Strategy aims to provide a national framework for police services to combat people trafficking in all its forms and to identify and share best practice, particularly in investigations, training, partnerships and appropriate victim support activities.

The revised Strategy has six elements: prevention; capacity and resources; victim assistance; partnerships; training and education; and regulation and legislation. Each element has clear objectives to be addressed over the next two years. The expanded strategy is currently undergoing consultation with key stakeholders in all jurisdictions,

including state and territory police. Once the strategy is endorsed by relevant stakeholders, it will be presented to the Ministerial Council for Police and Emergency Management – Police for consideration.

Operational partnerships with state and territory police

As people trafficking offences fall primarily under Commonwealth law, primary investigative responsibility rests with the AFP. Increasingly, the AFP is working with state-based police agencies to investigate cases of people trafficking or related offences. For example, NSW Police has conducted two investigations into state-based offences where indicators of trafficking were identified and assistance was requested from the AFP. In both of those instances, the AFP has provided a liaison point for NSW Police-led investigations, which has allowed the suspected victims of trafficking to access the victim support program.

Brisbane-based AFP officers work closely with Queensland Police's Prostitution Enforcement Taskforce. The taskforce invites the AFP TSETT on the execution of any warrants involving foreign sex workers. This strong working relationship has resulted in a joint people trafficking investigation.

Law enforcement training

Transnational Sexual Exploitation Investigation Program

AFP investigators working in TSETT are required to complete the AFP's specialist two-week residential training program, the Transnational Sexual Exploitation Investigation Program. A key objective of the program is to develop the knowledge and skills required to successfully conduct complex, sensitive and/or protracted investigations of offences involving people trafficking in a multi-jurisdictional or international environment.

The program focuses on a number of outcomes, including:

- identification of relevant legislation
- identification of relevant best practice investigation procedures
- key issues and considerations in victim-led, reactive investigations of trafficking
- understanding cultural issues that affect a victim's ability and willingness to become a witness in a trafficking investigation, including displaying sensitivity to cultural issues when conducting interviews, and
- identifying and demonstrating behavioural interview techniques when dealing with adult victims of people trafficking.

The program includes presentations from NGOs about the different perspectives on trafficking. While the program was primarily developed to meet the needs of AFP investigators, the course is also open to investigators from state and territory police services and foreign law enforcement agencies.

By 30 June 2010, 156 investigators had completed the program. They included 106 investigators from the AFP, 28 investigators from the state and territory police (all jurisdictions), 1 representative from DIAC, and 21 investigators from foreign police services.

The program is currently undergoing a review to ensure that it maintains contemporary relevance.

Melbourne-based AFP personnel have provided people trafficking awareness training to Consumer Affairs Victoria compliance officers tasked with enforcing the *Prostitution Control Act 1994* (Vic.) in licensed brothels in Victoria. The AFP has been requested to provide similar training for all the agency's compliance officers.

TSETT investigators attend 'Responding to Sexual Assault' training workshops at the Centre Against Sexual Assault House in Melbourne. This course provides investigators with specific specialist training in effectively working with sexual assault victims.

Immigration compliance law enforcement training

DIAC continues to provide training on trafficking to onshore compliance officers through the people trafficking module of the compliance training program, with guest speakers from the AFP and an NGO, the Anti-Slavery Project. Training sessions and country-specific briefings on people trafficking are also provided to staff going overseas, to investigations staff, and to staff working in the border environment.

Judicial seminar

On 15 June 2009, the National Judicial College of Australia held a twilight seminar on people trafficking in Sydney. The seminar was the result of a recommendation by the 2008 National Roundtable on People Trafficking that the Australian Government provide additional resources to the judiciary, legal practitioners (prosecutors and counsel for defence) and jurors on trafficking issues.

The seminar was attended by members of the judiciary, legal practitioners, representatives of relevant government agencies and academics. It highlighted the difficulties arising in people trafficking cases, issues faced by victim-witnesses and strategies and techniques judicial officers use for managing those difficulties.

The presenters were:

- His Honour Judge Ken Taylor AM RFD (District Court of NSW and NSW Privacy Commissioner), who presided in proceedings (*R v Mclvor & Tanuchit*) in which the defendants were convicted and sentenced for multiple offences of possessing and using a slave
- His Honour Judge Michael McInerney of the Victorian County Court, who sat in the first two trials concerning slavery offences under the Commonwealth Criminal Code

- 
- Dr Anne Gallagher, the Technical Director of the Asia Regional Trafficking in Persons Project (an AusAID project that is working with national criminal justice agencies in South-East Asia to strengthen their legal, technical and institutional responses to people trafficking), and
 - Ms Wendy Abraham QC, who has appeared for the Crown in people trafficking related cases, including in the High Court.

The Attorney-General's Department worked with the National Judicial College of Australia to develop additional resources for judges on people trafficking, including a people trafficking web page.

Building partnerships with the community

The Australian Government is committed to building stronger partnerships with the non-governmental sector.

National Roundtable on People Trafficking

In partnership with his colleagues, the Minister for Home Affairs, the Hon Brendan O'Connor MP, convened the second National Roundtable on People Trafficking on 17 June 2009. The purpose of the Roundtable is to provide an opportunity to reframe relationships between the government and NGOs and to establish a consultative mechanism on trafficking issues, especially emerging issues.

The 2009 Roundtable was attended by representatives from a range of organisations, including the Anti-Slavery Project; the Australian Human Rights Commission; Australian Women Lawyers; the Australian Red Cross; the Construction, Forestry, Mining and Energy Union; the Law Council of Australia; the International Organization for Migration; the Master Builders Association; Project Respect; the Scarlet Alliance; the Salvation Army; and the Sisters of St Joseph.

The highlight of the meeting was the announcement by ministers of the changes to the operation of the visa framework and the victim support program, and discussions about their implementation.

Ministers and members of the Roundtable discussed domestic and global achievements and challenges in preventing trafficking, conducting investigations and prosecutions, and providing victim support.

Another major focus of the meeting was on trafficking for labour exploitation. An expert from the International Labour Organization, Ms Thetis Mangahas, gave a presentation on her experiences working in the region on labour and migration issues.

An outcome of the Roundtable was the establishment of a working group to develop strategies for raising awareness among target populations about fair work issues in Australia (see 'Raising Community Awareness' below).



Minister Brendan O'Connor and the then Minister for the Status of Women Tanya Plibersek and Parliamentary Secretary Bob McMullan with members of the 2009 National Roundtable on People Trafficking

Practical support for the work of anti-trafficking NGOs

NGOs play a vital role in identifying and supporting people who have been trafficked, as well as raising community awareness of all forms of trafficking in Australia.

In October 2008, the Australian Government announced funding of \$1 million to support four Australian NGOs in their efforts to combat people trafficking.

The Australian Catholic Religious Against Trafficking in Humans, Anti-Slavery Project, Project Respect and Scarlet Alliance were each granted \$250,000 to provide vital outreach for trafficking victims and to conduct education and awareness-raising initiatives on people trafficking. Each works in collaboration with other groups and individuals – both government and non-government.

The Anti-Slavery Project is the only specialist legal and policy centre in Australia focused on slavery, trafficking and extreme labour exploitation. The Anti-Slavery Project is part of the Faculty of Law at the University of Technology, Sydney. With its grant, the Anti-Slavery Project is developing an enhanced general community awareness campaign to raise awareness of all forms of labour trafficking in consultation with stakeholders, and is also providing trafficked people and people who are vulnerable to trafficking with information about their legal rights under Australian immigration and labour law.

Project Respect is a non-profit community-based organisation that aims to empower and support women in the sex industry, including women trafficked to Australia. Project Respect is using its grant to expand its program of outreach to women in the sex industry, and to provide information and referrals to services for health, housing, legal advice, drugs and alcohol, and other issues.

Scarlet Alliance is the Australian Sex Workers Association. Scarlet Alliance is working to enhance the capacity of peer educators in Australia to provide support to migrant sex workers to decrease their vulnerability to trafficking. As part of this project, Scarlet Alliance is working in partnership with Empower Foundation of Thailand.

ACRATH, or Australian Catholic Religious Against Trafficking in Humans, is committed to working towards the elimination of human trafficking in Australia, the Pacific and internationally. With its grant, ACRATH is working to raise community awareness, share information and build networks nationally and globally. ACRATH also facilitates the provision of direct services to people trafficked into Australia.

Raising community awareness

The Attorney-General's Department administers a targeted Communication Awareness Strategy aimed primarily at trafficking into the sex industry. At the June 2009 Roundtable, a working group of government agencies and NGOs was established to develop a Commonwealth strategy to raise awareness of trafficking in all its forms, including by raising awareness of fair work issues in Australia among migrant populations. New communication awareness materials are expected to be available for public distribution in late 2010.

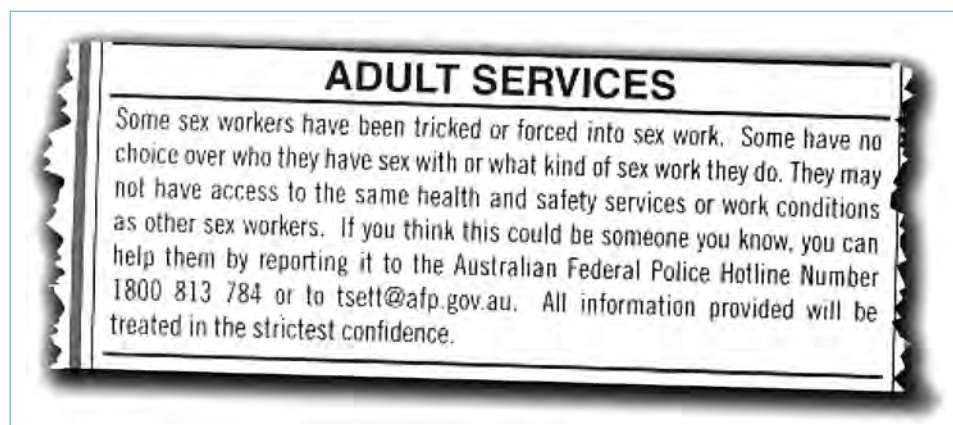
Following the 2008 Roundtable, government agencies and NGO members of the Roundtable collaborated to produce national guidelines for NGOs working with trafficking victims, along with multilingual fact sheets that inform victims of their rights in Australia. The Guidelines have been updated to provide the latest information about arrangements for visas and victim support. The updated Guidelines will be translated into community languages, including Chinese, Korean, Tagalog, Thai and Vietnamese, and are expected to be available for public distribution in late 2010.

People trafficking cases that come to the attention of authorities in Australia have been detected in some cases through official activity or through individuals or their co-workers seeking assistance. In other cases, victims of trafficking working in the sex industry have called police or asked their clients to help them. To improve the awareness of clients about people trafficking, the Attorney-General's Department has worked over the past 12 months to increase the coverage of pro bono advertising in Australia's newspapers.

The small 'public notice' style advertisements, which are aimed at clients of adult services and encourage them to call an AFP hotline, have been running in the personal services sections of major metropolitan and suburban newspapers since January 2006.

In early 2010, the Attorney-General's Department sought the assistance of Universal McCann, the Australian Government's master media buying agency, to attempt to address the flagging support among Australia's newspapers for this important activity. The media responded and the latest figures indicate that up to 95 key newspapers throughout Australia are now carrying the advertisements free of charge. This includes Melbourne papers that had not previously run the advertisements. The Attorney-General's Department will continue to work with Universal McCann to maximise media support, including in the suburban

press. At the end of June 2010, the media support for these advertisements was worth approximately \$546,249; more than \$86,000 in value across key metropolitan and suburban titles was achieved between January and June 2010.



Strengthening law enforcement partnerships with NGOs and government agencies

The states and territories are responsible for regulating the sex industry under the residual powers of the Australian Constitution. Most have enacted legislation against the offence of sexual servitude. The legislation is enforced collaboratively by state and federal police.

On 1 July 2010, the AFP signed a memorandum of understanding with Consumer Affairs Victoria (which regulates and controls prostitution in Victoria). The agreement sets out the arrangements established for liaison, assistance, exchange of information and operations on activities relating to the prostitution industry.

During the reporting period, the AFP also signed a memorandum of understanding with an Australian-based anti-trafficking NGO. This agreement is a significant step towards improving the relationship and effective information exchange between the AFP and NGOs.

Building partnerships in our region and beyond

Australia continues to take an active role in international efforts to combat people trafficking.

The Conference of Parties to the United Nations Convention against Transnational Organized Crime

Australia has continued to support the activities of the Conference of Parties to the *United Nations Convention against Transnational Organized Crime* (UNTOC). As part of this commitment, Australia participated in expert level discussions on people trafficking as part of the January 2010 meeting of the UNTOC Working Group on Trafficking in Persons. The 5th Conference of Parties will next meet in October 2010 and will include a meeting of the Working Group.

The United Nations Office on Drugs and Crime is increasing its focus on the implementation of the UNTOC and its Trafficking Protocol under its proposed Regional Program for the Pacific for 2010–15. While ratification of the Trafficking Protocol increased to almost 140 Parties during the reporting period, ratification in the Pacific region remains low. Australia continues to strongly encourage countries that have not yet done so to ratify and fully implement both the UNTOC and its Trafficking Protocol.

Bali Process

Ministers at the Third Bali Regional Ministerial Conference in April 2009 considered that the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime had reached a point of maturity at which it was timely to take a new step in its development.

Having noted the current persistence of irregular migration in the Asia–Pacific region, Ministers agreed that an Ad Hoc Group mechanism would be activated to bring together key source, transit and destination countries as well as relevant international organisations to develop regional responses to these challenges. Ministers further defined the Ad Hoc Group's terms of reference as follows:

- to develop practical outcomes at the operational level to assist countries to mitigate increased irregular population movements
- to enhance information sharing arrangements between most-affected countries, and
- to report to Co-Chairs through the Steering Group with concrete recommendations to inform future regional cooperation on people smuggling and people trafficking.

In July 2009, Australia and Indonesia, as Bali Process Co-Chairs, hosted the inaugural meeting of the Senior Officials of the Ad Hoc Group in Bali. A second meeting of the Ad Hoc Group was held in December 2009, and a third was held in June 2010.

In December 2009, the Inter-Regional People Smuggling and Human Trafficking Conference was held in Semarang, Indonesia, co-chaired by the AFP and the Indonesian National Police. The conference was identified as a follow-up item at the inaugural Ad Hoc Group meeting. Participants from 17 countries attended: Afghanistan, Australia, Bangladesh, Canada, China, India, Indonesia, Iran, Maldives, Malaysia, Nepal, Pakistan, the Republic of Korea, Singapore, Sri Lanka, Thailand and Viet Nam.

United Nations

Australia co-sponsored resolutions on combating trafficking in persons, especially women and children at the UN Human Rights Council's 11th and 14th Sessions. Australia continues to support the work of the UN Special Rapporteur on trafficking in persons, especially women and children, Ms Joy Ngozi Ezeilo. At the Council's 14th Session in June 2010, Australia participated in an interactive dialogue with the Special Rapporteur and in a panel discussion on trafficking, entitled "Give voice to victims of trafficking." In May and October 2009, Australia also participated in interactive dialogues on trafficking in persons in the UN General Assembly.

Australia's common messages during these UN dialogues and panel discussions included reiterating its continued commitment to combating human trafficking, urging countries to ratify the UNTOC and its Trafficking Protocol, and highlighting the Bali Process as a key regional initiative to address human trafficking. Australia also drew attention in its interventions to particular issues, such as the importance of supporting victims as a key component of anti-trafficking efforts, as well as raising awareness of the issue of people trafficking outside the sex industry, in particular, trafficking for the purpose of labour exploitation.

At the UN Human Rights Council's Universal Periodic Review (UPR), Australia continues to raise the issue of human trafficking, noting both accomplishments and concerns. During the UPR's 5th to 8th sessions, held during the reporting period, Australia made reference to human trafficking in its interventions during the review of the situation of human rights in Angola, Belarus, Cyprus, Equatorial Guinea, Gambia, Kenya, Madagascar and Spain.

Building specific regional capability and prevention, return and reintegration of victims (development assistance)

The drivers of people trafficking are many and complex.

In our region, there is a strong demand for cheap or easily exploited labour. There is also a vast supply of people seeking an income to meet their most basic needs, and others seeking opportunities to improve their lives or living standards. These conditions create great potential for trafficking and other forms of exploitation. Global financial downturns and economic recessions further increase the vulnerability of such people to exploitation.

In 2009, the International Labour Organization estimated that at any one time there are likely to be around 1.3 million trafficking victims in the Asia-Pacific region. Victims of trafficking for sexual or labour exploitation include women, children and men, but current research suggests that women and children make up the majority of victims. Trafficking victims from East Asia have been identified in many parts of the world, but the United Nations Office on Drugs and Crime has found that a significant amount of trafficking occurs within East Asia itself (UNODC, 2009).

An effective response to combating trafficking and other forms of exploitation requires changing the conditions that allow trafficking and labour exploitation to flourish. Changing the conditions of poverty, underemployment and unemployment, corruption, gender inequality, discriminatory cultural norms, lack of access to education, and social and political instability will reduce the vulnerability of people and communities to trafficking and other forms of exploitation. Achieving these preventive measures takes time, but they will result in more sustainable outcomes and provide multiple life-changing benefits.

In 2010–11, Australia will provide approximately \$4.3 billion in official development assistance, most of which will be managed by the Australian Agency for International Development (AusAID).

The Australian aid program focuses on the Asia-Pacific region and addresses the conditions listed above largely through the eight Millennium Development Goals. The Millennium Development Goals aim to:

- eradicate extreme hunger and poverty
- achieve universal primary education
- promote gender equality and empower women
- reduce child mortality
- improve maternal health
- combat HIV/AIDS, malaria and other major diseases
- ensure environmental sustainability, and
- develop a global partnership for development.

Progress towards these goals will create better livelihood options, increase education and awareness, empower women and promote the rights of children.

Developing, enforcing and ensuring wide public awareness of laws and regulations to prevent criminal and unscrupulous practices by traffickers, recruiters and employers are also important ways to change the conditions that allow trafficking and exploitation. AusAID also funds a number of specific anti-trafficking activities, including the following, to promote these changes and to assist victims:

- **Asia Regional Trafficking in Persons (ARTIP) Project** (\$21 million; 2006–11). ARTIP aims to strengthen the criminal justice system response to trafficking and improve cross-border cooperation in South-East Asia, primarily through training and capacity building for law enforcement officers, judges and prosecutors, and also through improving anti-people trafficking policy, legal, research and outreach capability in the region. ARTIP builds on an earlier regional aid initiative, the \$11 million Asia Regional Cooperation to Prevent People Trafficking Project (2003–06), which piloted the approach of strengthening the criminal justice system. ARTIP partner countries are Cambodia, Indonesia, Lao PDR, Myanmar, the Philippines, Thailand and Viet Nam. ARTIP also works closely with the Association of Southeast Asian Nations (ASEAN) and engages with all ASEAN countries at a regional level. ARTIP achievements to June 2010 include providing training and capacity building to a total of 4,578 law enforcement officials, judges and prosecutors since 2006; developing standard operating procedures for use by police in all ASEAN countries; assisting cross-border cooperation on trafficking cases; better treatment of victims; drafting or revising anti-trafficking legislation for partner governments; and the development of the world-first *ASEAN Trafficking in Persons Handbook on International Legal Cooperation*, with the United Nations Office on Drugs and Crime.
- **Tripartite Action to Protect Migrants in the Greater Mekong Sub-region from Labour Exploitation (TRIANGLE)** (\$10.5 million; 2010–14). This 5-year project will be implemented by the International Labour Organization and will reduce the exploitation of vulnerable migrant workers and their families in the Greater Mekong Sub-region. The project will work in Cambodia, southern China, Lao PDR, Thailand and Viet Nam, with Malaysia as a destination country. The project will strengthen recruitment and labour protection policies and their implementation, promote legal and safe migration, increase community awareness of exploitative practices, and provide better support services for migrant workers. The International Labour Organization expects the project to help 20,000 documented and undocumented migrant workers to avoid entering, or to withdraw from, exploitative working conditions. The project commenced in mid-2010.
- **Project Childhood (\$7.5 million; 2010–14)**. AusAID developed this 5-year program to extend beyond the small-scale awareness-raising and training projects on child sex tourism funded since 1994. The program is informed by the ASEAN five-year Transition Plan for a Sustainable Response to Child Sex Tourism in South-East Asia, funded by AusAID. Project Childhood currently consists of a prevention pillar and a protection pillar to help combat child sex tourism in the Mekong Sub-region (Cambodia, Lao PDR, Thailand and Viet Nam). The prevention pillar is expected to be implemented by an NGO. The protection pillar is designed to strengthen the law enforcement response

to the commercial sexual exploitation of children, and is being implemented by the United Nations Office on Drugs and Crime, working with Interpol. Work under this pillar commenced in mid-2010.

- **MTV EXIT Campaign.** From March to June 2010, AusAID partnered with USAID to support MTV's End Trafficking and Exploitation (EXIT) Campaign in Viet Nam and Indonesia. A total of \$800,000 was provided to support awareness-raising concerts, television and online documentaries, and public relations activities to raise awareness of people trafficking among young people. The campaign was expected to reach two million people. Materials produced by the campaign were provided to local NGOs to continue awareness-raising and education efforts on people trafficking.
- **NGO activities.** AusAID continues to support a range of NGO projects that aim to prevent trafficking, assist victims and improve child protection. This includes entering into a long-term partnership agreement with UNICEF (2008–15) and support for Save the Children and Child Fund projects promoting child rights, protection and advocacy. Other projects include World Vision's Assistance, Support and Protection for Migrant and Trafficked Women and Children project in Burma–Thailand border areas, and the Mekong Delta Regional Trafficking Strategy 2, which focuses on child trafficking.

Preventing people trafficking to Australia

DIAC has three positions at overseas posts that focus on preventing people trafficking at its source: one in Bangkok from 2003, and two others from January 2008, initially in Manila and Beijing (the latter moved to Guangzhou in January 2010). The positions are part of DIAC's overseas compliance network and provide regional coverage. In 2010, overseas compliance staff became known as 'integrity officers' and the three specialised positions became Senior Migration Officers (Integrity) (Trafficking), or SMOITs.

The SMOITs vet visa caseloads for fraud that may lead to trafficking and analyse trends in visa processing, including:

- applicants' travel patterns
- use of migration agents, and
- the visa classes being targeted by trafficking organisations.

During 2009–10, the three SMOITs vetted some 1,650 cases.

The SMOITs continue to work closely with the AFP in identifying trafficking links with Australia. In Bangkok, this work has resulted in people being charged with trafficking-related offences and in 2010 resulted in convictions and imprisonment.

Capacity building and technical assistance

DIAC provides technical assistance to a number of countries to combat and deter all forms of irregular migration, with a strong emphasis on people trafficking and people smuggling. This includes capacity-building activities, technical exchanges and the donation and installation of specialist equipment.

DIAC has implemented the following targeted capacity-building programs in immigration agencies in the Middle East, Asia and the Pacific:

- document examination equipment and training provided to front-line immigration officers in airports and at land borders have helped deter irregular migration by enabling more officers to confidently and accurately detect fraudulent travel documentation at borders
- facial image comparison training has enhanced agencies' ability to prevent irregular movement by developing immigration officers' skills to detect fraudulent use of travel documents by impostors
- intelligence analysis capacity-building activities are conducted to boost agencies' capacity to capture data and to analyse and report on trends in irregular migration through the region, and
- immigration investigations training has strengthened officers' capacity to investigate criminal activity related to irregular migration.

DIAC also builds capacity in the region through other activities, including border assessments; alert systems design and implementation; passport systems; identity verification; legal and regulatory frameworks; and protection frameworks, including refugee status determination.

Building law enforcement capacity in our region

In June 2009, the AFP hosted its first Trafficking in Persons International Conference in Sydney. The conference was the first time AFP international liaison officers and Australian-based TSETT members had jointly met with their law enforcement counterparts in Australia to consider the current nature and extent of people trafficking in the ASEAN region. The conference was attended by international law enforcement agency counterparts from source and destination countries, including China, Viet Nam, Indonesia, the Republic of Korea, Thailand and Malaysia. The conference cemented the training, provided in the previous reporting period, in Brunei and Cambodia. Discussions focused on proactive strategies to combat trafficking in each country, as well as barriers to and opportunities for more effective international cooperation and information exchange.

In December 2009, the AFP provided assistance to the Jakarta Centre for Law Enforcement Cooperation in hosting a conference in Semarang, Indonesia, on regional people trafficking and people smuggling issues. The theme of the conference was the 'social and economic impact' of people trafficking and people smuggling on source, transit and destination countries.

Participants included senior law enforcement officers from Afghanistan, Australia, Bangladesh, Canada, China, India, Indonesia, Iran, Maldives, Nepal, Malaysia, Pakistan, the Republic of Korea, Singapore, Sri Lanka, Thailand and Viet Nam.

In April 2010, the AFP Law Enforcement Cooperation Program and the Interpol Trafficking in Human Beings Sub-Directorate jointly hosted a five-day Advanced Trafficking in Human Beings Training Program in Ghana, West Africa. Thirty-four law enforcement participants from Cameroon, Gambia, Ghana, Liberia, Nigeria and Sierra Leone attended the program.



Participants at the 2009 Trafficking in Persons Conference

The key objective was to assist countries in Africa to develop an integrated approach against people trafficking by developing operational capacities for policing at both the national and regional levels. The course was delivered by specialists from the Interpol Expert Working Group on Trafficking in Human Beings as well as by experts from Ghana and the Royal Canadian Mounted Police.

The training is the latest phase of police capacity-building in Africa to combat people trafficking, following on from the previous West African Trafficking in Human Beings Training Program delivered for nine countries in December 2009 in Dakar, Senegal.

The Asia Region Law Enforcement Management Program (ARLEMP), is sponsored by the AFP through its Law Enforcement Cooperation Program and is a partnership between the Vietnamese Police General Department for Crime Prevention and Suppression and the training provider, the Royal Melbourne Institute of Technology, Hanoi. Since 2005, three month-long courses have been delivered each year (19 have been delivered so far).

ARLEMP provides contemporary management and cross-cultural leadership within a transnational crime context to the AFP's law enforcement partners in the Asia region, including Bangladesh, Burma, Brunei, Cambodia, China, Hong Kong, Lao PDR, Maldives, Malaysia, Nepal, Philippines, Sri Lanka, Singapore, Thailand, Timor-Leste, Viet Nam and Australia. Transnational crime issues are explored in detail in ARLEMP; regional experts present on key issues, including counter-terrorism, narcotic trafficking, child sex offences, money laundering, high-tech crime and people trafficking.

Building legal capacity in our region

Between May 2009 and June 2010, the International Legal Assistance Unit in the Attorney-General's Department has undertaken several legal assistance projects related to people trafficking. This involved working with counterparts in the region on measures to improve legal frameworks to combat people trafficking, and on related issues. The projects included:

- cooperating with authorities in the Maldives on options for legislating against people smuggling and trafficking
- participation with the Malaysian Attorney General's Chambers in the Malaysia–Australia Bilateral Technical Legal Working Group on People Smuggling and Trafficking, which has met regularly since December 2009 to discuss technical legal issues in legislating effectively against people smuggling and trafficking
- working with the Cambodian Government on legislation to implement obligations under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children concerning the protection of trafficking victims, and
- assisting Pacific Island countries on reform of criminal legislation, which includes strengthening provisions on people trafficking and people smuggling.

Trafficking and money laundering

People trafficking is an organised crime that may involve other offences such as money laundering.

The Financial Action Task Force (FATF) is the intergovernmental body responsible for the development and promotion of national and international policies to combat money laundering and terrorist financing. The FATF identifies money laundering and terrorist financing techniques, assesses compliance with the FATF Standards through a sophisticated peer review system and, in the case of non-cooperative and high-risk jurisdictions, recommends whether countermeasures should be applied.

Since its creation, the FATF has spearheaded the effort to adopt and implement measures designed to counter the use of the financial system by criminals.

Unlike other forms of serious and organised crime, there is limited knowledge about the methods being used by criminal organisations to launder illegal proceeds related to people trafficking. Therefore, the FATF Working Group on Typologies is conducting a typology project on money laundering risks arising from people trafficking. Typology work studies the methods, techniques and trends of money laundering and terrorist financing. The project will examine current methods used by criminal organisations to launder illegal proceeds related to people trafficking and the smuggling of migrants.

The FATF's International Cooperation Review Group adopted new procedures in 2009 in response to a call by G20 leaders. Those procedures aim to encourage jurisdictions identified by the review group as having systemic anti-money laundering and counter-terrorism financing deficiencies to comply more closely with FATF standards. This includes the requirement to fully implement the UNTOC, and to criminalise people trafficking and the smuggling of migrants.

This work is carried out by a series of regional review groups, each jointly chaired by the FATF and a relevant FATF-style regional body. Australia and Malaysia co-chair the Asia Pacific Regional Review Group, which to date has reviewed 13 countries in our region.

Improving our understanding of people trafficking

Victorian Parliamentary Inquiry into People Trafficking for Sex Work

In 2009–10, the Joint Drugs and Crime Prevention Committee of the Parliament of Victoria conducted an inquiry into people trafficking for sex work, including:

- the extent and nature of the trafficking of people for the purposes of sex work into Victoria from overseas
- the interrelationship – if any – between the unlicensed and licensed prostitution sectors in Victoria and trafficking for the purposes of sex work
- the current and proposed intergovernmental and international strategies and initiatives in relation to dealing with trafficking for the purposes of sex work, and
- the need for policy and legislative reform to combat trafficking for the purposes of sex work in Victoria.

The Committee noted that, while there have been Australian Government inquiries into sex trafficking, it was timely that an inquiry into sex trafficking be held at the state level because of concerns expressed about trafficking in Victoria.

To assist the Committee in its work, the Australian Government made a whole-of-government submission to the inquiry, highlighting achievements and challenges, providing information about the range of services and protections available to victims of trafficking, and outlining Australia's international strategies and engagement. The submission also drew the Committee's attention to trafficking for exploitation in a wider range of industries. Officials from the Australian Crime Commission, the Attorney-General's Department, the Australian Institute of Criminology, the Australian Federal Police, the Commonwealth Director of Public Prosecutions, the Department of Immigration and Citizenship and the Office for Women gave evidence at public hearings in Canberra in December 2009.

The Committee's report was tabled in the Victorian Parliament in June 2010. Among other things, the Committee recommended that the Drugs and Crime Prevention Committee of the 57th Parliament of Victoria undertake an inquiry into human trafficking for reasons other than sexual servitude. It also made three recommendations for the Commonwealth:

- that the use of victim impact statements in all cases of sentencing be adopted in Commonwealth crimes involving sex trafficking

- that the Commonwealth produce relevant educational and information materials informing visitors to Australia on the risks and consequences of sex trafficking, for dissemination at points of disembarkation on arrival to Australia (airports, sea ports etc.), and
- that the Commonwealth Government in conjunction with NGOs liaise with relevant 'source countries' to extend and further develop information packages with regard to the sex industry (including its legal status in most Australian states), sex trafficking and its consequences to deter women in the country of origin from being trafficked to Australia.⁷

The government will consider these recommendations over the coming year.

Improving data

Obtaining robust statistical information on trafficked people and related matters remains a major challenge, as trafficking is largely unreported and very often transnational.

The government has funded the Australian Institute of Criminology (AIC) to analyse trends in people trafficking in Australia and in our region. The AIC has established a regular monitoring program on people trafficking, which aims to monitor trends in the incidence and nature of people trafficking over time.

During 2009–10, the AIC embarked on research projects to fill gaps in knowledge about:

- community attitudes to people trafficking
- labour trafficking
- special issues, risks and protections in regard to people trafficking in the region
- risks and protections related to people trafficking, as perceived by sex workers
- analysis of the International Organization for Migration dataset for Indonesia on trafficked persons, and
- issues related to offenders and circumstances of offending.

Major reports on each of these areas of new research will be released in 2010–11, along with further Monitoring Reports and a technical report on best practice in monitoring.

In June 2009, the AIC convened a forum on people trafficking for the purposes of labour exploitation. The object of the forum was to widen the policy debate on trafficking beyond trafficking for exploitation into the commercial sex industry to look at the broader context in which labour trafficking is likely to occur. Presenters included Commissioner Barbara Deegan (Australian Industrial Relations Commission, and Special Adviser to the 457 Integrity Review), Jennifer Burn (of the Anti-Slavery Project) and Sex Discrimination Commissioner Elizabeth Broderick.

⁷ www.parliament.vic.gov.au/images/stories/Trafficking_Final_full_report_with_cover.pdf

In September 2009, the AIC, in collaboration with the Salvation Army, New Zealand, Fiji and Tonga, and the Pacific Immigration Directors' Conference, convened the Pacific people trafficking forum in Wellington, New Zealand. The forum brought together government agencies, NGOs and academics to identify existing research and its findings to date, and to discuss challenges and identify research priorities for investigating and understanding the various forms of people trafficking. More than 70 delegates attended from nine countries in and around the Pacific to hear presentations on people trafficking and related issues. The forum themes included human rights; background and causal factors; responses to trafficking and capacity to respond; labour trafficking; child trafficking; sex trafficking; and NGOs' responses to trafficking.

The Year ahead

In 2009–10, the AFP received its first referrals of unaccompanied minors as suspected victims of trafficking. The Anti-People Trafficking IDC's Operational Working Group undertook a considerable body of work to develop procedures for providing enhanced support to vulnerable victims of trafficking, including children. This work will continue in 2010–11, and will include collaborating with state agencies and NGOs to develop improved referral pathways and linkages.

This report has noted a number of challenges in providing assistance to victims of trafficking.

Similarly, in her report to Human Rights Council in 2010, the UN Special Rapporteur on Trafficking in Persons, Joy Ngozi Ezeilo, discussed the importance of a gender-based approach to people trafficking. She noted that, in addition to addressing the particular risks faced by women and girls, a gender-based approach requires specific consideration of the situation of men and boys as possible victims of trafficking, including in access to protection and assistance.

Given that we now have the experience of supporting more than 150 suspected victims of trafficking, both men and women, it would be timely to further examine the Support for Victims of People Trafficking Program to ensure that it is flexible enough to meet the needs of its clients.

Over the past year, further victims of trafficking have been identified in Australia outside the commercial sex industry. In 2010–11, the IDC will continue to focus on trafficking for exploitation outside the sexual services industry, including forced labour and forced and servile marriage.

It will also consider improved protections for vulnerable and disadvantaged witnesses, including through the possible extension of existing protections available under Divisions 272 and 273 of the Criminal Code.

In 2011, the Attorney-General's Department will also consider options for revising the Communication Awareness Strategy to ensure that it remains relevant to emerging trends, and for enhancing access to information on trafficking-related matters on its website.

Appendix 1: Prosecutions

‘X’

The defendant has been charged with one offence of debt bondage contrary to section 271.8 of the Criminal Code; one offence of possessing a slave contrary to section 270.3 of the Criminal Code; three offences of allowing an unlawful non-citizen to work contrary to section 245AB(2) of the *Migration Act 1958* (Cth) and two offences of allowing a non-citizen to work in breach of a visa condition contrary to section 245AC of the *Migration Act*. The defendant has also been charged with attempting to pervert the course of justice contrary to section 43 of the *Crimes Act 1914* (Cth) and one offence of operating a brothel other than in a prescribed location. The defendant has entered pleas of not guilty in respect of all charges. A trial date has been set for 19 March, 2012.

Namthip Netthip

The offender, Namthip Netthip, was born in Thailand and came to Australia in 1987 before becoming an Australian citizen in 1994. Since arriving in Australia, from time to time the offender worked in brothels either as a sex worker or as a receptionist. Between about August 2005 and March 2008, the offender conducted a business through which she organised the placement of 11 Thai women in brothels in Australian cities, including Sydney, Newcastle, Wollongong, Melbourne, Canberra, Adelaide and Perth. Each complainant was recruited in Thailand. A Thai facilitator arranged passports and visas and made travel arrangements. Each complainant agreed that, once in Australia, she would repay a ‘debt’ of \$53,000.

Prior to the departure of each complainant from Thailand, Netthip discussed the terms of the arrangement with her. Each complainant informed Netthip that she had previously worked in the sex industry, either in Thailand or elsewhere. Seven of the 11 complainants informed Australian authorities that they worked in the sex industry before coming to Australia.

Netthip was responsible for organising food, work-related medical expenses and mobile telephones for the complainants. On arrival in Australia, each complainant stayed at accommodation that had been organised by the offender. Later, some moved to rental properties or other private accommodation, for which they paid. Some complainants were driven to and from their place of work, while others travelled by public transport. Complainants had access to the internet and could contact their families in Thailand.

The offender was responsible for supervising the placement of each complainant in an Australian brothel. If a complainant was dissatisfied with her placement, Netthip facilitated acceptable work conditions or transferred the complainant to another brothel.

Except in the case of one Newcastle brothel, each brothel deducted its fee and paid the remainder of the complainant's earnings to her. From her net earnings, the complainant repaid her debt to the offender by transferring cash or making a bank deposit. In the case of the Newcastle brothel, repayments were made directly by the brothel owner to the offender. The speed at which a debt was repaid depended upon the proportion of her earnings that a complainant elected to retain for personal purposes. On average, a complainant took about six months to repay her debt.

From the sum of \$53,000, the offender paid the agent in Thailand \$20,000. After paying the rent, food, telephone, medical and other expenses of the complainant, Netthip received a net profit of between \$10,000 and \$18,000. She estimated that her net profit in relation to all complainants was probably about \$60,000 to \$70,000. Taking into account the average time taken to repay a debt and the net profit on each transaction, the estimated total net profit appears to be an underestimate. However, in the absence of more detail about individual transactions, the court could not be confident that the total net profit significantly exceeded \$70,000. It was part of the arrangement that, after a complainant arrived in Australia on a visitor's visa, Netthip would assist the complainant to apply for a protection visa about six weeks later. For the purpose of substantiating the claim for refugee status made by a complainant, Netthip provided her with false factual information about the conditions that she had experienced in Thailand. The offender coached complainants about the manner in which they should respond to questions posed by DIAC officers. Once a complainant had applied for a protection visa, she was entitled to work while she awaited the outcome of the immigration assessment.

Netthip was charged with one offence of conducting a business involving sexual servitude contrary to section 270.6(2) of the Criminal Code; 9 offences of 'organise entry, reckless as to exploitation' contrary to section 271.2(1B) of the Criminal Code; 11 offences of intent to cause another to enter into debt bondage contrary to section 271.8(1) of the Criminal Code; and 11 offences of cause delivery of false migration documentation contrary to section 234 of the Migration Act 1958 (Cth). The defendant pleaded guilty to one offence of conducting a business involving sexual servitude contrary to section 270.6(2) of the Criminal Code and one offence contrary to section 234 of the Migration Act relating to false migration documentation. Ten other Migration Act offences were taken into account on a section 16BA *Crimes Act 1914* (Cth) form. All remaining charges were withdrawn – being 9 offences of 'organise entry, reckless as to exploitation' contrary to section 271.2(1B) of the Criminal Code and 11 offences of intent to cause another to enter into debt bondage contrary to section 271.8(1) of the Criminal Code.

On 30 July 2010, Netthip was convicted and sentenced to two years and three months imprisonment to be released on 24 August 2011 after a period of thirteen months, on a recognizance release order to be of good behaviour for fourteen months, i.e until 24 October 2012.

Keith Dobie

Keith Dobie was a hairdresser on the Gold Coast who owed personal debts. He recruited and organised four women from Thailand to come to Australia to work for him as prostitutes. He promised them easy money and good working conditions (choice of work hours, choice of work, time off) and paid for their air fares and visas. He provided false information to DIAC and the Australian Embassy in Thailand in support of the visa applications. He successfully recruited two women to work for him. He accommodated the women, sent a small amount of money to their families in Thailand, and gave them \$20 per day for food and toiletries. They were not free to choose when to work and whom to service. They were intimidated and pressured to work as much as they could. One complainant was made to have group sex when she did not want to.

Dobie was charged with two counts of people trafficking (deceptive recruitment) (s. 271.2(2B) of the Criminal Code; counts 1 and 2), one count of dealing in the proceeds of crime (s. 400.6(1) of the Criminal Code; count 3), and four counts of presenting a false document to immigration officials (s. 234(1)(a) of the Migration Act 1958 (Cth)).

On counts 1 and 2 contrary to section 271.2(2B) of the Criminal Code, there was a change of plea at trial after the Crown prosecutor's opening, from not guilty to guilty. Pleas of guilty to the other charges had been entered previously. Later in the proceedings, Dobie made an application to withdraw his guilty pleas; however, on the day of sentencing, his counsel agreed to the dismissal of that application. The sentencing judge considered the application to have been abandoned.

On 23 December 2008, Dobie was convicted and sentenced for all the charges. He was sentenced to an effective term of five years imprisonment with a non-parole period of 22 months, as follows:

- Count 1 – 4 years imprisonment
- Count 2 – 4 years imprisonment (concurrent with count 1)
- Count 3 – 12 months imprisonment (concurrent with the counts 1 and 2)
- Count 4 – 12 months imprisonment (concurrent with counts 1 and 2)
- Count 5 – 12 months imprisonment (concurrent with counts 1 and 2)
- Count 6 – 12 months imprisonment (concurrent with count 7 but cumulatively upon counts 1 and 2)
- Count 7 – 12 months imprisonment (concurrent with count 6 but cumulatively upon counts 1 and 2).

Dobie subsequently made an application for leave to appeal against the sentence and an application for extension of time within which to appeal against his conviction. On 18 December 2009, the Queensland Court of Appeal handed down its judgment and in doing so refused the application for leave to appeal against sentence, granted the application for extension of time within which to appeal against conviction, and dismissed the appeal against conviction.

Kam Tin Ho and Ho Kam Ho

Kam Tin Ho and Ho Kam Ho were part of a sophisticated, well-planned and well-executed scheme to bring Thai women to Australia to work in the sex industry. In the course of the scheme, the women were variously traded, possessed and used as items of property, thereby reducing them to the condition of slavery.

The scheme was run from Bangkok, Sydney and Melbourne. Kam Tin Ho was its Melbourne principal, and Ho Kam Ho was active in its Melbourne operation. Each of the women entered Australia on a three-month tourist or business visa that was issued in Bangkok. The visas were arranged by people overseas, who created false cover stories for the women to travel to Australia. The women were chaperoned into Australia and handed over to their controllers. They were to stay in Australia for as long as possible and to work without breaching their visas. The scheme also relied upon the submission of applications for protection visas when the expiry of the women's short stay visas was imminent. In each case, the women were taken to migration agents to sign protection visa applications that falsely claimed they were fleeing some sort of persecution in Thailand. The subjects took part in these arrangements voluntarily.

The women came to Australia from Thailand with the knowledge that they were going to work in the sex industry; all but one had previously worked as prostitutes. They were aware that they had to pay off a contractual debt to secure their trip to Australia and the opportunity to earn money to assist their families in Thailand, which meant that before earning money to keep for themselves they would be required to service a specified number of clients. For some, the number of clients or jobs owed was 650; for others, it was 750. Each was a 30-minute sexual service. Clients were charged \$125 per half hour by the brothel. The debts owed by the subjects in this case, and therefore the gross value of their work during this period, were from \$81,000 to \$94,000 each. The duration of the contracts would depend on how quickly the subject serviced enough clients to erase the debt. This was usually around three to four months, six days a week devoted to paying off the debt. On those six days, most of the subjects were paid \$5 for each \$125 service they performed and \$50 was deducted from the debt. The seventh day of each week was titled their 'free day' or 'day off', when they could work and keep \$50 of each \$125 service.

These arrangements were accompanied by the exercise of very strict control over almost every significant aspect of the subjects' lives. For at least the duration of their contracts, and usually longer, they were not permitted to keep possession of their passports. They would be transported, by either Ho Kam Ho or another person, between the brothels and their places of residence, which were usually shared by several of the women. The costs of the women's accommodation, food and incidentals was paid. They were effectively restricted to the residential premises. They were not allowed to have a key to the premises and were given strict instructions that they were not to go outside unaccompanied. If they needed anything, they were usually instructed to contact their particular minders, one of whom was Ho Kam Ho. When they were permitted to go out to have something to eat or to go shopping, which was rarely, the excursion would be under supervision. When their contracts had been fulfilled, the subjects were expected to continue working for at least the

balance of 12 months after their arrival. They were allowed to keep \$50 from each service they performed. However, the restrictions on their freedom of movement generally remained in place.

All the women were mature adults, educated and aware. Each acted or was prepared to act voluntarily as a prostitute, and each entered in Australia willingly and knowingly on false documentation. Each came to Australia to help her family, which was in difficulty in her homeland. When in Australia, each was in a situation of personal, social and cultural isolation. The financial transaction counts reflect the expropriation of funds earned from prostitution to the subjects' families in Thailand.

Following a 10-week jury trial, both accused were found guilty of several counts contrary to the Criminal Code and the *Financial Transaction Reports Act 1988* (Cth).

Kam Tin Ho was found guilty of five counts (counts 1, 3, 5, 7, 12) of intentionally possessing a slave contrary to section 270.3(1)(a) of the Criminal Code; of one count (count 4) of intentionally exercising over a slave a power attaching to the right of ownership, namely the power to use a slave contrary to section 270.3(1)(a) of the Criminal Code; and of four counts (counts 9, 11, 13, 14) of being a party to two non-reportable cash transactions for the sole or dominant purpose of attempting to ensure that the transactions would not give rise to a significant cash transaction, contrary to section 31(1) of the *Financial Transaction Reports Act 1988* (Cth).

The total effective sentence imposed upon Kam Tin Ho was 14 years imprisonment with a non-parole period of 11 years imprisonment. In addition, the court declared the period of 107 days pre-sentence detention already served by Kam Tin Ho as already served under the sentences. He was sentenced as follows:

- Count 1 – 9 years imprisonment (to commence 29 September 2009)
- Count 3 – 9 years imprisonment (to commence 29 September 2010)
- Count 4 – 9 years imprisonment (to commence 29 September 2011)
- Count 5 – 9 years imprisonment (to commence 29 September 2012)
- Count 7 – 9 years imprisonment (to commence 29 September 2013)
- Count 9 – 6 months imprisonment (to commence on 29 September 2009)
- Count 11 – 6 months imprisonment (to commence on 29 September 2009)
- Count 12 – 9 years imprisonment (to commence 29 September 2014)
- Count 13 – 6 months imprisonment (to commence on 29 September 2009)
- Count 14 – 6 months imprisonment (to commence on 29 September 2009).

The court directed cumulation of one year imprisonment of each of the sentences on counts 3, 4, 5, 7 and 12 upon count 1 and upon each other. The court also directed that the four sentences on counts 9, 11, 13 and 14 are to be served wholly concurrently with each other and wholly concurrently with the sentence on count 1, the first slavery count.

Ho Kam Ho was found guilty by the jury on four counts (counts 1, 3, 5, 7) of intentionally possessing a slave contrary to section 270.3(1)(a) of the Criminal Code in relation to offences involving four subjects, and guilty on one count (count 11) of being a party to two non-reportable cash transactions for the sole or dominant purpose of attempting to ensure that the transactions would not give rise to a significant cash transaction, contrary to section 31(1) of the *Financial Transaction Reports Act 1988* (Cth).

The total effective sentence imposed upon Ho Kam Ho was 10 years imprisonment with a non-parole period of seven years. The court also declared the period of 315 days pre-sentence detention as already served. He was sentenced as follows:

- Count 1 – 7 years imprisonment (to commence on 29 September 2009)
- Count 3 – 7 years imprisonment (to commence on 29 September 2010)
- Count 5 – 7 years imprisonment (to commence on 29 September 2011)
- Count 7 – 7 years imprisonment (to commence on 29 September 2012)
- Count 11 – 6 months imprisonment (to be served wholly concurrently with the sentence on count 1) (to commence on 29 September 2009).

In relation to the slavery counts, the court directed that there be cumulation of one year imprisonment of the sentences on each of counts 3, 5 and 7 upon count 1 and upon each other.

Kam Tin Ho and Ho Kam Ho have lodged appeals against both conviction and sentence. No date has yet been set by the Court of Appeal.

Kam Tin Ho and Sarisa Leech

In 2003, KW, a 30-year-old Thai prostitute, met Sarisa Leech in Bangkok and then came to Australia to work as a prostitute, her fare having been paid for by others. She knew that her ticket and accommodation in Australia, as well as a visa, had been arranged for her. KW came to Australia on a short stay visa on the false basis that she would be attending a 'team building seminar'. False documents attached to the visa application certified as to that intention. KW was told that these arrangements created a debt owed by her, which would have to be paid off by her providing sexual services to 650 men in particular Melbourne brothels.

KW was told she would be going to stay at a place in Australia, where she would have to wait. After arriving in Australia, she was taken to an apartment in Fitzroy. KW lived there with a girl known as 'Lisa'. In the early stages she did not have a key to the apartment, and from time to time a man known as 'Ben' brought food.

Later, Leech also lived in the apartment with KW and 'Lisa'.

KW lived in the apartment for some three months before she started working in the brothel to which she was assigned. When Leech was there, KW would ask for Leech's permission each time she went out of the apartment. The relationship between Leech and KW was

apparently friendly; Leech assisted KW with the English language and showed her how to use public transport.

Part of the plan for KW involved obtaining a protection visa, thus extending her stay in Australia and enabling her to work. Both Leech and Kam Tin Ho assisted in this process.

KW was required to learn a false story about why she was seeking the protection visa – in essence, that she had converted from Buddhism to Mormonism in Thailand and she was afraid that she would be persecuted if she went back to Thailand.

Without any real assistance from KW, except to sign documents containing untrue claims, KW's application for the protection visa passed through several legal stages. The purpose of the application was to create delay while she worked in Melbourne.

Leech told KW that she would be starting work. KW was given the name 'Cindy' by Kam Tin Ho, and began work at a brothel in South Melbourne.

KW was told that Leech, Kam Tin Ho and 'Ben' would supervise her. The arrangement in the brothel was that clients paid \$125 for half an hour of sexual services and that money was placed into a locked box by employees, including KW. She was told by Leech that \$50 of the \$125 would be deducted from the debt she owed. KW was instructed to also place her passport there. KW said she never took her passport home, although she wanted to have her passport with her.

It took KW three or four months to pay off the debt she owed, and she kept her own record of the clients that she serviced. On a free day in the week and after she had paid off the debt, she was entitled to earn \$50 of \$125 herself from each customer.

Kam Tin Ho's activities involved speaking to KW about complaints clients had made about the service she provided. KW was told she needed to service the clients 'quite nicely'.

After the debt was paid KW asked whether she could stop working and was told she could not because there were no girls at the shop.

KW worked in the brothel from 11.00 am to 2.00 am and would see as many as 16 customers during that time. When she was working, the premises were locked and she could not leave. Even when ill, KW continued to work in the brothel.

Once the debt was 'paid', KW appeared to have more freedom to leave the apartment. After she paid the debt she had a key to the apartment. When Leech was in Thailand, she rang KW and told her that if she did not work she would be sent back to Thailand.

Leech and Kam Tin Ho had spoken with KW about how to deal with any questions that she might be asked. That process was repeated when Kam Tin Ho called her again, suggesting that if there were problems she could complain, although Ho did not indicate to whom she should complain.

On 4 November 2009, Kam Tin Ho and Sarisa Leech were each found guilty of an offence of intentionally using a slave contrary to section 270.3(1)(a) of the Criminal Code. Leech was also found guilty of intentionally possessing a slave, also contrary to section 270.3(1)(a) of the Criminal Code.

Ho was sentenced to 6 years imprisonment, of which 6 months is to be served cumulatively upon the sentences imposed by Cummins J on 29 September 2009 (see above, 'Kam Tin Ho and Ho Kam Ho'). The date on which the sentence is to commence is 29 March 2018. The total effective sentence is therefore 14 years and 6 months imprisonment. The non-parole period of 11 years, imposed by Cummins J, was confirmed.

Leech was sentenced as follows:

- Count 1 – 5 years imprisonment (to commence on 4 November 2009)
- Count 2 – 5 years imprisonment (to commence on 4 November 2010).

Of the sentence imposed on count 2, one year is to be served cumulatively on the sentence imposed on count 1; that is, a total effective sentence of six years. A non-parole period of three years and six months imprisonment was fixed.

Ho and Leech have lodged appeals against their convictions and sentences. No date has yet been set by the Court of Appeal.

Zoltan Kovacs and Melita Kovacs

The defendants allegedly formed a plan to bring a Filipina woman to Australia to work in their shop and to provide domestic services. Zoltan Kovacs and a friend were to travel to the Philippines to identify a suitable woman. Part of their proposal was for the friend to marry the selected person to entitle her to enter Australia. The woman was then to apply for a visa and come to Australia where she would be made to work for the defendants, both in their takeaway shop at Weipa and in their residence as a child minder and housekeeper, until the debts for the travel to Australia were paid. There was a suggestion that this would take five years. The marriage was a sham, and evidence from the woman was called at the trial. Evidence was also called from the person she married, who had already pleaded guilty to breaches of the *Migration Act 1958* (Cth) arising from the sham marriage.

When the victim arrived in Australia, she was met by Zoltan Kovacs and driven to Weipa where she was allegedly put to work in the shop, working 12-hour days for five and a half days per week. When she returned to the residence of the defendants (where she lived), she was allegedly required to care for three small children and do household duties. She was allegedly paid little for her duties; there was some evidence that a small amount of money had been sent to her family on her behalf. She tried to escape on one occasion, running away to the residence of a person with whom she worked, but Melita Kovacs took her home, taking her passport from her. The victim spoke very little English and was isolated culturally. Eventually, when both of the defendants were away, she was able to make her escape from Weipa to Cairns.

Following a jury trial, Zoltan and Melita Kovacs were each found guilty and convicted and sentenced in relation to one count of arranging a marriage for the purpose of assisting the complainant to get a stay visa contrary to section 240(1) of the Migration Act (counts 1 and 4, respectively); one count of intentionally possessing a slave contrary to section 270.3(1)(a) of the Criminal Code (counts 2 and 5, respectively); and one count of intentionally exercising over a slave a power attaching to the right of ownership, namely the power to use, contrary to 270.3(1)(a) of the Criminal Code (counts 3 and 6, respectively).

Zoltan Kovacs was sentenced to a total effective sentence of eight years imprisonment, as follows:

- Count 1 – 1 year imprisonment
- Count 2 – 8 years imprisonment
- Count 3 – 8 years imprisonment.

The sentences were to be served concurrently. A non-parole period of three years and 9 months imprisonment was set.

Melita Kovacs was sentenced to a total effective sentence of four years imprisonment, as follows:

- Count 4 – 1 year imprisonment
- Count 5 – 4 years imprisonment
- Count 6 – 4 years imprisonment.

The sentences were to be served concurrently. A non-parole period of 18 months imprisonment was set.

Zoltan Kovacs appealed against his convictions on counts 2 and 3; Melita Kovacs appealed against her convictions on counts 5 and 6. The Queensland Court of Appeal upheld their appeals, set aside the verdicts of guilty on counts 2, 3, 5 and 6, and ordered retrials.

At his retrial, Zoltan Kovacs entered a plea of guilty to the charges and was sentenced as follows:

- Count 2 – 4 years imprisonment
- Count 3 – 8 years imprisonment (commencing on 18 February 2010).

Each of these sentences was to be served concurrently, but cumulatively with sentences imposed in unrelated matters (that is, a sentence of seven years), making a total effective sentence of 12 years imprisonment. A non-parole period of 15 months was set, taking into account the time already served on the slavery offences and other, unrelated matters (1,431 days)

Following a six-day jury trial, which commenced on 8 February 2010, Melita Kovacs was again found guilty and sentenced to four years imprisonment with a non-parole period of 291 days on each count. She has since lodged an application to appeal against her conviction and sentence. The appeal will be heard on a date yet to be fixed.

Trevor McIvor and Kanokporn Tanuchit

This case resulted in the first convictions for slavery in New South Wales. The defendant, McIvor, owned and co-managed with his wife, Tanuchit, a brothel known as 'Marilyn's' in Fairfield. All five victims were recruited in Thailand to work in Australia between July 2004 and June 2006. Four of the five victims knew that they would be providing sexual services; one was given the false impression that she was coming to work as a masseuse.

When the victims arrived at Marilyn's, the defendants enforced an artificial 'debt contract' to repay an amount between \$35,000 and \$45,000 by servicing clients at the brothel. The evidence at trial revealed that the defendants forced all victims to work seven days a week, on average for 16 hours a day. Normally, for each sexual service performed the worker would be paid a portion of the full amount and the remainder went to the 'house'. However, the victims were paid cash on only one day of the week; the amount earned during the remainder of the week went to clearing their 'debt'.

During the victims' period of slavery, the defendants forced the victims to work and sleep in locked premises. The victims were not allowed to leave the brothel without being in the company of the defendants or a trusted associate. The defendants confiscated the victims' passports on their arrival and for a period of one to two months restricted their access to telephones by confiscating their mobile telephones and locking brothel telephones with a PIN code. The defendants forced the victims to work during their menstruation and during severe illnesses and infections.

These offences were discovered by the AFP when one of the victims (the one who thought she was to work as a masseuse) covertly obtained the telephone number of the Thai Consul General and requested assistance.

Following a jury trial, the accused were each convicted of five counts of intentionally possessing a slave contrary to section 270.3(1)(a) of the *Criminal Code Act 1995* (Cth) and five counts of intentionally exercising a power attaching to the right of ownership over a slave contrary to section 270.3(1)(a) of the Criminal Code. Each was sentenced to 10 years imprisonment on each count.

With some cumulation of sentences, McIvor was sentenced to a total effective sentence of 12 years imprisonment commencing on 3 November 2007, with a non-parole period of seven years and six months.

With some cumulation of sentences, Tanuchit was sentenced to a total effective sentence of 11 years imprisonment commencing on 6 November 2007, with a non-parole period of seven years.

McIvor and Tanuchit subsequently appealed their convictions to the NSW Court of Criminal Appeal. On appeal, the convictions were set aside and retrials ordered on the basis that on a number of occasions the trial judge had expressly instructed the jury in relation to the fault issue and the indicia of slavery in a way that may have confused the jury. On 30 July 2010, following the retrial, the jury returned verdicts of guilty against both Tanuchit and McIvor. The matters were adjourned for sentencing.

Wei Tang

Following a first trial in 2005, which resulted in the discharge of a jury without verdict, on 3 June 2006 Wei Tang was convicted by a jury in the County Court of Victoria of five counts of possessing a slave (counts 1, 3, 5, 7 and 9) and five counts of using a slave (counts 2, 4, 6, 8 and 10) contrary to section 270.3(1)(a) of the Criminal Code. Tang was sentenced to a total effective sentence of 10 years imprisonment, and a single non-parole period of six years was fixed.

Tang subsequently appealed her conviction, and in June 2007 the Victorian Court of Appeal upheld Tang's appeal against conviction and ordered that the convictions be quashed and that there be a retrial. The CDPP obtained special leave to appeal that decision to the High Court. On 28 August 2008, the High Court upheld the CDPP's appeal, set aside the orders made by the Court of Appeal and, in their place, ordered that Tang's appeal against conviction to the Court of Appeal be dismissed. Following the High Court decision, which restored the convictions, Tang's original appeal against sentence was remitted to the Victorian Court of Appeal for consideration.

On 17 August 2009, the Court of Appeal rejected all but one of the grounds of appeal against sentence and rejected the argument that the sentence imposed was manifestly excessive in the circumstances as they were known to the sentencing judge. However, the court was satisfied that the effect of the sentence imposed was, impermissibly, to punish Wei Tang twice for the same conduct and that that sentencing error had the effect of reopening the sentencing discretion, which the court held must be exercised afresh by it. In resentencing, the court held that developments since sentence was first imposed gave rise to additional mitigating factors that were not known to the sentencing judge. Consequently, taking those matters into account, the court concluded that the total effective sentence should be nine years, with a non-parole period of five years.

On 17 August 2009, the Court of Appeal resentenced Tang as follows:

- Count 1 – 4 years imprisonment
- Count 2 – 7 years imprisonment (base cumulation)
- Count 3 – 4 years imprisonment
- Count 4 – 7 years imprisonment (9 months cumulation)
- Count 5 – 3 years imprisonment
- Count 6 – 5 years imprisonment (6 months cumulation)
- Count 7 – 2 years imprisonment
- Count 8 – 4 years imprisonment (6 months cumulation)
- Count 9 – 1 year 6 months imprisonment
- Count 10 – 3 years 6 months imprisonment (3 months cumulation).

