Development Bulletin
No. 66 December 2004

People Trafficking, Human Security and Development

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 Trafficking of women, men and children is becoming a major international issue, with ramifications in national politics and legislation, global markets, transnational crime and corruption, human rights, migration, illegal migration and poverty. Until recently, the scale of people trafficking was not well understood and few countries had legislation to deal with it. Nowhere was trafficking considered a development issue, even though it has its causes based in poverty. In September 2004, the Development Studies Network convened a major international symposium, People Trafficking, Human Security and Development, to investigate fully the extent of the problem — who, why and how people are trafficked, trafficking in relation to policy and legislation and issues of governance and security. This issue of Development Bulletin features papers from the symposium and a range of additional and supporting materials.

We hope it will provide an important and useful resource for academics, NGOs and practitioners who work with the difficult and complex issues surrounding people trafficking.

Collaboration and support
We are grateful to our co-convenors, the Australian Attorney General’s Department, Australian Federal Police, Australian Institute of Criminology, the National Institute of Social Sciences and Law, and particularly AusAID, without whose financial support the publication of this issue would not have been possible. The efforts of all our collaborators ensured a wide range of speakers and diverse range of views. Again, the National Museum of Australia provided a splendid venue.

Next Development Bulletin
We regularly hear about the developmental problems Papua New Guinea faces, including failed electoral processes, the growing HIV/AIDS crisis, the ailing health and education systems and the multitude of problems with governance and the bureaucracy. What we seldom hear are the success stories.

Our next issue examines successful models of community development, entrepreneurship and governance in PNG. The State Society and Governance in Melanesia (SSGM) project at ANU collaborated with the Divine Word University to look at successful initiatives at the community level in education, health and agriculture and at projects focused on building better and stronger community relations, including through restorative justice and conflict resolution. One aspect of their collaboration was the focus on successful entrepreneurship, including individual and community-based business ventures. If you have a ‘good news’ paper on PNG, we may be able to publish it.

Meanwhile, this issue will provide a rather depressing perspective of human behaviour and development. But there are positive aspects — the efforts to counter trafficking have resulted in groundbreaking models of cooperation, collaboration and information sharing between countries in the region, between different government departments, and between government and non-government organisations.

Stimulating reading.

Pamela Thomas
Managing Editor

December 2004
Introduction: People trafficking, human security and development

Pamela Thomas

The illegal international trade in people is a multi-billion dollar business that provides huge profits at little or no risk to traffickers. It remains the almost 'perfect crime'. For many years it has gone unrecognised. In Australia, for example it has only very recently been seen as a problem and relevant legislation put in place. To date there have been very few successful prosecutions. Well-established transnational criminal networks, corrupt officials, a global economy and sophisticated communication systems combined with huge demand and a limitless supply of the poor and disadvantaged have meant a very rapid increase in people trafficking. Almost all countries are involved in some way — as suppliers of victims, as transhipment points or as destinations. Trafficking can involve both legal and illegal activities. It comprises not one single act, but a series of acts, from the recruiting of women, men and children to obtaining visas and passports (legally or illegally), travel, entry into the new country and licit or illicit employment. Trafficking is a violation of people's basic human rights. Their freedom of movement is compromised, they are often illegal immigrants, and the work they are forced to do is often not within the original agreement. Debt bondage is also common.

There is growing recognition that trafficking in people is not just an issue of human rights and transnational crime, but a crucial issue of social and economic development. The following papers consider a broad range of issues related to people trafficking—its nature and extent; why and how it happens; who is involved; its relationship to poverty, culture and the global economy; and what is being done to try to counteract it. A particular focus is given to the Australian situation and Australia's role in addressing the issue on a regional basis.

Legal definitions

Anne Gallagher considers the legal definitions of what constitutes human trafficking and the legal differences between trafficking and people smuggling. While most governments have expressed commitment to addressing human trafficking, there are significant institutional and political constraints, including inadequate legal frameworks, low capacity within national criminal justice systems and weak information flows within and between countries. The situation is exacerbated by being within the sensitive and highly politicised areas of migration, public order, human rights and transnational organised crime. The crime of trafficking covers a wide range of offences, including, but not limited to, murder, assault, sexual assault, kidnapping, extortion, unlawful detention, slavery, sexual slavery, debt bondage and conspiracy. While traffickers can be prosecuted under existing laws in most countries 'capacity and willingness to act are higher in countries which have enacted specific legislation setting out precisely the nature of the offence and detailing the law enforcement and judicial responses to it'.

Even where anti-trafficking legislation exists there are problems. Key issues are: the complexity of the phenomenon; the fragile and often contradictory social environments; involvement of law enforcement officials in trafficking; dependence on the role of victims as witnesses in trafficking prosecutions; low priority accorded to trafficking as a crime; and failure to recognise trafficking in men. Fundamentally, trafficking of women, men and
children is a highly lucrative business that caters to all base human instincts. It is a business with limitless demand, limitless supply and very, very little risk.

The international situation and international responses

Burkhard Dammann and Paul Williams discuss the international and United Nations responses to human trafficking and the conventions and protocols put in place to prevent, suppress and punish trafficking in persons. They outline the operation of the UN Trafficking Protocol and the way it relates to the Convention against Transnational Organized Crime. They review the aims and operation of the United Nations Global Programme against Trafficking and its implementation in projects in Philippines, Thailand, Vietnam, the Czech Republic, Poland, the Slovak Republic, Brazil, Colombia, Nigeria, Togo and Benin. In a separate paper, Williams details the UN Trafficking Protocol provisions, exploring their reach and their limits in prosecuting the acts of people traffickers and criminalising the circumstances into which traffickers place their victims. Williams points out that only one third of countries have ratified the Trafficking Protocol (Australia and the US have not) and discusses some of the difficulties in reaching consensus on protocols of this nature.

The United Nations Convention on the Rights of the Child includes provisions for the protection of children from recruitment, transportation, transfer, harbouring or receipt for the purpose of exploitation. Within the convention, sexual exploitation is seen as the most severe or extreme form of exploitative labour. As Sharon Bessell points out, the convention has been almost universally ratified but this has had little practical impact on child trafficking. In addressing the situation a major challenge is how to reduce the demand for forced child labour. She argues that the reality is that for all the rhetoric, ‘the rights of children victims of trafficking are often lost in highly politicised debates that tend to focus on organised crime, illegal migration and issues of state sovereignty’.

The issue of human rights is taken up by Kathy Richards in relation to the trafficking of migrant workers, many of whom are trafficked for labour as domestic servants, agricultural workers and to work as manual labourers in sweatshops and restaurants or as dancers and prostitutes in brothels and bars. She discusses the role and impact of the United Nations Convention on the Protection of the Rights of All Migrant Workers. ‘Under the provisions of the convention, the fundamental human rights and welfare of all migrant workers are to be protected, regardless of their legal status. Currently, the minimal number of states that have ratified the convention limits its impact. None of the industrialised countries, who are largely responsible for the mistreatment of migrant workers, have expressed an interest in the convention.

Australia has played an important role in combating both people smuggling and people trafficking in the region through the development and implementation of the Bali Process and through funding regional projects relating to trafficking in persons in Thailand, Laos, Cambodia and Vietnam. Caroline Millar outlines Australia’s role in helping develop legislation to criminalise smuggling and trafficking and in negotiating bilateral extradition treaties and mutual assistance arrangements. An important objective of the Bali Process is the development of more effective information and intelligence sharing, an issue taken up in detail by Toni Makkai and Rob McCusker.

Reliable data and international mechanisms for sharing it are vital to addressing the issue of trafficking. Toni Makkai and Rob McCusker consider the difficulties in collecting reliable data on human trafficking and the problems that governments face in trying to make strategic decisions and in apportioning funds without sound evidence. To date, much of the data collected has focused on sexual exploitation of women and children within prostitution, but not other forms of exploitation or the trafficking of men and boys.

As people trafficking is usually transnational and involves transnational criminal networks, it needs to be combated on a transnational basis. Shane Wright and Rob McCusker consider different aspects of combating transnational crime. Shane Wright explains the work undertaken by the Australian Federal Police (AFP) both internationally and in Australia. Australia is seen as a destination country for traffickers, with Thailand considered as the main source of victims: ‘Victims are prepared and staged within the country, awaiting sale and subsequently movement to their final destination. Traffickers within Thailand have access to the criminal activity of identity fraud and the trafficker’s leverage of the known drug-trafficking routes out of Thailand to other destinations to move their commodity.’ The AFP have focused their efforts on developing comprehensive policies and strategies that put resources into fighting trafficking on the domestic front, as well as into regional cooperation. Wright emphasises the importance of strong domestic and international networks to underpin law enforcement against transnational organised crime groups.

Rob McCusker provides a crime typology for transnational crime and its links with active and passive corruption. Trafficking of people could not occur without the active or passive collusion of politicians, judiciary, law enforcement and other officials. He points out that ‘[a]s the profits generated by trafficking, and the demand for trafficked persons increase, the need for further and intensified corruption will also continue to rise. If trafficking is to be mitigated, the symbiotic relationship that exists between corrupted officials and transnational criminal networks must be systematically addressed.’

Brian Iselin agrees that, as profits from trafficking increase, demand will also increase. He argues that demand is the key causal factor that underlies trafficking and until this is fully recognised
trafficking will be difficult to combat. He applies economic theory to trafficking and discusses marketing strategies and how these may be used to meet the demands of customers in the most profitable manner.

The push and pull factors of trafficking are discussed by Sallie Yea, who uses a series of case studies to illustrate some of the push factors that have influenced women's decisions that have led to them being trafficked. The underlying factor is poverty, but violence, powerlessness and loss of identity also influence decisions.

Judith Dixon draws on many years of practical experience in addressing trafficking and supporting victims to provide a review of best practice strategies for support, protection and reintroduction of victims. She calls for comprehensive programs that address the needs of individual victims, the victim's family and social networks, and which take into consideration the need to protect the victim's human rights.

The Australian experience

Australia is an important destination country for trafficking in the region. People are trafficked into Australia to work as low-paid illegal labourers, domestic servants or into the commercial sex industry. Kerry Carrington shows that with the globalisation of the world economy, rather than organised criminal syndicates being at the centre of trafficking in women and children, the key players are criminal entrepreneurs operating in a liberalised global market where there is little fear of detection or prosecution. They offer products that are in high demand by consumers prepared to pay substantial sums for services. Detection and prosecution are extremely difficult.

A major difficulty in addressing the problem is the lack of reliable statistical data, as up to 80 per cent of sexual exploitation crimes go unreported. As many of those who have been trafficked have entered the country illegally, they are unlikely to report to the police for fear of deportation. This has resulted in there being no witnesses to give evidence in prosecution cases. While Australian legislation has gone some way to addressing the problem by initiating a witness protection visa for trafficking victims, the law does not yet fully reflect the new internationally agreed standards set out in the Trafficking Protocol and there remains considerable tension between migration law and the protection of victims. Kerry calls for revision of the witness protection visa. This point is taken up in detail by Georgina Costello and Hui Zhou.

The treatment of trafficked women in Australia needs considerable improvements if the prosecution of traffickers is to succeed. Costello and Hui Zhou suggest that if Australia is to successfully address trafficking in women and children, the context within which trafficked women find themselves needs to be fully understood. They maintain that the failure of legal decision makers and the judiciary to understand what happens to women trafficked to Australia results in poor legal and migration decision making and less than effective law enforcement. Costello and Zhou provide a well-documented and disturbing legal case study, which illustrates the failure of a range of organisations and individuals, including the trial judge, to properly understand the context of trafficked women and to respond accordingly.

Richard Fairbrother, Felicia Johnston and Margaret Joseph review Australian legislation that pertains to slavery, sexual servitude, the use of force or threats and deceptive recruiting and discuss the Australian Government's Action Plan to Eradicate Trafficking in Persons. This plan covers the development of a community awareness project with NGO participation, legislative and international law responses, law enforcement, investigation and prosecution, protection and visas for trafficking victims, and victim support and assistance with reintegration.

Combating trafficking within Australia and internationally involves a number of different government departments. AusAID is responsible for administering the official overseas aid program relating to combating people trafficking. Since 1998 Australia has provided approximately $16 million for anti-trafficking support in the region, primarily in East Asia and the South Pacific. Murray Proctor outlines AusAID's collaboration with the Department of Foreign Affairs and Trade, Immigration and Multicultural and Indigenous Affairs, the AFP and Attorney General's Department and their joint efforts to combat trafficking and its causes. Proctor also outlines how the aid program will provide assistance to trafficked victims being returned from Australia to their source countries.

Case studies

Swagata Raha provides an overview of trafficking in the South Asia Region and the operation of the SAARC (South Asian Association for Regional Cooperation) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. She reviews the need for regional coordination of effort and for greater coordination between NGOs, governments and states. India is the major receiving country in the South Asia region for victims of trafficking, with an estimated 12,000–50,000 women and children trafficked annually.

In both the Philippines and Indonesia women are recruited legally and illegally to work internationally as domestic workers, plantation and factory workers, entertainers, prostitutes and mail-order brides. Women are trafficked internally from rural to urban areas, as well as to Singapore, Brunei, Malaysia, Hong Kong, Japan, Taiwan, the Middle East, Australia, the United States and Sweden. Trafficking in both countries has become a national problem, but governments have been slow to address the issue as they derive considerable economic benefit from international migrant workers. Iwu Dwisetiyani reports that in 2002 Indonesia gained US$2.2 million in remittances from overseas workers. The recently passed law on international labour protection does little to assist those who are trafficked. Key aspects of human trafficking in Indonesia
include women being given false information about the work they will do, falsification of documents, debt bondage, restricted movement, sexual harassment, assault, illegal confinement, reduced and withheld wages, deception, extortion and coercion.

Sri Moertiningsih Adioetomo argues that in Indonesia trafficking has its origins in the family and community. Women and girls are usually trafficked by someone they know well — relatives, friends or parents. In an attempt to curb the problem, the Indonesian Government has developed the National Plan of Action to Eliminate Trafficking in Women and Girls and the National Plan of Action to Eliminate Commercial Sexual Exploitation of Children. Adioetomo discusses the need for an integrated approach across agencies, sectors and countries to implement these plans of action.

Sexual exploitation of trafficked women is a rapidly expanding business in South Korea where women are recruited from the Philippines, Russia and the Commonwealth of Independent States. Sallie Yea explores the ‘victim control’ mechanisms used by traffickers and how these affect the victim's willingness to give evidence against traffickers. These mechanisms include restricted movement, the normalisation of such restriction on the pretext that it is for victims' safety, pseudo constructions of family, and the use of violence and threats of reprisals, including death threats and withholding of wages. These mechanisms have a strong negative effect on women and girls' willingness to provide testimonies or information to the authorities which could assist in the prosecution of traffickers.

There are very considerable health issues for women trafficked into prostitution. HIV/AIDS is particularly problematic as most ‘clients’ do not want to wear a condom. The number of infected women is growing rapidly and it is estimated that 50–80 per cent of Burmese prostitutes in Thailand are infected. The spread of HIV/AIDS has resulted in demand for younger and younger children in prostitution as it is widely believed that they are free of infection.

Aida Santos provides several case studies of trafficked people in the Philippines and considers trafficking and trafficking legislation in relation to the Philippines Government’s support for female migrant workers, including mail-order brides. She reviews the current legislation and the practical realities of trying to get prosecutions and rehabilitation of those trafficked.

Conclusion

Trafficking in people is a transnational business that can only be successfully countered by international cooperation and action and a much greater understanding of the extent of the problem, including the cultural and psychological factors that are commonly utilised in trafficking and its underlying causes and impact.

Trafficking needs to be seen as a human rights and development issue and greater consideration given to the circumstances of those who have been trafficked. Enacting legislation that is specific to the reality of trafficking, that does not further victimise the victim and which provides real alternatives to those who have been trafficked, rather than immediate repatriation, is a good place to start.

Until the underlying causes of trafficking are addressed — the levels of poverty and violence and the mentality of those who demand and will pay for exploitative sex — effective legislation and systems that encourage successful prosecution of traffickers are the only means of countering trafficking. Enacting appropriate legislation, establishing international information networks and putting in place practices that operate effectively across borders takes time and goodwill.
Introduction

Human trafficking is now high on the international political agenda and an important issue of domestic concern for many governments. However, attempts to deal with trafficking and related exploitation at the national, regional and international levels do not appear to have made much impact on the problem. If current research is to be believed, more people than ever are being trafficked from, through and to more countries. Violence is increasing while illegal profits are booming. National criminal justice agencies in developed and developing countries alike have found themselves especially unprepared for this sophisticated, devastating crime.

This paper identifies and analyses contemporary national responses to trafficking, particularly in the criminal justice sector, with a view to identifying both obstacles and opportunities. It is divided into four parts. Part One dissects the legal definition of trafficking and attempts to isolate its identifying characteristics. Part Two looks at the political and institutional obstacles to effective national responses. In Part Three, the legal responsibilities of governments with regard to their response to trafficking are explored from a human rights perspective. Emerging good practices, particularly in relation to criminal justice responses, are identified in Part Four.

1. What is trafficking? Legal definitions and defining characteristics

Until December 2000, the term 'trafficking' had never been precisely defined in international law despite its incorporation in a number of international legal agreements including some of the first human rights treaties. The ongoing failure to develop an agreed definition of trafficking reflected major differences of opinion concerning the ultimate end result of trafficking, its constitutive acts and their relative significance. The search for a definition of trafficking has also been made immensely difficult by the perceived need to capture, under one heading, a wide range of different phenomena.

The legal definition

Four years ago, the international community concluded an agreement on trafficking (the Palermo Protocol) which contained the first ever definition of this phenomenon. While the protocol definition is quite complicated, it can be broken down into three key elements as follows:

1. Movement (across or within borders)
2. Coercive or deceptive means
3. Exploitation.

In the case of trafficking in children, element 2 is unnecessary. In other words, the movement of children for purposes of exploitation is considered trafficking, irrespective of whether or not the child was coerced, deceived or otherwise lured into the situation. The definition does not require the crossing of an international border. This means that internal movement of the kind described above for the purposes of exploitation would also be considered trafficking.

Defining characteristics of trafficking

Practitioners, policy makers and activists agree that trafficking fact patterns (what happens, how and to whom) vary significantly from place to place and even from time to time. As trafficking has moved from the margins to the mainstream of international and domestic political concern, the need for a common understanding as to its typical elements has become more pressing. The most widely accepted recent articulation of that 'understanding' is the Palermo Protocol definition set out above. Using this definition as a reference point and drawing on a range of primary sources, it is now possible to identify the major characteristics of current trafficking patterns. The key points can be summarised as follows:

- Trafficking takes place for a variety of end purposes, including domestic service, forced marriage, forced soldiering and sweatshop labour. Forced sex work is the most visible end result of trafficking, but there is no hard evidence available that it is the most common.
- Trafficking occurs within as well as between countries.
- Traffickers use a variety of recruitment methods. Outright abduction is only very occasionally reported and often difficult to objectively verify.
Child trafficking into the sex and labour sectors generally involves payment to a parent or guardian in order to achieve cooperation and this is often accompanied by a measure of deception regarding the nature of the child's future employment or position.

- The stereotype of the 'coerced innocent' is too simplistic to reflect the reality of the majority of known trafficking situations. Most traffickers use varying levels of fraud or deception, rather than outright force, to secure the initial cooperation of the trafficked person. A commonly reported situation involves a girl or young woman being deceived about the cost (and repayment conditions) of the migration services under offer, the kind of work she will be doing abroad and/or the conditions under which she will be expected to work.

- By definition, a trafficked person ends up in a situation from which she or he cannot escape. Traffickers and their accomplices use a variety of methods to prevent escape, including threats and use of force, intimidation, detention and withholding of personal documents.

- Trafficking is sustained and strengthened through public sector corruption, particularly of police and immigration officials who, in some countries, play a key role in facilitating illegal entry and providing protection to trafficking operations.

- Most though not all trafficked persons enter and/or remain in the destination country illegally. Illegal entry increases a trafficked person's reliance on traffickers and serves as an effective deterrent to those seeking outside help.

- Unlike drug trafficking or human smuggling, revenues from trafficking are ongoing and potentially long term, as the benefits of another person's 'labour' can be appropriated indefinitely.

- Unlike classic chattel slavery, the trafficking situation is generally limited in time. The nature of trafficking end purposes and the dynamic of the activity mean that a trafficked person, if she/he can escape death or serious injury, will, over time, find her/himself in a less exploitative situation from which she/he will at some point be technically free to leave.

It is essential to acknowledge that many trafficked persons, men as well as women, begin their journey as smuggled migrants — having contracted an individual or group to assist their illegal movement in return for financial benefit. In a classic migrant-smuggling situation, the relationship between migrant and smuggler is voluntary and short-term, coming to an end upon the migrant’s arrival in the destination country. However, some smuggled migrants are compelled to continue this relationship in order to pay off vast transport debts. It is usually at this late stage that the end purposes of trafficking (debt bondage, extortion, use of force, forced labour, forced criminality, forced prostitution) will become apparent. The link between trafficking and migrant smuggling highlights one of the main obstacles to identification of trafficked persons. As explained above, trafficking, by definition, involves intention to exploit. Such intent will often not manifest itself until after the ‘movement’ phase is over. It may therefore be impossible to identify a trafficked person as such until the initial movement is completed and they are trapped in the highly exploitative situation which ‘proves’ the trafficked person is something other than a smuggled migrant.

Current, primary-source information seems to confirm that trafficking affects all regions and most countries of the world in one way or another. It is therefore not surprising that complex networks of flows have developed between countries and between continents. While favoured routes are constantly changing (in response to shifts in supply and demand, as well as law enforcement pressures), one constant factor is the social and economic distinction between countries and regions of origin and countries and regions of destination. Trafficking, like all other forms of irregular and/or exploitative migration, generally involves movement from poorer countries or regions to relatively wealthier ones.

2. Political and institutional constraints to effective national responses

Most governments have individually and collectively expressed their commitment to address the issue of human trafficking. At the present time, however, there are significant institutional and political constraints to the realisation of this commitment. These include deficiencies in the applicable legal frameworks, low capacity within national criminal justice systems, and weak information flows within and between countries. The absence of a common understanding about trafficking has also obstructed the development and implementation of effective responses. Finally, the location of the trafficking phenomenon squarely within sensitive highly politicised areas of migration, public order, human rights and transnational organised crime has impacted significantly on the capacity and willingness of governments to respond effectively. These constraints are examined further below.

The legal framework

An adequate legal framework is the foundation of an effective criminal justice response to trafficking. In most cases, such a framework will best be created through the development of
specialised legislation that addresses the trafficking phenomenon directly. The absence of such legislation is not, however, an excuse for law enforcement inaction. The crime of trafficking implicates a wide range of offences, including, but not limited to, murder, assault, sexual assault, kidnapping, extortion, unlawful detention, slavery (including sexual slavery), debt bondage and conspiracy to commit these acts. Traffickers can be pursued, apprehended, prosecuted and punished under existing laws in most countries. In general, however, it appears that understanding, capacity and willingness to act are higher in countries which have enacted specific legislation setting out precisely the nature of the offence and detailing the law enforcement and judicial responses to it. Encouragement of and support for the development of specialised anti-trafficking laws can therefore be justified in countries where such laws have not yet been enacted.

Even where anti-trafficking legislation does exist, there are still problems. Australia is well placed to learn from the experiences of other countries which have gone through the process of developing their own legislation to combat this crime. Typical gaps and weaknesses include:

• lack of legislative clarity on what constitutes trafficking;
• insufficient focus on end purposes of trafficking other than sexual exploitation;
• lack of any human rights context in anti-trafficking legislation (with the resulting implication that the law is concerned solely with suppression of trafficking and not with protecting and supporting its victims);
• lack of a gender perspective, including inadequate recognition of and protection for adult male victims of trafficking; and
• insufficient provision for remedies including access to compensation.

Inadequacies in related laws are also a cause for concern. For example, the widespread lack of social and legal protection for workers in informal unregulated industries such as the domestic service, entertainment and sex sectors impacts directly upon their vulnerability to abuse and renders difficult the investigation, apprehension and prosecution of traffickers.

National criminal justice systems

National criminal justice systems, particularly in countries of destination where the exploitation largely takes place, are the cornerstone of any effective counter-trafficking strategy. In general, however, the criminal justice response from most if not all countries has been weak and ineffective. An overview of common problems follows.

• The complexity of the phenomenon itself, in particular the lack of current understanding about trafficking patterns and processes and the legal and technical issues inherent in investigating a crime which can often only be identified as such after the event. One common result of lack of understanding about trafficking is the arrest of trafficking victims as illegal migrants and/or for their involvement in the sex trade.
• The fragile and often contradictory social environment within which trafficking generally takes place. Community attitudes towards marginalised groups who are over represented in trafficking statistics (in particular migrants, ethnic minorities, women, children and sex workers) operate to support and encourage inappropriate or inadequate criminal justice responses.
• The potential (and, in some cases, actual) involvement of law enforcement officials in the trafficking crime. Such involvement can be indirect (through corrupt practices such as overlooking crimes in exchange for payment) or direct (ownership of/involvement in business into which victims are trafficked).
• The dependence of trafficking prosecutions on the role of victims as witnesses. Victim-led prosecutions will continue for the foreseeable future, as law enforcement agencies in the key countries work to acquire capacities and resources to undertake proactive, intelligence-led investigations. The relationship between police and victim is often characterised by mutual distrust. Victims in particular may hold genuine fears for their personal safety and that of their families. They may be denied much-needed shelter, counselling and other physical and emotional support and thereby not be in a position to assist an investigation.
• The low priority accorded to trafficking as a crime. The investigation and prosecution of trafficking cases is a labour-intensive vocation characterised by highly uncertain outcomes. Law enforcement work on trafficking cases is rarely rewarded in the same way that investigations into drug trafficking or other high profile crimes may be. The fact that victims of trafficking are often considered to be complicit in their own misfortune further decreases the likelihood that the crime committed against them will be investigated, prosecuted and punished.
• The near-universal failure to recognise trafficking in men means that the law enforcement response
is inevitably incomplete. In addition to the implications of not providing assistance and avenues of redress for trafficked men and, correspondingly not creating disincentives and punishments for traffickers of men, this omission reinforces the stereotype that ‘men migrate, but women are trafficked’. It therefore benefits neither men nor women. While men are not protected under laws and policies designed for trafficked women and children, the perception of trafficked women as weak, ignorant and without agency is also reinforced.

3. Human rights, legal responsibilities: What to do, what not to do

Trafficking is a violation of the most basic rights to which all persons, irrespective of their ethnicity, sex, language, religion, occupation or any other difference, are entitled. Human rights violations are also implicated in any analysis of the causes of trafficking. Many of the vulnerabilities identified in Part One above can be traced back to a failure to uphold and protect certain basic human rights, including the prohibition on discrimination and the right to work, freely chosen and accepted. Finally, human rights are central to the trafficking response. As victims of crime, trafficked persons have certain fundamental rights, including protection from threats to their personal security, assistance with legal proceedings and access to effective remedies.

The responsibilities of governments

While trafficking does not generally directly implicate the state, governments are nevertheless responsible, as a matter of international law, for ensuring that the rights of those within their jurisdiction are respected and protected. States must act with ‘due diligence’ in preventing, prosecuting and punishing the crime of trafficking, as well as providing assistance and redress to victims. The major duties imposed by international law upon governments in relation to trafficking are to:

- criminalise trafficking;
- prevent trafficking through all reasonable means;
- promptly and adequately investigate allegations of trafficking;
- ensure the law applies to all without discrimination on the basis of sex, race, age, national, ethnic or social origin or other status;
- take appropriate action against traffickers, including prosecution and the imposition of penalties which are commensurate with the seriousness of the offence;
- identify victims of trafficking and ensure their safety, dignity and personal security;

- provide access to remedies for victims of trafficking;
- ensure that victims of trafficking are treated with respect during criminal proceedings and that the proceedings themselves do not further violate their rights or dignity;
- ensure that the ‘best interests of the child’ is the overriding principle in relation to any and all aspects of the treatment of child victims of trafficking.

While most countries have implicitly accepted these obligations, there is a clear need to support their transition from statements of principle into operational reality. From the criminal justice perspective, special attention must be given to ensuring a widespread understanding amongst criminal justice officials and agencies working with victims of trafficking of several very basic rules. First, victims should not be forced, coerced or pressured into participation in proceedings against their traffickers. Second, the psychological and physical safety of victims of trafficking should be considered of paramount importance and assured during criminal prosecutions of traffickers. Third, positive steps should be taken to ensure investigations of trafficking are conducted in a sensitive and respectful manner. Fourth, the possibility that other offences have been committed against the victim in addition to trafficking, for example rape, torture or debt bondage, should be explored and all relevant offences prosecuted.

Governments should also ensure that measures to protect vulnerable people from being trafficked do not in themselves limit the rights of those people. For example, as noted above, restrictions on the freedom of movement of adult women are not an appropriate protective response to the risk of trafficking. The prosecution or penalisation (for example, by any form of detention) of trafficked persons for offences, which directly arise out of their situation, would also be inappropriate. For example, it would not be acceptable to prosecute a trafficked victim for immigration offences when it is clear that such offences were committed in the actual course of the trafficking process. Similarly, the coerced involvement of trafficked victims in unlawful work (for example, the sex industry) should not give rise to criminal prosecution or any other form of penalty. Any irregular migration status of victims of trafficking should not be used to justify failure to respect the rights owed to them. Victims of trafficking should not be deported as a matter of course. From a human rights perspective, voluntary repatriation should be the goal and any repatriation should only take place after appropriate steps have been taken to ensure that the victim will be able to return home safely, and without the added risk of the victim being re-trafficked. These considerations are at the heart of an effective, victim-supportive criminal justice response to trafficking.
4. How to do it? Emerging good practices

Despite the obstacles outlined above, some progress has been made. Governments in many of the major destination countries have come to recognise that a strategy of prosecuting and quickly deporting trafficked persons does not work because they are just as quickly replaced. Nothing changes but the identity of the victim. These governments have accepted that attacking the current impunity enjoyed by traffickers requires a strengthening of the criminal justice response to ensure that prosecutions are possible. This means, in most cases, working directly with victim support agencies in delivering protection and support to victims of trafficking so that they can assist by providing information and evidence. A human rights approach that places the victim at the centre of the trafficking response is therefore not just right, it makes good law enforcement sense.

The establishment of specialist response capacities within law enforcement agencies is another promising development recognising, as it does, the complexity of the crime of trafficking. The recent establishment of a specialist trafficking unit within the Australian Federal Police is in keeping with similar developments in countries as diverse as Cambodia, Indonesia, Lao PDR, Myanmar (Burma), Thailand, Ukraine, the United States and the United Kingdom. The opportunities for exchange of intelligence and development of common procedures between these specialist units are significant and remain to be fully explored.

Cooperation across borders, regionally and internationally is not a luxury but an operational necessity. Traffickers are opportunity seekers. They go where the profits are high and the risk of detection and prosecution are low. It is only by working together that governments have a real chance of interrupting the supply and thereby stemming the exploitation. International and regional treaties are one useful tool in promoting such cooperation. Bilateral agreements, such as the recent memorandum of understanding between Thailand and Cambodia, are another.

Conclusion

 Trafficking has been described as ‘the dark side of migration’. People have always moved and will continue to do so. However, the opportunities have never been fewer and risks have never been greater. Lack of human security and gross inequalities within and between countries are still the main reasons why people take dangerous migration decisions. Until genuine efforts are made to deal with the root causes of forced migration, trafficking will not go away.

It is also important to accept the unpleasant fact that traffickers service a market in which there are both buyers and sellers. The growth in trafficking reflects not just an increase in ‘push’ factors from countries of origin, but also the strong pull of unmet labour demands, particularly in the informal sector.

Governments in the main destination countries are yet to tackle the voracious and instable demand for cheap labour and cheap, exploitative sex that makes trafficking so profitable in the first place.

In the meantime, national criminal justice agencies must develop new strategies and forge new alliances to deal with the worst excesses of this crime. A stronger criminal justice response may not be sufficient to deal with root causes, but it will provide justice to victims of trafficking. It may even end the impunity currently enjoyed by traffickers, their accomplices and others who profit from this trade in human misery.

Notes

- Anne Gallagher is Team Leader, Asia Regional Cooperation to Prevent People Trafficking, and was Adviser on Trafficking (1998–2002) to Mary Robinson, the UN High Commissioner for Human Rights. The views expressed in this paper are the author’s own.


The United Nations and the Global Programme against Trafficking

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Paul Williams, School of Social Sciences, Australian National University

Introduction

The United Nations Global Programme against Trafficking (GPAT) commenced in 1999. Developed and managed from the then Office of Drug Control and Crime Prevention (ODCCP), now the United Nations Office on Drugs and Crime (UNODC), the program has as its cornerstone the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Trafficking Protocol), which supplements the Convention on Transnational Organized Crime. The protocol was adopted by the General Assembly on 15 November 2000. It came into effect following the ratification of 40 member states on 25 December 2003.

GPAT aims to:

- advise member states on drafting and revising relevant states' legislation;
- advise and assist on establishing and strengthening anti-trafficking offices and units;
- train law enforcement officers, prosecutors and judges;
- strengthen victim and witness support; and
- promote awareness-raising.

The program's key components are assessment and technical cooperation. To achieve these, UNODC assists member states through activities in:

- analysing trafficking, including the involvement of organised crime groups;
- strengthening criminal justice responses;
- improving cooperation among law enforcement agencies and other bodies; and
- improving protection and support systems for victims and witnesses.

Assessment activities designed to measure trafficking routes and forms of exploitation of trafficked people; to provide baselines on the levels of cooperation among law enforcement, prosecution and the judiciary; and to monitor government efforts have been initiated around the world. Similarly, technical cooperation projects designed to strengthen national and international capacities to combat trafficking have commenced.

Relationship of the protocol to the convention

The General Assembly, under its mandate (resolution 53/111 of 17 December 1998) established an ad hoc committee to develop the Convention against Transnational Organized Crime. The Trafficking Protocol is one of three protocols attached to the convention and was negotiated and developed concurrently with the Protocol against the Smuggling of Migrants by Land, Sea and Air (the Smuggling Protocol) and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (the Firearms Protocol) (see Figure 1). At the time of writing, 85 member states had ratified the Convention against Transnational Organized Crime; regrettably only 23 had ratified the Smuggling Protocol (which is therefore not in effect); 59 had ratified the Firearms Protocol (thereby coming into effect in January 2004), and 67 member states had ratified the Trafficking Protocol.
The protocols are separate instruments for the purposes of ratification, but they are not separate ‘stand-alone’ instruments in terms of their content and application. Effectively, each of the three protocols and the Convention against Transnational Organized Crime combine to form one larger instrument. The convention provides general powers against transnational organised crime, but, more particularly, it requires member states to criminalise participation in an organised criminal group, money laundering, corruption and obstruction of justice. The protocols provide particular powers and provisions dealing with the specific crimes described in their titles and articles (that is, trafficking in persons, smuggling of migrants and trafficking in firearms). Article 37 of the convention and Article 1 of each protocol govern the relationship between the convention and the protocols. Importantly, member states cannot be a party to a protocol without first becoming a party to the convention. Protocol offences are deemed to also be convention offences, thereby invoking all convention powers, procedures and obligations. Conjointly, this means that whenever a protocol applies, the ‘parent’ convention also applies.

To ensure consistency, both instruments are interpreted together. That is, the terms have the same meanings unless otherwise specified. Convention provisions apply mutatis mutandis (with only such modifications as the circumstances require), to each protocol. Both the convention and the protocol are themselves also subject to the 1969 Vienna Convention on the Law of Treaties.

The Trafficking Protocol

General provisions requiring member states to criminalise conduct are specified in Article 5(2)(a); protection of victims in Articles 6, 7 and 8; and provisions for prevention, cooperation and other matters at Articles 9 to 13 inclusive (Figure 2).

The first internationally agreed definition of ‘trafficking’ is provided for in Article 3, but articulation of the agreement was not without difficulties (see Williams, this issue). Trafficking, for the purposes of the protocol, consists of a combination of:

- an illicit act;
- done by certain means; and
- for the purpose of exploiting the victim(s).

An action pertains to the act of trafficking or acts that fall under the task of trafficking (Table 1). These actions can include recruiting, transporting, transferring, harbouring or taking receipt of persons.

The means pertains to the method used in trafficking human beings. These methods can be violent and can include methods that cause victims to be completely unaware that they are being trafficked until they arrive at their destination. This is usually done where traffickers take advantage of a person's vulnerability or through deception. The purpose of trafficking is (and has to be for the protocol definition to apply) always exploitation. According to the UNODC database on human trafficking, the most common purpose of trafficking human beings is sexual exploitation. Other forms include forced labour, marriage, adoption and removal of organs. It can be expected that as states and other interested parties pay greater attention to the latter forms in the future, that the ratio of sexual exploitation to other forms will change.

The combination of act, means and purpose is always required for the protocol definition of trafficking to be realised.

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**Figure 2: Structure of the Trafficking Protocol**

<table>
<thead>
<tr>
<th>GENERAL PROVISIONS</th>
<th>PROTECTION OF VICTIMS OF TRAFFICKING IN PERSONS</th>
<th>PREVENTION COOPERATION AND OTHER MEASURES</th>
<th>FINAL PROVISIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 5(2)(a)</td>
<td>Article 6 Assistance to and protection of victims of trafficking in persons</td>
<td>Article 9 Prevention of trafficking in persons</td>
<td></td>
</tr>
<tr>
<td>Criminalization</td>
<td>Status of victims of trafficking in persons in receiving States</td>
<td>Article 10 Information exchange and training</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Article 8 Repatriation of victims of trafficking in persons</td>
<td>Article 11 Border measures</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Article 12 Security and control of documents</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Article 13 Legitimacy and validity of documents</td>
<td></td>
</tr>
</tbody>
</table>

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Table 1: Elements of trafficking

<table>
<thead>
<tr>
<th>Acts (n=5)</th>
<th>Means (n=8)</th>
<th>Purposes ... at a minimum (n=6)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recruitment</td>
<td>Threat or use of force</td>
<td>Prostitution of others</td>
</tr>
<tr>
<td>Transport</td>
<td>Other forms of coercion</td>
<td>Other forms of sexual exploitation</td>
</tr>
<tr>
<td>Transfer</td>
<td>Abduction</td>
<td>Forced labour/ services</td>
</tr>
<tr>
<td>Harbouring</td>
<td>Fraud</td>
<td>Slavery or practices similar to slavery</td>
</tr>
<tr>
<td>Receipt</td>
<td>Deception</td>
<td>Servitude</td>
</tr>
<tr>
<td>Abuse of power</td>
<td>Abuse of a position of vulnerability</td>
<td>Removal of organs</td>
</tr>
<tr>
<td>Giving/ receiving payments/ benefits</td>
<td>to achieve the consent of a person having control over another</td>
<td>... of persons ... for the purposes of exploitation</td>
</tr>
</tbody>
</table>

For example, a victim can be recruited (act) through deception (means) for sexual exploitation (purpose). If none of the conduct in column one (acts) has occurred, according to the protocol definition, trafficking has not occurred. If an act in column one has occurred, then the next step is twofold; firstly determining if one (or more) of the means in column two was employed, and, secondly, determining if the combination of the column one act and the column two means was for the purpose of exploitation. If it was not for exploitation, according to the protocol definition, trafficking has not occurred. Column three specifies minimum exploitative purposes under the protocol. Member states can add other forms if they wish.

The issue of the victim’s consent to trafficking becomes irrelevant whenever any of the means of trafficking have been employed. ‘Valid’ consent of the victim could still be raised as a defence in domestic law, but as soon as elements of threat, coercion or the use of force are established, consent would be nullified and cease to be defensible. It is important to note that a child cannot give consent, even if none of the means of trafficking are used. For the purposes of the exploitation, a child is anyone under the age of 18 years.

There is often confusion between trafficking and smuggling. Smuggling is provided for in the Smuggling Protocol. It has three elements: (1) procurement of illegal entry; (2) for financial or other material gain; and (3) across a border into another state. By this definition, many of the activities of traffickers can also be considered smuggling. It is important to note that there are three main distinctions between the act of trafficking and the act of smuggling of migrants: consent; exploitation; and transnationality.

In the smuggling of migrants, the victim agrees to being moved into a country illegally (for example, in order to obtain work). This is a key distinction. Trafficking victims have either never consented to the movement across borders or to the subsequent exploitation. It is not possible under international law to consent to torture, abuse or slavery. The exploitation of trafficked victims is also ongoing. In the smuggling of migrants, the smuggling ends when the migrants arrive at their destination. However, arriving at a destination country for trafficking victims is often only the beginning or central point of their exploitation. This is not to say that persons who are smuggled cannot find that in the process, or subsequently, they are trafficked. In this respect it can be said that trafficking equals smuggling plus coercion/deception plus exploitation.

Smuggling is always transnational, whereas trafficking need not be. Trafficking can occur regardless of whether victims are taken to another country or only moved from one place to another within the same country.

GPAT in operation

GPAT has implemented projects in the Philippines, Thailand, Vietnam, the Czech Republic, Poland, the Slovak Republic, Brazil, Columbia, Nigeria, Togo and Benin, examples of which are described below.

Philippines

A successful first stage, which aimed to streamline initiatives and policy development, culminated in the adoption of a National Action Plan against Trafficking in Persons in 2001. Stage II aims to support the government in its efforts to meet obligations under the UN instruments, particularly concerning the required support and protection of victims and witnesses of trafficking in persons. The project will provide for the creation/ expansion of the capacity of selected rehabilitation centres and facilities to support victims/ witnesses. It will enhance victim-support activities, including vocational training and reintegration, both at the national and the community levels as a model for country-wide implementation. Further, it will strengthen the cooperation mechanisms between the Department of Social Welfare and related law enforcement and criminal justice agencies.
Thailand
This computer-based training (CBT) project aims to enhance the understanding and awareness of law enforcement agencies in Thailand on human trafficking as a special type of crime requiring special investigative and response techniques. The CBT will improve detection and response mechanisms and raise the level of skills, knowledge and awareness of human trafficking within the broader law enforcement community. This project also serves as a pilot program for an ongoing computer-based human trafficking law enforcement training module, with potential subsequent expansion across the region.

Vietnam
In Vietnam, the GPAT project aims to enhance existing mechanisms, including networking between law enforcement and the judiciary, capacity building for investigators and prosecutors, and training of personnel.

Brazil
Here the project comprises the development of a database, training of investigators and prosecutors, and an assessment of the trafficking situation in the country. In addition, an awareness-raising campaign to prevent trafficking and an analysis of mutual legal assistance are being conducted.

West Africa and ECOWAS
The Economic Community of West African States (ECOWAS) is a regional group comprising 16 states and established in 1975. UNODC assisted in the development and adoption of the ECOWAS Action Plan against Trafficking in Human Beings in 2001. The plan obliges states to adopt laws criminalising trafficking in human beings, build new special police units to combat trafficking, and to train police, customs, immigration officials, prosecutors and judges. In cooperation with NGOs and civil society generally, states also take responsibility for the protection of trafficking victims.

GPAT in Nigeria, Togo and Benin aims to assess trends in trafficking, provide training for criminal justice practitioners, and improve cooperation between law enforcement and the wider justice system. Regionally, the three states cooperate in training courses and workshops on investigation, prosecution and protection of victims.

Recent activities
The UNODC sponsored a workshop in Vienna, Austria, April 2004, on local mass media campaigns to combat human trafficking. Sixteen central and eastern European NGOs attended. To develop customised versions of its awareness-raising videos, UNODC has established partnerships in Argentina, Albania, Austria, Belarus, Belgium, Benin, Bosnia and Herzegovina, Bulgaria, China/Hong Kong SAR, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Dominican Republic, Finland, Georgia, Guatemala, Honduras, Hungary, Italy, Iran, Kyrgyzstan, Latvia, Lebanon, Lithuania, Mexico, Netherland, Nicaragua, Nigeria, Poland, Portugal, Republic of Moldova, Serbia and Montenegro, Slovenia, Sri Lanka, Spain, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Ukraine, United States of America and Uzbekistan.

Anti-trafficking aids
In addition to awareness-raising videos, UNODC has completed a soon-to-be-released tool kit (see Dixon, this issue) which provides examples of promising practices in legislation of criminal justice responses, victim protection and support, and international cooperation. It also maintains a database compiled from secondary sources and includes information on routes, victims and offenders, and responses of the criminal justice system.

Evaluation
All GPAT projects are independently evaluated at mid-term and completion. In late 2004, the whole Global Programme against Trafficking will be evaluated to assess achievements, to review ongoing and past projects, and to determine its future direction.

Future activities
In the next 12 months, GPAT aims to implement further projects in Africa, Moldova, the Russian Federation and Lebanon. For ongoing review of both the convention and the Trafficking Protocol, a conference of parties has been established.

Conference of the parties
In Vienna between 28 June and 9 July 2004 and pursuant to Article 32 of the convention, the first meeting of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime and Its Protocols took place to:

- facilitate activities of state parties under Articles 29, 30 and 31 of the convention, including encouraging the mobilisation of voluntary contributions;
- facilitate exchange of information among state parties on patterns and trends in transnational organised crime and successful practices for combating it; and
- review periodically the implementation of the convention and difficulties encountered, as well as programs, plans and practices.
It is also expected to explore ways of strengthening technical cooperation in accordance with the convention.

The conference will meet annually for the first three years and biennially thereafter. At its first meeting, it adopted the rules of procedure developed earlier in February 2004 and, concerning the Trafficking Protocol more particularly, considered implementation progress and possible modifications. Decisions or recommendations arising have to be by consensus, or failing consensus, a two-thirds majority of parties which have ratified the protocol (and which were present at the convention).

Conclusion
The Trafficking Protocol is a testimony to the international community’s commitment to international cooperation to prevent, suppress and punish trafficking in persons, especially women and children. The Global Programme against Trafficking provides a focus for implementing the Trafficking Protocol and for facilitating assistance to member states, particularly to developing states. Both the protocol and GPAT are evolving. The protocol will be revisited by the General Assembly five years from coming into effect (in December 2008). Past and present projects have or are being evaluated and the whole program is being evaluated in the last quarter of 2004.

The continued cooperation and contribution of member states and other interested parties to the shape and direction of the GPAT, including through forums such as the symposium from which the papers appearing in this issue of Development Bulletin have been drawn, are welcomed by the United Nations Office on Drugs and Crime.

Note
GPAT resources are available online at <http://www.unodc.org/unodc/en/trafficking_human_beings.html>.

December 2004
The Protocol against Trafficking in Persons, Especially Women and Children (Trafficking Protocol) is supplementary to the Convention against Transnational Organized Crime.\(^1\) It is not subservient to the convention, but is to be read in combination with and to operate conjointly with the convention. The mandate to develop the convention was granted by the General Assembly Resolution 53/111 in December 1998. As with most General Assembly resolutions, it was adopted without going to a vote. Under the mandate, an ad hoc committee was established. The committee authorised the United States, which had introduced a draft, and Argentina, which advocated additional measures not contained in the US model, to develop the final protocol. It also established a working group to ensure that the Trafficking Protocol was consistent with the Convention against Transnational Organized Crime.

The official record of the development of the convention and the protocol can be found in the reports of the committee and the travaux préparatoires, which are themselves written in the diplomatic language that features at the United Nations.\(^2\) The travaux comprise non-binding interpretive notes to aid the General Assembly and member states in understanding the meaning that was intended by particular terms. The record suggests that the development of the two instruments was efficient, effective and appropriate, but not without complexity.

The 12 committee sessions between January 1999 and March 2001, incorporating a total of 239 meetings, were attended by between 91 and 121 of the 191 member states. It is unlikely that representatives of the member states were enjoying 'junkets', but comparison of the numbers of attendees with ratifications of the Convention against Transnational Organized Crime (n=85) and of the Trafficking Protocol (n=67) in the four years since they were available, suggest tardiness and/or discontent with the instruments. It remains the case that less than 50 per cent of member states have ratified the convention and approximately a third only have ratified the protocol. Notable non-ratifiers of the protocol are Australia and the US, although both had indicated an intention to ratify in 2004.

There are four main reasons that can be identified for failure to ratify:

1. cumbersome machineries of governments;
2. requirement to ratify the convention before ratifying the protocol (combined with opposition to the convention);
3. ideological opposition by some states to ratifying any external treaties; and
4. opposition to the protocol alone.

Concerning reasons 2 and 4 above, the main justification appears to be a provision in both the convention and the protocol to refer disputes between states to the International Court of Justice, which some states do not recognise or do not believe to be an appropriate institution to arbitrate differences. A total of 17 states registered 'reservations' to the convention, and 11 to the protocol on these grounds, removing them from the jurisdiction of the International Court of Justice. Reservations and declarations can be used for a variety of ostensibly political purposes. Azerbaijan for example, regretted that the protocol could not be applied in 'territories occupied by Armenia'. Algeria declared that ratification of the convention 'does not in any way signify recognition of Israel' and 'does not entail the establishment of relations of any kind with Israel'.

Australia, on signing the protocol, also registered a unilateral reservation:

The Government of Australia hereby declares that nothing in the Protocol shall be seen to be imposing obligations on Australia except in respect of whom Australia would not otherwise have an obligation to admit or retain within its borders.

One effect of the Australian reservation is that being a victim of trafficking adds no additional merits to a claim for temporary or permanent residency as a 'legitimate' migrant or under refugee or asylum provisions.

The ad hoc committee found difficulties with five areas of the protocol:

- mandate on 'women and children';
- mandate on 'international';
- what was meant by 'exploitation';
- what was meant by 'abuse of a position of vulnerability'; and
- what was meant by 'deception'.

The General Assembly, in its Resolution 53/111 of 1998, obliged the committee to develop a draft protocol 'on the International trafficking in women and children', not 'persons' as eventuated. At the third session, the committee received legal advice that its extension to cover persons was in breach of at least two other General Assembly resolutions (53/111 and 53/...
114) which addressed the scope of mandates, and that it would be required to go back to the General Assembly for a new mandate if it wished to pursue the 'persons' direction. At the following session, however, the chairman informed the committee that as the Commission on Crime Prevention was due to go before the General Assembly at the fifty-fourth session, and as that provided for 'persons', the committee would proceed without seeking a new mandate. The attachment of 'Especially Women and Children' after 'Trafficking in persons' would suffice.

Women's groups were disappointed that the committee's decision had diluted and diverted attention from what they identified as the most pressing need. Nineteen days after the General Assembly adopted the Trafficking Protocol, a parallel resolution (55/67), specifically on 'Trafficking in Women and Children' was introduced and passed by the General Assembly (again without vote). While 'urging', 'requesting' and 'encouraging' member states, without mandatory obligations, it lacks the power and weight of a convention or of a protocol.

**Language of the convention**

The first contentious element in the language of the convention is the definition of *transnational* organised crime. Organised crime is identified as *transnational* (Article 3(2)) if:

a) It is committed in more than one State;

b) It is committed in one State, but a substantial part of its preparation, planning, direction or control takes place in another State;

c) It is committed in one State, but involves an *organised criminal group* that engages in criminal activities in more than one State; or

d) It is committed in one State but has substantial effects in another State [emphasis added].

An *organised criminal group* is defined (Article 2(a)) as:

a *structured group* of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more *serious crimes* or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit [emphasis added].

A *structured group*, in turn, is defined (Article 2(c)) as:

A group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure [emphasis added].

Further, *structured groups* are defined in the *travaux* (IIA(2)) as:

groups with hierarchical or other elaborate structure and non-hierarchical groups, where the roles of the members of the group need not be formally defined ... and ... the inclusion of a specific number of persons would not prejudice the rights of States Parties [to declare persons as groups] [emphasis added].

Combined, Article 2 and the *travaux* result in a definition where structured groups can be unstructured and organised groups can be unorganised, both of which, if a member state so chooses, can comprise one person.

A *serious crime* is defined (Article 2) as 'conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty'. It is instructive to note that the exposure draft of the Australian Trafficking in Persons Offences Bill 2004 to amend the Commonwealth Criminal Code Act 1995 attaches a detention penalty of only 12 months for debt bondage, a common, if not the most common, form of facilitating trafficking in persons. This relatively short sentence has been set to 'enable this offence to be dealt with as a summary offence where appropriate' (Schedule 1:271.8(1)). The use of a summary offence measure, where the matter can be dealt with before a magistrate, is normally resorted to in the interests of the costs of justice — to avoid the need for an expensive and time-consuming trial before say, the Supreme Court. In the circumstances, the temptation for investigators and the Director of Public Prosecutions to use the lower debt bondage offence provisions as a *routine* 'fallback' option, where conviction on the wider trafficking elements before higher courts might be considered uncertain, will be ever present. In a somewhat perverse outcome, regardless of the frequency of offences or the number of victims, because the maximum penalty is less than four years (for each offence), it is not a *serious crime* as defined by the convention and the protocol.

**Language of the Trafficking Protocol**

The first difficulty of the protocol dealt with by the committee was also the mandate granted by the General Assembly — 'international trafficking in women and children'. At the seventh session of the committee, it was resolved (Article 4) that: 'The Protocol would apply ... where those offences were *transnational* in nature and involved *organised criminal groups* [emphasis added]. This would appear to rule out domestic/internal trafficking and transnational trafficking where it did not involve organised criminal groups. However, Article 1(3) of the protocol declares that: 'The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.'

Similar provisions apply to the Protocol against the Smuggling of Migrants by Land, Sea and Air, and the Protocol against the Illicit Manufacture of and Trafficking in Firearms, Their Parts and Components and Ammunition, both of which
also supplement the Convention on Transnational Organized Crime. Convention offences are declared and defined in both protocols at Article 5 (participation in an organised criminal group), Article 6 (money laundering), Article 8 (corruption) and Article 23 (obstruction of justice). In this way, the trafficking in persons, smuggling of migrants, and trafficking in firearms offences also become convention offences. Article 34 of the convention also requires the offences to be 'established in the domestic law of each State Party independently of the transnational nature of the crime' [emphasis added]. It appears, therefore, that internal trafficking in persons might be covered by the protocol. However, the overriding Article 4 provision of the Trafficking Protocol, which applies only where offence is transnational, and Article 1, which applies mutatis mutantis (with such modifications as circumstances require), are arguments against such an interpretation.

The second area of controversy was the meaning of exploitation. It is not defined in either the convention or the Trafficking Protocol, but is referred to in Article 3 of the latter as 'shall include, at a minimum [all of the purposes]'. But this is not a definition. It is circular — 'exploitation includes exploitation'. In particular, exploitation of the prostitution of others is problematic. The 'prostitution of others' is not by and of itself an offence under the protocol. The prostitution of others is not defined in either the convention or the Trafficking Protocol, which applies only where offence is transnational, and Article 4 of the latter as referring 'to any exploitation of the prostitution of others' or 'other forms of sexual exploitation' are not defined in the Protocol, which is therefore without prejudice to how States Parties address prostitution in their respective domestic laws.

Some states (for example, the US and Philippines) declare that prostitution and other forms of commercial sex are always exploitative. Australian laws in relations to these activities are the responsibility of the states and territories, and the Commonwealth government, like the protocol, is neutral on the issue.

The abuse of a position of vulnerability as a means to gain consent is defined in the travaux (par 64) as referring 'to any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved'. But how is this to be judged? Who decides whether 'real and acceptable alternatives were available'? One approach is to adopt a 'gold standard' of matching equivalent circumstances of 'victims' who were approached (by levels of poverty, levels of education, family circumstances, etc) and determine if all 'offers' were accepted. If not, then there were real and acceptable alternatives which were available. People make foolish decisions in full knowledge of alternatives all of the time. Is the protocol meant to cover foolishness?

The final contentious element concerned the absence of a definition of deception as a means to gain consent. In its application, it appears to have become a matter of degree, not an absolute. For example, if persons think they are taking up hospitality positions, but on arrival find that the positions involve prostitution, the level of deception is high. Even assuming no other elements are present (for example, force or coercion), this would probably still meet the protocol standard (and notwithstanding the availability of the persons to access other 'real and acceptable alternatives' to submitting to the deception). However, if experienced sex workers knowingly take up prostitution positions in expectation of servicing five clients per day, but find that they are expected to service six clients per day (and in the absence of other elements such as force or coercion) is the level of deception sufficient for the protocol to come into effect? The Australian exposure draft (Schedule 1:270.7) aims to:

ensure that [the provisions] will apply where a person agrees to come to Australia knowing that he or she will work in the sex industry but [is] deceived as to the exploitative conditions of the employment in the sex industry (Attorney General's Department 2004).

Further, Schedule 1:271.1 declares deceive 'means mislead as to fact (including the intention of any person) or as to law, by words or other conduct', which would appear to invoke absolutism over degrees. In the absence of a written document/contract, it might be difficult to prove whether the agreement was for five clients or six (or ten or 20, etc).

Conclusion

In marrying competing views of states on the need for and provisions of transnational crime and anti-trafficking instruments, the United Nations has achieved an extraordinary success in providing the international community with vehicles for cooperation to prevent and combat trafficking and to protect and assist victims. In the art of consensus politics, they are not, however, without problems. Failures to ratify the instruments, General Assembly provisions permitting states to register reservations to remove elements of the convention and protocol from their responsibility, and the flexibility and absence of definitions, permit states to interpret and apply provisions differentially. This will inevitably lead to incomparability of prevalence estimates and disputes between states.

Notes


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References
The trafficking of children: Re-thinking the issues through a human rights lens

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Introduction

In recent years, trafficking in people has re-emerged as an issue of international concern. Despite a paucity of reliable data, there is a widespread view that the majority of victims of trafficking are women and children. While there is little clear evidence to support these claims (see Anderson and O'Connell Davidson 2004:22), there is clear evidence to suggest that children (in largely unknown numbers) are victims of trafficking (see Human Rights Watch 2002; Human Rights Watch 2003; ILO-IPEC 2002a; ILO-IPEC 2002b). Children, and concerns about violations of their human rights, also feature prominently in international rhetoric and policy. But, in reality, the rights of child victims of trafficking are often lost in highly politicised debates that tend to focus on organised crime, illegal migration and issues of state sovereignty (see Anderson and O'Connell Davidson 2004).

Trafficking in children is first and foremost a violation of fundamental human rights — and violations often occur not only during, but also prior to and after the actual experience of trafficking. This article grapples with these issues by examining some aspects of trafficking in children through a children's rights lens. The first part of this article briefly outlines the international normative framework around children, trafficking and human rights. The second section explores two factors that contribute to trafficking: vulnerability and demand. The final section provides an analysis of the ways in which responses to trafficking may further contravene the human rights of children.

Trafficking children and children's rights: The international normative framework

The almost universal ratification of the United Nations Convention on the Rights of the Child (CRC) has led to quite remarkable shifts in policy and programming for children, towards rights-based models drawing on the convention. The CRC is built around four key concepts that underpin the human rights of children: survival, development, protection and participation. The notion of children having participatory rights is quite radical and remains controversial. Participatory rights are embodied in several articles of the CRC, the most important of which is Article 12, which states that:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 12 entitles all children, including those who have been victims of trafficking, to the opportunity to express their views about decisions that impact on their lives.

The CRC, through Article 35, requires states parties to take all appropriate measures to prevent the sale of and traffic in children. Beyond that specific article, trafficking of children violates a range of human rights guaranteed to children through the convention — from the rights to survival and development (Article 6) through to the rights to education (Article 28), leisure (Article 31) and protection from exploitation (Articles 32, 34, 36). More fundamentally, trafficking of children is anathema to the basic principles upon which the convention is built — and, indeed, to the human rights framework more broadly.

In 2002, the Office for the High Commissioner for Human Rights announced a set of Human Rights Guidelines on Trafficking. Guideline 8 calls for special measures for the protection and support for child victims, and draws on the Convention on the Rights of the Child in calling for the best interests of the child to be taken into account and for the views of the child to be respected. Other guidelines call for the needs (although interestingly not the rights) of victims (adults and children) to be given due attention and for the root causes of trafficking to be addressed.

In November 2000, the United Nations General Assembly adopted the Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol). The purposes of the Trafficking Protocol, stated in Article 2, are 'to prevent and combat trafficking in persons, especially women and children', and to 'protect and assist the victims ... with full respect for their human rights'. Trafficking
is defined as involving the 'threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent ... for the purpose of exploitation' (Article 3(a)). Defining a child as any person under the age of 18 years — in line with the CRC — Article 3(c) of the protocol states:

The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if this does not involve any of the means set forth in subparagraph (a) of this article (outlined above).

Article 6 of the protocol sets out the forms assistance and protection to which victims of trafficking are entitled, while Article 8 calls for repatriation of victims to give regard to the safety of the person and to, preferably, be voluntary.

The International Labour Organization (ILO) has also significantly contributed to the normative framework on the trafficking of children. In 1999, the ILO adopted Convention 182, aiming to eliminate the worst forms of child labour. While Convention 182 leaves much to the discretion of individual states, trafficking is explicitly stated as one of the worst forms of child labour (Article 3(a)) to be targeted for immediate action. The explicit inclusion of trafficking in 182 (and earlier ILO conventions) recognises that trafficking of children is always a gross violation of human rights, regardless of the activity or situation into which children are trafficked.

Thus there exists a reasonably extensive rights-based framework embedded in the international normative framework. Yet, in reality, the human rights of children are regularly violated, not just through the process of trafficking itself, but prior to being trafficked and after being 'rescued'. The factors that contribute to the trafficking of children are often themselves fundamental violations of the human rights of children.

Responses to children who have been trafficked can in themselves be abusive — particularly when they revolve around detention and/or deportation to an uncertain or hostile environment.

Causal factors: Vulnerability, demand and denial of rights

The factors that contribute to trafficking are complex and multifaceted, and I do not seek to provide a comprehensive analysis of causes here. I will, however, focus on vulnerability and demand as particularly significant factors that result in the trafficking of children.

Poverty is often cited as a cause for trafficking in people, not only children. For example, Skeldon has argued that 'the elimination of trafficking is unlikely to be realistically achieved through legislation and declarations of intent, but by improvements in the socio-economic status of the population' (2000:8). Poverty is a critical factor. But it is increasingly recognised that poverty alone is not a significant explanatory factor. Vulnerability and discrimination are equally important causal factors. Stephen Devereux defines vulnerability as 'a concept that combines exposure to a threat with susceptibility or sensitivity to its adverse consequences' (2001:508). As Devereux goes on to point out, 'poverty and vulnerability are not synonymous, [but] the poor face greater exposure to livelihood threats' (2001:508–9). Vulnerability is often greatest among marginalised groups that face discrimination and social exclusion.

For children, vulnerability also relates to their position in age-based hierarchies. If gender-based discrimination contributes to making women vulnerable to trafficking, it is age-based discrimination that makes children so. Girls face dual vulnerability, based on sex and age. The nature of age-based discrimination is not only interpersonal (based on personal relationships, such as parent–child, teacher–student, community elder–youngster), but is also structural — deeply imbedded in social and cultural values and reflected in policy processes and systems of governance. Structural discrimination on the grounds of age — often manifesting in the disregard of children's concerns, experiences and views — spans religious, cultural and national differences.

The trafficking of children includes trafficking for purposes such as early marriage and illicit adoption. Each of these results from the relatively powerless position of children both within families and within communities more broadly. In parts of Africa, trafficking and traditional practices of early marriage have been linked, particularly when 'men do not have the possibility of finding young girls in their community', such as in the case of migrant workers (UNICEF 2003:6). Similarly, in South Asia, there are linkages between early marriage and trafficking, 'as control of the girl passes to the groom with social consent' (ILO 2002a:45–46). UNICEF estimates that between 1000 and 1500 babies are trafficked from Guatemala each year for adoption by couples in North America and Europe (UNICEF 2003). While numbers of this kind must be viewed with some caution, there is considerable evidence that illicit/illegal adoption is an important dimension of international trafficking. When adoption occurs beyond transparent regulatory processes, it is even more difficult than usual to ensure that children are destined for caring families, rather than abusive or exploitative situations. These brief examples indicate that in diverse parts of the world — within very different cultural settings — children are often considered the chattels of adults. Children's rights frameworks are undermined by this ongoing reality — but are made all the more necessary because of it.
Children without family support are particularly vulnerable to trafficking (Human Rights Watch 2003). A 2001 ILO-IPEC study of trafficking in children in West Africa found that of the 96 children interviewed in Togo almost 30 per cent had experienced the death of a mother, father or the divorce of parents. In Cameroon, 60 per cent of the 329 children interviewed were from single parent families, where one parent had died (ILO-IPEC 2001:15). Included in the broad group of children without family support are children who have been abandoned or have run away and those who have migrated alone from rural to urban areas in search of work. Many of these children seek an income on the streets, where they are regularly viewed as a public order or security problem by authorities and afforded little protection from the state. Given their separation from their families and the hostility of their environment, promises of work in other places are likely to be appealing.

Vulnerability — in conjunction with discrimination and social exclusion — creates an environment within which it is possible for trafficking to occur. But this is only part of the picture; an equally important dimension is demand. The practice of using very young boys as camel jockeys in the United Arab Emirates is linked to the poverty and vulnerability of poor children in parts of South Asia. More fundamentally, the practice results from the demand of wealthy camel owners and race enthusiasts for lightweight, compliant jockeys, and from an acceptance of the exploitation of some children within the industry. Human rights groups, such as Anti-Slavery International, have questioned the political will of the government to end the trade, which continues despite the announcement in 2002 of a ban on the use of children under the age of 16 years and lighter than 45 kilograms in camel racing.

Human Rights Watch notes that the ‘trade in Togolese girls was particularly extensive in Gabon, a relatively wealthy country with a small population and consequently a labor shortage, and where compulsory schooling and strict child labor laws fuel a growing demand for foreign child labor’ (2003:21). Trafficking continues despite the existence of anti-trafficking laws. Many girls trafficked into Gabon are destined for household service. Indeed, in many countries around the world, there is a demand for cheap, controllable domestic labour, although, as Anderson and O’Connell Davidson point out (2004:54), this does not necessarily equate to a demand for trafficked labour. It does, however, often equate to a demand for child labour (usually of girls), and may result in trafficking when ‘local supply’ is insufficient. As Judith Ennew has pointed out, the ‘close links between bonded labour, fake adoptions, prostitution, trafficking and ... maids of all work’ is well-recognised by those working to combat child labour (Ennew 2004:4).

Each of these examples demonstrates the critical role that receiving countries play, both in terms of adopting and enforcing legislation, but also in terms of the attitudes of their citizens to the young of other countries, and towards children who are considered to belong to no-one.

**Responses to trafficking in children: Protecting the rights of children?**

Notwithstanding the international human rights framework discussed earlier, responses to trafficking in children often pay scant attention to children's human rights, and may result in further violations. In some cases, there are potential contradictions between relevant international instruments. This final section will explore the ways in which two pillars of children's human rights — participation and protection — may be undermined by international policy relating to consent and by the responses of individual states.

As discussed, the Palermo Protocol, now one of the primary international instruments dealing with trafficking in children, states that while adults may initially consent to trafficking as a result of deception, children under the age of 18 cannot give valid consent. Thus, 'any recruitment, transportation, harboring or receipt of children for the purpose of exploitation is a form of trafficking regardless of the means used' (UNODC n.d.). This interpretation of the trafficking of children aims to remove the defence of consent from those engaged in the trafficking and exploitation of children. On the face of it, this position is justifiable in terms punishing perpetrators and protecting children. However, if we consider the issue through the lens of children's human rights, there are serious concerns about its potential impact on some children.

The view that children cannot give valid consent to trafficking assumes that children have no individual agency. This potentially renders them silent, with no opportunity to articulate why they may have initially agreed to leave their country of origin. Bhabha has pointed out that 'traffickers are involved in a significant minority of child asylum cases' and that 'among some nationalities ... children's search for asylum is facilitated by exploitative and abusive practices' (2004:142). This suggests that unaccompanied children may turn to traffickers to escape persecution, abuse, exploitation, discrimination or violence in their own country. Children may also be seeking to escape economic hardship.

In each of these circumstances, the fact that children may have initially given consent to traffickers — while not a legal defence or moral justification for the abuse of trafficking — is an important explanatory fact that should be listened to and taken into account when formulating responses. Without such consideration, the most likely outcome for children who have been victims of trafficking is repatriation into the very situation they have sought to escape. Such an outcome is especially likely given evidence to suggest that 'separated children find it much
more difficult than adults to gain asylum. They have difficulties in getting adequate legal representation, their cases are more likely to be postponed and to drag on over time, and they have less chance of being granted refugee status (Bhabha 2004:143).

The failure to consider children's views and the failure to consider the dangers that may face a child when repatriated are contrary to children's rights to participation and protection, and result in policies that are likely to disregard children's realities and re-victimise them. Thus, given this potential shortcoming in the Palermo Protocol, it is critical that it is not interpreted and implemented in isolation, but in conjunction with other human rights instruments, most importantly the Convention on the Rights of the Child, with particular consideration to Article 12.

If international policy relating to consent gives rise to concern from a children's human rights perspective, the practice of many nation states is cause for alarm. Despite rhetoric, particularly at the international level, about the protection of victims of trafficking, evidence (both substantiated and anecdotal) suggests that the reality is rather different. The treatment of child victims of trafficking is often punitive rather than protective. Human Rights Watch reports that children trafficked into Gabon are often subject to periodic round-ups by the police and repatriation to their country of origin (2003:136). Security or public order based responses such as this are not uncommon.

Equally common is the practice of placing children in institutions, often in conditions akin to detention or imprisonment, while they await repatriation and/or the trial of the traffickers. Institutionalisation of child victims of trafficking often violates a range of human rights — from the right to education to the right to freedom from arbitrary detention and the right of children not to be incarcerated with adults. Moreover, institutions the world over have been revealed as dangerous places for children, where sexual, physical and emotional abuse can go unchecked unless there is a strong commitment to transparent mechanisms for child protection and clear avenues through which children can express grievances and seek help. Protection rights are regularly denied to child citizens who are institutionalised in their own countries, suggesting that foreign children — who are often invisible to the public or considered to have no right to remain in the country — are even more vulnerable.

If formal policy responses can contravene children's human rights, particularly rights to protection, so too can the behaviour of individuals agents of the state and cultures of corruption. In some cases, rather than assisting and protecting children who are victims of trafficking, law enforcement and government officials and non-government workers may be engaged in or benefit from abuse and exploitation (see for example ILO-IPEC 2000a). Human Rights Watch claims that in Bosnia those engaged in trafficking girls 'need harbour little fear of criminal prosecution or punishment for their crimes; trafficking laws went largely unenforced, providing no protection for the victims of serious human rights abuses. Corruption within the Bosnian police force allowed the trafficking of women and girls to flourish (2002:4) Thus, corruption, the lack of ethical and moral frameworks prescribing the abuse and exploitation of children, and the absence of legal or social sanctions militate against the protection of children who have been trafficked.

**Conclusion**

Human Rights Watch spokesperson Widney Brown (2002) argues that '[i]t has become increasingly obvious ... that the only way to successfully end trafficking is for states to hold abusers accountable and to remedy the underlying human rights abuses that created the conditions for trafficking'. Remedy the underlying human rights abuses requires us to reflect on a number of issues. First, how does development impact on vulnerability? Here ideas around human development pioneered by Ul Haq and the human capabilities promoted by Amartya Sen may offer some potential by focusing attention not only on the eradication of poverty, but also on responding to social exclusion and discrimination, including age-based discrimination.

Rights-based approaches to development may also be useful, particularly if they contribute to a rethinking of children's roles in development and the ways in which development impacts on children. This essentially means shifting away from a view of children as victims or beneficiaries towards an understanding of children as citizens. A rights-based approach would also necessitate according equal priority to children's participation and protection rights, alongside survival and development rights.

A second, perhaps more challenging, question is how the demand for forced children's labour can be quelled. Where they exist, domestic institutions and organisations based on principled ideas around human rights (see Risse, Ropp and Sikkink 1999), accompanied by legal sanctions and operating within the broader framework of international human rights standards, may offer some potential for change, albeit incrementally and over the medium to long term.

Third, how can responses to trafficking in children be transformed? The first step towards such a transformation is recognition by governments and communities of child victims as bearers of human rights, as set out in CRC, and complemented by the range of human rights instruments outlined earlier in this paper. As such, children are entitled to be both heard and to be protected. To be meaningful, such recognition would need to be followed by the revision of existing policies to bring them in line with basic principles of international human rights and strong commitment to implementation. This is no easy task, and we are still a considerable distance from taking this first step.
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Trafficking, corruption and human rights: Migrant workers caught in the cycle

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Introduction
This paper will analyse the factors that place migrant workers at risk of being trafficked, arguing that greater application of human rights frameworks will offer protection to all migrant workers — trafficked or otherwise. The specific intersection between corruption and trafficking that increases the risks of being trafficked and facilitates the trafficking process is also examined.

Migrant workers: Locating a human rights perspective
Trafficking in human beings, including the trafficking of migrant workers is a violation of human rights. Yet what is often neglected in deliberations on the situation of trafficked migrant workers is the overarching discourse of universal human rights protecting all workers, regardless of their situation, exploitation or legal status.

Over the past decade the utility of a rights discourse for migrant workers has been making some progress, albeit very slowly. The 1999 appointment of the United Nations Special Rapporteur on Human Rights of Migrants focused attention on the application of migrant rights as human rights. Recent good news is that having at last reached the required ratification by 20 states in early 2003, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention) has now entered into force.

Under the provisions of the Migrant Workers Convention the fundamental human rights, treatment and welfare of all migrant workers are protected, irrespective of their legal status. Additional rights are articulated for documented migrant workers and their families, notably equality of treatment with nationals of states of employment in a number of legal, political, economic, social and cultural areas.

Currently, the minimal number of states that have ratified the Migrant Workers Convention limits the scope of this new human rights treaty. To date, none of the industrialised countries that are largely responsible for the mistreatment of migrants have expressed interest in committing to the treaty. Advocates of migrant workers' rights and supporters of the Migrant Workers Convention have been frustrated by the lack of political will from industrialised and Western states on migrant workers' rights. It has been consistently difficult to even place the issue of migrant workers' rights on the discussion table, let alone see moves towards states' adherence to international human rights standards for all migrant workers (Platt 2001). Similarly, over the last decade there has been little active promotion and few new ratifications of the two International Labour Office (ILO) Conventions 97 and 143 which are related to migrant workers' rights (Taran 2000).

There have been other impediments in the progress of positioning migrant workers' rights as human rights. Many states have continued to contextualise trafficking migration in a framework of combating organised crime and criminality (Taran 2000). A result of this approach is seen in the detail of the two protocols accompanying the Convention against Transnational Organized Crime. Both the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (Trafficking Protocol), and the United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air (Smuggling Protocol) are centred on organised crime and prevention of irregular migration. The language of human rights protection for migrant workers (and other marginalised groups) put forth by a range of governments and non-government sources was omitted.

Intergovernmental strategies to address migration problems (such as trafficking) are mushrooming, primarily with a focus on so-called irregular migration. In each region of the world there have been coalitions and working groups established to combat the scourge of illegal migration into which labour trafficking is swept. A major incentive for the advent of these forums and strategies is the perception by mostly Western governments that increased movement of people in a globalised world brings serious threats to national security and stability (Taran 2000). The participation of NGOs, human rights organisations, civic groups involved in assisting trafficked persons, and, most importantly migrant workers, which would present an opportunity to bring balance to discussions, has been excluded.

Notwithstanding the limitations, international human rights standards do offer protection to migrant workers and these protections ought to be more widely applied. Yet there remains...
reliance by states to offer migrant workers little more than scant protection for fundamental rights. Human rights of migrant workers have been subjugated to discussions of border control, combating organised crime and return of 'illegal' migrant workers to countries of origin.

**Globalisation and the demand for labour trafficking**

Before examining the situation of the migrant worker whose migration and resulting forced labour could be characterised as labour trafficking, a brief contextualisation of the effects of globalisation on labour trafficking is necessary. In brief, globalisation is providing, at best, mixed results for the world's population. Economies are shifting and changing. The world is in a state of economic reform, which includes the adoption of market economies, privatisation, trade liberalisation and changing forms of international trade cooperation (Taran and Moreno-Fontes Chammartin 2002). Livelihoods are also changing as public sector employment is reduced, traditional industries disappear and jobs and subsidies are eliminated through structural adjustment (Taran and Moreno-Fontes Chammartin 2002). Disparities between those able to enjoy the benefits of globalisation and those still living in poverty are ever increasing. Furthermore, it appears likely that globalisation, among other forces, is set to increase the pressures on labour migration (Stalker 2000).

The ILO estimates there are currently upwards of 97 million migrant workers (ILO 1999). These migrant workers travel and move across state borders for an infinite number of reasons. The desire to travel and visit new places, contact with family and friends, or new work and study opportunities are only a few of the multitude of motivations. For others, poverty and the growing inequality of living standards pushes them to leave their homes and countries in search of other work prospects in numbers that grow each year.

In stark contrast to the deregulation of trade and finance, the migration policies and processes in destination countries are becoming increasingly selective and restrictive. Yet such measures have not reduced labour migration, rather they have placed additional pressures on migrant workers to turn to irregular migration. Restrictions on migration for workers are also in place in many countries of origin. Thailand limits the countries that may recruit female workers. Nepal and Bangladesh prohibit women from emigrating to work in particular areas. These restrictions on movement, without a complementary effort to address disparity relating to migration, have only increased the likelihood of migrant workers seeking alternative migration routes, and hence being at a higher risk of exploitation by traffickers.

High demand for cheap labour, growing disparity in wealth and tight migration controls all lead to greater rewards for traffickers. In this context, the migrant worker is at great risk of abuse and exploitation through labour trafficking.

**Industries demanding cheap labour and getting trafficked workers**

Labour-deficient economies demand the import of labour, the majority of which is for unskilled workers. The demand for cheap labour comes from a range of industries, including agriculture, fisheries, factory work, unskilled manufacturing such as textiles, construction, health care, sex-related work, domestic services and other forms of manual labour. It appears that the legitimate, unmet demand for labour workers in these industries cannot be satisfied with local workers, in part to be due to their unwillingness to work in particular areas or receive the low remuneration provided. The resulting gap is supplemented with migrant labour. The Council of Europe has characterised the role of the trafficker as the bridge between demand and supply. This has significant repercussions for policies attempting to address forced labour and labour trafficking (Marshall 2001).

**The face of a trafficked migrant worker — what we don’t know**

Attempts to locate and describe labour trafficking risks are conducted at the risk of simplifying the issues. While the plight of the trafficked worker is multifaceted, distinct features are largely unknown. This is despite the widespread rhetoric on the urgent need for strategies to address and curb the problem of people trafficking.

Of the 700,000 to possibly four million persons suspected of being trafficked each year, the majority are women and children (APF 2002). Obtaining a definite figure on the number of adult migrant workers caught in labour trafficking is almost impossible. The absence of certain information is primarily due to a lack of data on labour trafficking of migrant workers. Studies tracking migrant workers deported to their country of origin or the numbers of illegal entrants (smuggled or trafficked) attempting to cross borders draws on a very limited sample of subjects.

A continual misunderstanding and blurring between smuggling and trafficking also hampers these studies. In theory, the distinction between smuggling and trafficking has been articulated. In practice, many migrant workers who have been trafficked are designated by authorities in destination countries as smuggled persons or illegal entrants and promptly deported without adequate investigation into the circumstances of their journey that would reveal them as survivors of trafficking. The international human rights norms (through, for example, the ILO and UN conventions) that would afford specific processes to accommodate these workers, as trafficked persons are not applied.
In other cases, trafficked migrant workers may be unwilling to disclose the abusive aspects of their migration journey and consequential exploitative work environment, even in circumstances where assistance is available. It must also be understood that survivors of trafficking may be 'willing' (with debate as to the validity of such consent) to endure exploitative work environments for some payment. The reasons for such tolerance are numerous. Some may not be aware of the exploitative nature of the situation. Others may believe that the situation is the only remedy to a lack of economic opportunities in their home area. Many trafficked migrant workers believe they will face community or family ostracism if they return home without having fulfilled a mission to provide financial support. For these and other reasons, trafficked migrant workers will toll without protest in inhumane working conditions.

**Migrant workers at risk of labour trafficking**

Migrant workers caught up in labour trafficking face similar abuse in labour exploitation, debt bondage and virtual imprisonment as do women or children trafficked for sexual exploitation. It can be inferred that the great majority of migrant workers caught in labour trafficking embark on their journey as voluntary migrants or have been positioned to enter a migration route seeking paid work. It has been argued that prolonged shortages of resources and opportunities may force workers to be complicit in being trafficked, yet they remain unaware of the labour exploitation at the journey's destination (Mishra 2002). The methods of intimidation that lie at the heart of trafficking can be subtle. The announcement of indebted labour at the completion of the migration journey, the withholding of wages or identification papers and the continual threat of exposure to the authorities as illegal entrants and workers are the common forms of coercion and pressure put on trafficked workers.

So for many trafficked workers, it is not simply the coercion (and the factors that lead to such coercion being successful) to embark on a migration journey, but the ensuing abuse, force and violence during the journey and the coercion, exploitative work or bondage upon arrival in the destination country that defines the situation as labour trafficking.

**Gender influences**

Female migrant workers face gender discrimination that places them at higher risk of being vulnerable or even available to be trafficked. A lack of inheritance rights, patriarchal traditions limiting working opportunities, a lack of education, removal of women from the familial home upon marriage and cutting off ties to family and friends — all of these contribute to insecurity and uncertainty for women, enhancing the conditions that foster trafficking (Mishra 2002).

Undoubtedly, female migrant workers are particularly at risk of sexual abuse and exploitation. Female migrant workers who commence a transmigration journey as a smuggled subject or through irregular migration channels are less likely than men to have disposable funds to pay for the transport. Those who cannot meet the costs of the transport may be forced into exploitative work at the journey’s completion to cover the costs. Female migrant workers are also highly vulnerable to rape and sexual abuse during transport.

Traditional gender segregation in the labour market continues to limit women's employment opportunities, and this applies even more so to female migrant workers. Unregulated work areas susceptible to being filled by trafficked workers, for example domestic, entertainment and hospitality work are traditionally female dominated. Women often have less access to information about overseas job opportunities and conditions. Furthermore, state restrictions on the movement and freedom of women greatly affects female migrant workers. For those women trafficked for forced labour to states suppressing or discriminating against the rights and freedoms of women, assistance with abuse or ill-treatment will be extremely difficult to access, if it even exists.

It is clear that the majority of female migrant workers finding themselves in sex-related work migrated for work of a different nature. A survey of 136 women trafficked from Moldova found the women had left their homes seeking work in domestic service, childcare or as waitresses (ILO 2002). None of them had expected to be forced into sex work. A further study of trafficked women returned to Bulgaria found that 79 per cent had been promised a well-paid job that was not in the sex-related industry (ILO 1999). Filipino women are lured into South Korea on entertainment visas only to find that contracts provided before departure were false and the actual industry is prostitution.

Not all trafficked female workers end up working as forced prostitutes. Semi-skilled and highly skilled women working in pernicious conditions as nurses, industrial workers, information technology workers, as well as craft workers, agriculture workers and domestic servants are all examples of female migrant workers trafficked and exploited through forced labour practices.

Male migrant workers caught in labour trafficking could be the least understood group of trafficked persons. In certain regions, such as Europe, adult males appear to be the primary subjects (ILO 2002). In other areas, males make up a significant proportion of trafficked persons. Of survivors of trafficking to Belgium for forced labour, approximately 20 per cent are thought to be male. Men trafficked from rural Moldova to Germany, Greece and Italy have been found working in illegal construction industries. They were obliged to pay travel debts and received no additional payment at the completion of the construction.
Throughout the ordeal they were continually threatened with deportation. Male workers have also been sold between employers in a similar manner to the selling of women trafficked for sex work.

Grey areas emerge in any attempt to delineate from labour trafficking the other situations of exploitation of migrant workers. What is important is that trafficking of migrant workers is at all times a violation of human rights. Examining the circumstances of labour trafficking is crucial to establishing humane systems that prevent this exploitation. Yet without an application of the universal human rights discourse for all workers the exploitation of migrant workers will continue to be defined along theoretical lines that do not neatly translate into reality. This will only result in continued lack of understanding and action to address the many migrant workers remaining at risk of marginalisation and exploitation.

**Trafficking and corruption: The intersections**

From the beginning to completion of the trafficking passage, corruption and trafficking repeatedly and necessarily intersect. Corruption, the abuse of public power for private benefit, contributes to circumstances placing migrant workers at risk of being trafficked; corruption smooths the bumps in the road for the trafficker during the journey; corruption negotiates transactions for the trafficker; corruption holds trafficked workers in bondage and forced labour; and corruption undermines efforts to prevent labour trafficking.

It is crucial that any analysis of labour trafficking allocates significant resources to identifying the symbiotic relationship between trafficking and corruption. Embryonic awareness of the links between corruption and trafficking is emerging. The US Anti-Trafficking Act states that '[t]rafficking in persons is often aided by official corruption in countries of origin, transit, and destination' (Section 102(b)(8)). There is a growing perception that widespread corruption underpins the modus operandi of labour trafficking. Beyond this, states are yet to undertake further analysis of the discernible links between corruption and labour trafficking. There have been few reports on investigations into corruption offences relating to labour trafficking, with virtually no cases leading to convictions. Detracting from the development of holistic strategies to understand and combat labour trafficking, corruption is yet to be named and targeted in most anti-trafficking statistical research or policy studies (PACO 2002).

In addition to those possibly involved in corruption that facilitates the trafficking journey, corruption in the criminal justice system also facilitates migrant labour trafficking. PACO (2002) argues that tolerating or avoiding action that would prevent or halt trafficking migrant workers constitutes passive complicity in a criminal justice system. Active involvement includes obstructing or frustrating investigations, providing or revealing information and perjury (Lezertua 2003).

Attempts to address (or minimise) the causes of labour trafficking by NGOs, civic and community groups and other coalitions are thwarted by corruption aiding the trafficking process. Trafficked migrant workers who have been deported remain at risk of being re-trafficked with the assistance of corrupt authorities that have monitored their journeys. For example, a Spanish women's shelter assisting trafficked women refused to reveal the location of the shelter to police on the grounds that corrupt police had been known to pass on information about the women to traffickers (Lyday 2001).

Inertia on the part of authorities or wider communities that is not due to corruption or organised crime is another complex aspect of trafficking (Lezertua 2003). Ignorance of the indicators that suggest trafficking is occurring, lack of awareness of the circumstances leading to and causing trafficking and inadequate skill and capacity to implement measures to curb and prevent trafficking can all contribute to inertia and inaction (PACO 2002).

The lack of application and enforcement of labour standards is a major incentive for labour traffickers. Markets with a tolerance for restrictions on freedom of movement, the withholding of wages, and inhume or unsafe working conditions create environments in which opportunistic traffickers can exploit migrant workers.

A lack of worksite monitoring means trafficked workers can continue to escape notice. It is not only the ILO Conventions 97 and 143 that are relevant in the development of strategies for addressing trafficking in this context. There are numerous other international standards related to labour inspection and administration, employment and social policy, fair remuneration, discrimination and harassment in the workplace, freedom of association, rights of unionisation and so forth that are in place and relevant to holistic strategies on anti-trafficking of migrant workers (ILO 2002).

**Perpetuating the cycle**

Perhaps the most tragic aspect of trafficked migrant workers is their involvement in the recruitment of other workers into a cycle of abuse and trafficking. This is one of the least understood areas in the nexus between labour trafficking and corruption and the effects on migrant workers who are caught in the middle. Again, this highlights the complexities of the overlap between circumstances where consent is provided by illegal but willing migrant workers and the situation of trafficked workers.

It is almost impossible to verify the number or proportion of trafficked persons who do become embroiled in a trafficking network as recruiters, or whose return to villages or financial
support of family in part causes others to be forced into a trafficking journey. The migrant worker who is preparing to embark on a transborder journey in search of work, through irregular migration or otherwise, is no doubt influenced by returning workers, who may give embellished accounts of the working conditions and remuneration they received. How these relations influence choices made by the newly departing worker, whether these decisions to migrate are informed by the reality of the situation in the destination, and how this affects the soon-to-depart worker's vulnerability to labour trafficking has yet to be adequately researched.

The reasons why migrant workers might inadvertently become involved in the trafficking of others can only be speculated upon, with the current evidence largely anecdotal. For instance, Nepalese women securing their release from sexual exploitative conditions in India have returned to homes and villages to recruit a replacement for their place in the brothel (Human Rights Watch 1995). There is also evidence that workers caught in trafficking networks receive payment from trafficking organisers if they are able to supply (or lure) more migrants to be exploited. What is clear is that distinction between the perceived victim and perpetrator is blurred and that a culture of blame against the migrant worker is counterproductive.

Conclusion
Labour trafficking represents a gross violation of human rights. It also represents an international issue that requires commitment and resources from government and civic groups to address. Yet to date the discussions and approaches to preventing labour trafficking have been marred by a reluctance to address labour trafficking through the available international human rights discourse. The intersection of corruption and trafficking is crucial to the 'success' of trafficking operations and examples of how and where corruption and labour trafficking intersect have been presented. Again, the alternative analysis of labour trafficking through a corruption framework has been thus far overlooked, limiting the opportunity to develop holistic rights-based strategies for anti-trafficking.

It is evident that a lack of research on the factors that influence vulnerability to trafficking, the corrupt processes that support labour trafficking and the agents and circumstances that induce a demand for trafficked workers are hampering efforts to develop informed anti-trafficking strategies.

Note
* This is an edited version of longer paper prepared for the Australian Council for International Development.

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Combating trafficking in persons through the Bali Process

Caroline Millar, Ambassador for People Smuggling Issues and First Assistant Secretary, International Organisations, Department of Foreign Affairs and Trade*

Introduction

The focus of this paper is Australia's work in building regional cooperation to combat people trafficking. In order to place Australia's effort to build a regional response to people trafficking in its proper context, the paper necessarily covers people smuggling issues and Australia's domestic, bilateral and international efforts to combat both people smuggling and trafficking in persons.

The Bali Process and the role of the Ambassador for People Smuggling Issues

Following large numbers of illegal boat arrivals run by people smuggling operations from Indonesia to Australia in 2000 and 2001 (6640 people on 83 boats), the Australian Foreign Minister, Mr Downer, and his Indonesian counterpart, Dr Wirajuda, decided to boost bilateral and regional cooperative efforts to deal with people smuggling and trafficking by co-hosting a Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime in Bali in February 2002.

The position of Ambassador for People Smuggling Issues was created in April 2002 to take forward the outcomes of the ministerial conference and promote coherent, effective international approaches to combating people smuggling and trafficking, particularly in the Asia-Pacific region. I was appointed to the position in July 2003 to implement the practical measures agreed by ministers at a second Bali ministerial conference in April 2003.

My role as ambassador is one of high-level advocacy in the region and effective whole-of-government coordination in Canberra to promote practical, cooperative activities in what is called the Bali Process (after the venue of the ministerial meetings) to combat people smuggling and trafficking. The process would not be successful without a highly collaborative effort among key Commonwealth departments and agencies, notably the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA); the Attorney General's Department (AGD); the Australian Federal Police (AFP); Australian Agency for International Development (AusAID) and the Department of the Prime Minister and Cabinet's Office of the Status of Women.

The Bali Process derives its impetus from strong political support in the region. Through capacity-building activities and practical workshops, it has created an environment in which regional foreign, justice, law enforcement and immigration ministries are increasingly cooperative — and effective — in addressing people smuggling and trafficking issues.

A global problem

People smuggling and trafficking in persons are serious global problems:

- they challenge national sovereignty in controlling borders and potentially threaten national security;
- they undermine the integrity of the international refugee protection system, with the potential to erode public support for the legal migration programs that have so benefited and enriched Australia and many other countries; and
- they can result in human rights abuses and humanitarian disasters where smugglers and traffickers send people across dangerous waters in unsafe and overloaded boats and mislead women and children about their future employment and lives when they reach their destination.

People smuggling occurs when people pay smugglers to arrange for them to cross illegally into a third country. Usually the transaction ends once this is achieved. Trafficking in persons, on the other hand, often involves coercion and abduction, as well as fraudulent promises by the traffickers of jobs and a better life. The transaction often does not end at the point of destination, as traffickers may continue to exploit their victims through sexual exploitation, forced labour, and other forms of slavery.¹

We have no accurate figures on the number of people smuggled or trafficked annually. In June 2004, in its Trafficking in Persons Report, the United States Government estimated that 600,000 to 800,000 people are trafficked across international borders each year. In the same report, the United States also estimated that global intra-country trafficking in persons could range from two to four million.²

We do know that people smuggling and trafficking operations are becoming increasingly sophisticated and lucrative.
According to the International Organization for Migration (IOM), people smugglers and traffickers earn approximately US$10 billion annually, making these repugnant activities core business for transnational criminals, alongside narcotics, document fraud, money laundering and arms smuggling. Individual governments cannot deal effectively with these issues alone. These are transnational problems requiring transnational solutions — through international treaty commitments and international cooperation.

**Australian responses**

**International treaty commitments**

Successive Australian governments have been committed to implementing the provisions of relevant multilateral treaties. Australia recently ratified the United Nations Convention against Transnational Organized Crime and its Protocol against the Smuggling of Migrants by Land, Sea and Air, both of which entered into force for us on 26 June 2004. Australia intends to ratify the convention's Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, once implementing legislation has been passed. A key Australian treaty commitment is the 1951 Convention relating to the Status of Refugees and its 1967 protocol.1

**Domestic laws and policies**

Australia has instituted a broad range of domestic laws and policies to combat people smuggling and trafficking and provide appropriate assistance to smuggled and trafficked people. As a destination country, targeted by people smugglers and, to a lesser extent, traffickers, Australia has put in place whole-of-government policies, legislation and programs to deter unauthorised boat arrivals, to extradite and/or prosecute the smugglers and traffickers,4 to provide assistance to the victims of trafficking, to ensure asylum seekers have their claims assessed in accordance with the Convention relating to the Status of Refugees, and to provide effective and safe return arrangements for those found not to be in need of protection. Recent measures include an A$20 million package of anti-trafficking measures to help target, arrest and prosecute people traffickers in Australia and the region and to improve support for the victims of trafficking, and new penalties of up to 20 years' gaol for people trafficking.5

**Regional approaches**

A key element of Australia's approach to combating people smuggling and trafficking has been to build effective regional cooperation. We have done so through the Bali Process (discussed below) and also through a wide range of bilateral, regional and sub-regional programs. Significant resources have been devoted to regional efforts to deal effectively and humanely with smuggled and trafficked persons; to ensure that asylum claims are properly heard without helping the people smuggling trade.

Australia is also contributing substantial funding through the aid program to a range of regional projects relating to trafficking in persons — notably in Thailand, Laos, Cambodia and Vietnam. These include bilateral programs and projects run by the International Organization for Migration (IOM) and the UN Development Programme (UNDP), including on the return and reintegration of trafficked and other vulnerable women and children.

In order to prosecute successfully the smugglers and traffickers — as with all kinds of transnational crime — establishing dual criminality is essential. A key focus of Australia's approach to combating people smuggling and trafficking has been to work with regional countries, both bilaterally and through the Bali Process, to help them develop legislation to criminalise people smuggling and trafficking, as well as to negotiate bilateral extradition treaties and mutual assistance arrangements.

**Bali Process on people smuggling, trafficking in persons and related transnational crime**

The Bali Process has greatly assisted bilateral and other regional efforts to combat people smuggling and trafficking. The Bali Process is a regional process. But the region stretches a long way — from Turkey in the West and China in the North to Kiribati in the East and New Zealand in the South. Participants include source, transit and destination countries (some, such as Thailand, are all three), as well as key international organisations, notably the UNHCR and IOM. Unsurprisingly, given such a diverse group, the interests and levels of engagement of countries varies. Some involve themselves in all aspects of the process, others pick those areas and activities of most relevance to them.

At the two Bali ministerial conferences, ministers agreed to the following specific objectives for the Bali Process:

- the development of more effective information and intelligence sharing;
- improved cooperation among regional law enforcement agencies to deter and combat people smuggling and trafficking networks;
- the enactment of national legislation to criminalise people smuggling and trafficking in persons;
- provision of appropriate protection and assistance to the victims of trafficking, particularly women and children;
- enhanced cooperation on border and visa systems to detect and prevent illegal movements;
- increased public awareness in order to discourage these activities and warn those susceptible;
- enhanced effectiveness of return as a strategy to
deter people smuggling and trafficking through conclusion of appropriate arrangements;
• cooperation in verifying the identity and nationality of illegal migrants and trafficking victims;
• enhanced focus on tackling the root causes of illegal migration, including by increasing opportunities for legal migration between states; and
• assisting countries to adopt best practices in asylum management.

To take forward these objectives, ministers agreed that senior officials develop practical plans of action. New Zealand has coordinated activities to increase regional and international cooperation and Thailand has coordinated work on legislation, law enforcement and document fraud issues. Overall direction and coordination has been provided through an officials steering group comprising Indonesia and Australia as the two co-chairs, New Zealand and Thailand as the coordinators, and the UNHCR and IOM as partner agencies.

Key areas of activity since the first Bali meeting include:
• the establishment by IOM of a Bali Process website (<www.baliprocess.net>). Used initially to provide basic information the website is now being developed as a capacity-building tool, including model agreements and operational information;
• two legislation workshops in Malaysia for regional immigration, police and justice officials. These resulted in the development by Australia and China of model legislation to criminalise people smuggling and trafficking;
• a law enforcement and travel document fraud workshop in China, including training by the Bangkok-based Immigration Control Experts (ICE) team, represented by Australia and the United States;
• a people trafficking/public awareness workshop in the Republic of Korea run jointly by the Korean Justice and Gender Equality ministries;
• a bilateral returns workshop in Perth, developed by DIMIA and run jointly with the regional Budapest process;
• a workshop developed by DIMIA on identity management and document fraud in Thailand; and
• a workshop among law enforcement agencies, developed by AFP, focusing on cooperation in identifying and targeting key people smugglers and traffickers in the region.

Of these activities, perhaps the most successful has been the development of legislation to criminalise people smuggling and trafficking. In the past, the lack of suitable legislation has been an impediment in regional countries seeking to take action domestically and in countries such as Australia seeking to extradite alleged traffickers and smugglers. As of June 2004, 18 regional countries had made use of the model legislation developed by Australia and China to draft their own domestic laws criminalising people smuggling and trafficking. Nineteen countries have legislation in place, with many more countries considering legislative changes. The potential impact on people smugglers and traffickers is significant, and, importantly, long term.

Future directions
As mandated by ministers at the second Bali conference, senior officials reviewed progress in taking forward ministers' objectives at a senior officials' meeting (SOM) in Brisbane in June that I co-chaired with my Indonesian counterpart. Forty-seven countries (comprising officials from regional justice, immigration, foreign and law enforcement agencies) and nine international organisations attended the meeting.

Participants expressed strong appreciation for the way the Bali Process has delivered direct practical benefits to regional operational agencies. There was also a strong sense that as long as smuggling and trafficking persist, regional countries wanted to continue to work together to find regional solutions.

Participants were unanimous in their view that the Bali Process should continue. They noted that the process had moved on from discussing political principles to implementing practical measures. They agreed that some of the objectives set by ministers had been achieved — at least in so far as they could be taken forward in a multilateral process of this kind. They also noted work on related issues underway bilaterally and in other regional forums and agreed that the Bali Process should not duplicate that. They further agreed that, despite progress, significant challenges remained, particularly in dealing with trafficking in persons issues. They therefore recommended a streamlined future program of continuing and new activities in areas the Bali Process could best add value, notably:
• regional law enforcement cooperation, including on border controls;
• regional training for law enforcement officers in dealing with the victims of trafficking and in combating trafficking;
• public awareness of people smuggling and trafficking;
• child sex tourism;
• mutual assistance and extradition;
• development of policy and/or legislation on lost/stolen passports; and
• targeting people smugglers and traffickers.
New Zealand and Thailand have agreed to continue to coordinate activities over the coming year, with New Zealand focusing more on legislative and policy issues and Thailand more on law enforcement and border controls. Both Mr Downer and his Indonesian counterpart, Dr Wirajuda, have agreed that a further ministerial conference or SOM is not needed at this stage although they will keep this under review.

Conclusion

So what has been the overall impact of and added value of the Bali Process in combating people smuggling and trafficking? Many Bali Process countries have commented to us that in just over two years the Bali Process has created an environment in which regional countries are increasingly comfortable and cooperative in addressing smuggling and trafficking activities, prosecuting those responsible and strengthening border management. This is very important when dealing with a transnational crime. The Bali Process has also promoted far better internal coordination among foreign, immigration, justice and law enforcement agencies in individual countries.

As Ambassador for People Smuggling Issues, my objective has been to work collaboratively with my Australian colleagues on a whole-of-government basis and with regional counterparts to use the Bali Process to create an environment in which operational cooperation among regional agencies on people smuggling and trafficking issues becomes self-sustaining. And, as the outcomes of the SOM last month showed, this is increasingly the case.

Notes

* This is an edited version of a paper given at the People Trafficking, Human Security and Development conference, 1–2 September 2004, Canberra.
1. There is often confusion between trafficking and the related but separate crime of people smuggling. Australia has adopted the internationally accepted definition of trafficking in persons which is contained in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the Convention against Transnational Organized Crime. The UN protocol defines trafficking in persons as: the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. The definition includes exploitation for prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. The Trafficking Protocol applies to offences which are transnational in nature and involve an organised criminal group.
3. Convention relating to the Status of Refugees (1951) and Protocol relating to the Status of Refugees (1967). The 1951 convention originally had temporal and geographical limitations, but these restrictions were lifted by the 1967 protocol. The convention sets out the rights of refugees, establishing a minimum standard of treatment of refugees. One of the most important of these is the right of 'non-refoulement', that is, that a refugee should not be expelled or returned from its territory to a country where he or she could face persecution on convention grounds.
4. In the last five years, there have been over 450 convictions for the full range of people smuggling offences in Australia.
5. The actual offence is for (extraterritorial) people smuggling aggravated by exploitation.
What do we need to know? Improving the evidence base on trafficking in human beings in the Asia-Pacific region

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Introduction

Although trafficking in human beings has existed for centuries, primarily in the form of slavery, social scientists have generally showed little interest in the topic. In particular the amount of work that has systematically and rigorously attempted to define, measure and analyse the problem has been modest. At first sight this may seem counter-intuitive due to the publication of major overviews on trafficking (see for example, United Nations 2003; US Department of State 2004). These publications have largely been driven by three key mechanisms:

• a strong focus by the United Nations (UN) and the ratification of the Convention against Transnational Organized Crime (UN 2000) which has 147 signatories and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Supplementing the United Nations Convention against Transnational Organized Crime) which has 117 signatories (UN 2000a);
• legislation (Trafficking Victims Protection Act 2000, Division A) enabling the US Government to apply non-trade sanctions to countries that fail to adequately respond to trafficking (US Department of State 2000);
• increasing interest and advocacy on this issue by the NGO sector (UNICRI/AIC 1999).

However, the evidence used to underpin these overviews is of dubious quality. For example, in its 2003 regional profile of the Asia-Pacific, the UN provided an overview of the nature of trafficking in the countries comprising that region. Table 1 appears to provide a relatively comprehensive overview of the nature and extent of trafficking. Yet the UN notes that:

...there is no reliable direct evidence of the trade growing or declining, and there exist no reliable, academically rigorous attempts to quantify or value the trade in humans (UN 2003:1).

This lack of evidence is becoming more critical as governments seek increasingly to create policy based on a sound knowledge base. As a performance management culture spreads across governments, policy makers are being called upon to make key strategic decisions to apportion their budgets to both meet the demands of the problem and more importantly directs funds to where they are most needed. There is no doubt that trafficking is a growing and lucrative market, but the size and manifestations of that market remain to be adequately documented. From a pragmatic perspective, law enforcement agencies cannot readily commit their allocated resources to the issue of trafficking unless they can establish from reliable data that their actions and interventions will actually resonate on the ground. More importantly, without investment in building a transparent evidence base, it will be impossible to demonstrate the cost-effectiveness of law enforcement interventions.

The building of such an evidence base involves addressing three key questions (Solesbury 2001):

• How relevant is the evidence being examined to the issue at hand?
• How representative is the evidence of the group being studied?
• How reliable, theoretically and empirically, is the evidence?

It seems essential that these questions be applied to the issue of human trafficking by all of those involved in countering it at whatever level. This paper discusses the key issues in regard to obtaining reliable data on people trafficking in the Asia-Pacific.

The current position

Broadly speaking, research in connection with human trafficking thus far has provided limited information on:

• estimating the scale of the problem;
• identifying trafficking routes and the relationships that exist between countries of origin, transit and destination;

...the flows of trafficked victims throughout the region are numerous and complex. There is not one phenomenon at work in this region, there are many human trafficking typologies — with different causes, different locations, different levels of organised crime involvement, different degrees of consent and complicity, and of course with different sources and destinations (UN 2003:2).

In consequence, the report notes that:
<table>
<thead>
<tr>
<th>Country</th>
<th>Source/Transit/Destination</th>
<th>Trafficking Typology</th>
<th>Trafficking From</th>
<th>Trafficking To</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>Source &amp; Destination</td>
<td>Domestic (kidnapping), marriage, Commercial Sexual Exploitation (CSE), forced labour, adoption, child sex</td>
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<td>Hong Kong, Macau, Malaysia, Japan, Singapore, Indonesia, US, Australia, Burma, Cambodia &amp; Thailand</td>
</tr>
<tr>
<td>Thailand</td>
<td>Source, Transit &amp; Destination</td>
<td>CSE, forced labour</td>
<td>Thailand</td>
<td>US, UK, Australia, Hong Kong, Macau, Japan &amp; Taiwan</td>
</tr>
<tr>
<td>Myanmar</td>
<td>Source</td>
<td>CSE, forced labour, military conscription, domestic (kidnapping)</td>
<td>Myanmar</td>
<td>Thailand, China, Taiwan, Pakistan &amp; Japan</td>
</tr>
<tr>
<td>Vietnam</td>
<td>Source</td>
<td>Domestic (kidnapping), marriage</td>
<td>Vietnam child begging, CSE,</td>
<td>China, Taiwan, Japan, Cambodia &amp; Thailand</td>
</tr>
<tr>
<td>Lao</td>
<td>Source</td>
<td>CSE, forced labour</td>
<td>Lao</td>
<td>China, Thailand &amp; Cambodia</td>
</tr>
<tr>
<td>Cambodia</td>
<td>Source</td>
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<td>Thailand &amp; Vietnam</td>
</tr>
<tr>
<td>Japan</td>
<td>Destination</td>
<td>CSE, child sex</td>
<td>China, Taiwan, Vietnam, Central Asia, Russia, South Korea, Cambodia &amp; the Philippines</td>
<td>Japan</td>
</tr>
<tr>
<td>Taiwan</td>
<td>Destination</td>
<td>CSE, marriage</td>
<td>China, Vietnam, Central Asia, Russia, South Korea, Cambodia &amp; the Philippines</td>
<td>Taiwan</td>
</tr>
<tr>
<td>South Korea</td>
<td>Source, Transit &amp; Destination</td>
<td>CSE</td>
<td>China, Vietnam, Thailand, Central Asia &amp; Russia</td>
<td>South Korea</td>
</tr>
<tr>
<td>Hong Kong</td>
<td>Destination &amp; Transit</td>
<td>CSE</td>
<td>China, Thailand, Central Asia, Russia, Vietnam &amp; the Philippines</td>
<td>Hong Kong</td>
</tr>
<tr>
<td>Macau</td>
<td>Destination</td>
<td>CSE</td>
<td>Thailand, Vietnam, China, Central Asia &amp; Russia</td>
<td>Macau</td>
</tr>
<tr>
<td>Malaysia</td>
<td>Destination</td>
<td>CSE &amp; forced labour</td>
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</tr>
<tr>
<td>Singapore</td>
<td>Destination</td>
<td>CSE</td>
<td>Malaysia, China, Thailand, S. Asia, the Philippines, Central Asia</td>
<td>Singapore</td>
</tr>
<tr>
<td>The Philippines</td>
<td>Source, Transit &amp; Destination</td>
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<td>The Philippines</td>
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<tr>
<td>Central Asia and Russia</td>
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<td>Central Asia &amp; Russia</td>
<td>Thailand, Malaysia, Hong Kong &amp; Macau</td>
</tr>
</tbody>
</table>

• documenting methods of recruitment;
• determining the nature and impact of control mechanisms used by traffickers and the subsequent human rights abuses involved; and
• critically reviewing the nature of the current legal and policy frameworks and recommending new approaches.

However, few studies have attempted to obtain, or succeeded in obtaining, data on each of the aforementioned fields within the same program of research during the same specific period. Equally, the data tends to focus upon the sexual exploitation of women and children within prostitution. It does not routinely include other forms of sexual exploitation such as pornography, live sex shows, peep shows, stripping or lap dancing. Nor does the data focus on other forms of exploitation such as forced labour within the domestic, agricultural or industrial contexts. Interestingly, little focus is placed upon the trafficking of men and boys for some or all of the aforementioned purposes. Finally, the extent of published material on trafficking in human beings that is specific to the East Asia-Pacific region is extremely sparse.

However, as already indicated, there are attempts being made to improve the evidence base. Two notable examples are the International Organization for Migration (IOM) (2004) and the UN trafficking database (Kangasputa 2003). The IOM collects first-hand information from IOM field missions working on counter-trafficking as part of its Counter Trafficking Module (CTM) Database. It carries out in-depth interviews based on a standard questionnaire with all trafficked persons who receive IOM assistance. Information gathered includes the victims' socio-economic background, manner and means used for their recruitment, route taken, their experience and any other relevant information, including their health and welfare needs. This is fed into a database and provides assistance in identifying patterns and mechanisms of trafficking. However, it only deals with those who seek the assistance of the IOM and not necessarily all those who have been trafficked.

The United Nations Global Programme against Trafficking in Human Beings established a database to bring some semblance of authority and order to the vast range of source material on the issue. The database is designed to incorporate open source material dealing with all pertinent issues relating to trafficking. Such sources include official government reports, intergovernmental and non-governmental organisations, research reports, conference publications and media reports. The database provides a confidence quotient for each piece of information ranging from 1 to 5. The quotient is influenced by a consideration of positive and negative factors such as the fact that a figure cited in the source is based on an extrapolation from a small sample or, conversely, that the figure cited is based on actual cases dealt with by the police.

One might question why information in which there is not reasonable confidence should be included in the database. There is perhaps a danger that the sheer volume of information of varying quality and reliability logged on the database will continue to fuel the uncertainty that already exists around trafficking data. Filtering information with a view to removing that upon which there is some doubt should be an integral part of the process and would ensure that the UN database is more than just a clearinghouse of a multitude of collections. This is especially important when one considers the fact that a key motivation behind the database was to increase the comparability of data between countries and regions. By 2003, information from 284 sources had been entered, most originating from developed countries, resulting in a heavy bias on destination rather than source countries.

What are the problems with the data?
A recent review of migration, people smuggling and trafficking (IOM 2004) has documented the difficulties associated with collating data on human migration per se. More specific reviews of the quality of the evidence base on people trafficking have found that there are significant weaknesses in the data and research findings (see Laczko and Gramegna 2003; Makkai 2003). Essentially, these limitations can be summarised into four areas: conceptual problems; imprecise estimates; disparity in estimates; and lack of a centralised data repository.

Conceptual problems
To effectively collect data on trafficking in human beings, the term 'trafficking' must be clearly defined, and arguably the best current guidance is that contained in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000). This provides (Article 3(a)) that:

'trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by 'means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs (UN 2000a).

This definition, as with many definitions in international treaties and legislation, has been left intentionally wide so as to encapsulate as many offenders/offences and variations in national legal approaches as possible. The negative impact of this feature lies in the fact that trafficking may entail a range of criminal activities and involvement across a number of countries. The ability, or commitment, of authorities within those
jurisdictions to prosecute offenders may differ within and between territories. Kangaspunta (2003), for example, has suggested that the police may elect to investigate some trafficking cases as cases of smuggling because the collection of evidence is easier and the likelihood of prosecution greater, not least of all because the testimony of victims is not required.

It is certainly the case that many governments have not yet created a universal method of data collection and it is apparently common for many countries to mix data on trafficking, smuggling and undocumented and irregular migration. Doing so renders the obtaining of essential trafficking data more problematic still. More specifically, there is a lack of clarity in many research reports over whether the research data are focusing on trafficking or include people smuggling. A key impediment to any successful and meaningful collection of data lies in the failure on the part of some to distinguish between 'trafficking' and 'smuggling'. The characteristics of each in terms of organisation, nature and human and financial costs demand that their evaluation for data-collecting purposes remains equally distinct. Furthermore, legislative regimes apply different definitions and criteria when defining trafficking in human persons. An important component in the UN legislation is the issue of consent and exploitation. Crucially, victims are deemed not to have consented to any part of the trafficking process. To ensure consistent and comparable data across countries, agreed measures of these two concepts are required. Such measures need to be applicable across cultures, gender and age groups.

Imprecise estimates
Much of the available data on the extent and nature of the trafficking process is obtained from intercepted victims. The knowledge possessed by those victims, however, will invariably be limited to their own immediate experience. They will not have a detailed knowledge of the entire trafficking operation, but merely those parts of it which involved them directly, for example, where they originated from, how they travelled, how much they were charged and where they eventually worked. It is tempting perhaps to extrapolate from the individual experiences drawn from victims, but anecdotal evidence is not sufficient to guide, inform and justify major policy initiatives.

Reliance on such data has produced a wide variation in the numbers of people reported trafficked in the same country. This is probably due to variations in the methodologies used to collect the estimates. Often the methodology is poorly documented. For example, it is often difficult to determine whether estimates apply to a single year or cover multiple years. An oft-cited estimate is that from the US Department of State (2004a) that '[a]nnually, about 600,000 to 800,000 people - mostly women and children - are trafficked across national borders which does not count millions trafficked within their own countries'. IOM (2000) refers to 200,000–250,000 women and children trafficked in Asia, while ESCAP (2000) refers to 1 million child victims of trafficking for sexual exploitation in the Mekong region. Clearly this level of imprecision does little to increase one's confidence that policy makers can use the current evidence base to make policy decisions.

Disparity in estimates
The NGO sector is a key source of victim data, however, the information may be based upon an agency, rather than a globally understood and accepted, definition of trafficking. The size, scope and quality of the data may be affected by the size, scope and quality of the NGO, whether in political, cultural or financial terms. There may be a political motivation behind the collection or interpretation of data. All such factors impact upon the eventual quality of the data. There is a clear disparity between the numbers reported in victim's studies and the official arrest and prosecution data. For example Than (2002) reports that 10,000 Burmese women and girls are trafficked into Thailand annually while in 2004 Thailand reported 211 arrests with 86 prosecutions (US Department of State 2004). This discrepancy is consistent with other crime categories (see Makkai 2001), particularly sexual assault data (see Mouzos and Makkai 2004). However, there is a need to better understand why and where the discrepancies occur (see Lievore 2004 for work that documents the factors that affect matters proceeding to prosecution of sexual cases in Australia).

A centralised data repository
Clearly, the evidence base on people trafficking cannot improve without access to the original information that can then be transformed into a systematic database. A number of different government departments and regional and international NGO agencies collect data. However, the data are not concentrated within a comprehensive and centralised accessible database. Even where data is collected, very few countries are able to provide data on trends in trafficking over a period of years, and this makes it difficult to establish the extent to which trafficking might be increasing or decreasing in response to, or as a result of the lack of, applicable legislation and enforcement activity. The unavailability of data at the national level results in a failure to discuss trends at the regional and international levels.

In the 2003 financial year, the US government supported 204 anti-trafficking programs in every region of the world, many of which were dedicated to the collection of data on some aspect of trafficking within their particular geographical areas and level of victim interaction (US Department of State 2004b). However, no single organisation currently acts as a central conduit through which the collection, collation and analysis of data on trafficking
at the national and regional levels flows. Thus, there is an
abundance of data, but no effective application or utilisation of it.

Williams (2001) has argued that a centralised database can
provide significant advantages in terms of the efficiency,
effectiveness and appropriateness of the data being collated. The
minimum responsibilities associated with the centralised
database would involve ‘collection, collation, cleaning, coding,
categorising and classifying information’ (Williams 2001:7).

Availability and accessibility of data

The issues discussed in the previous section are fundamental
for producing reliable and valid data. Without reliable and valid
data it is impossible to establish even the most basic
understanding of the ‘true’ problem, as opposed to rhetoric and
myths, which may dominate the debate and media reporting of
these matters. Two key issues that will affect our ability to build
such an evidence base are the availability of data and the extent
to which that data are shared or are accessible.

As trafficking is a globalised phenomenon, trends in
trafficking can only be fully assessed if the data produced within
each country or region is comparable at the regional and
preferably global level. This means a significant cultural shift
for countries — they must be prepared to share what they might
deem sensitive data on trafficking patterns and associated
characteristics. The unwillingness to share is often exacerbated
by unwillingness of key stakeholders within a country to share
information. For example, health and law enforcement agencies
have found it difficult to move beyond their individual concerns
about the sharing of data to a perspective more in tune with
‘whole of government’ approaches.

We have already highlighted potential limitations in the
information on victims from the NGO sector. However, NGOs
play a crucial role in their frontline activities with victims and
they have a privileged access to these victims. This makes it all
the more important that their data is collected in a systematic
and organised manner. Again there needs to be willingness to
both share and access data.

There are legitimate concerns over access to particular kinds
of data, however, a centralised database does not automatically
mean open access to all. Some destination agencies may be
concerned that the police or government sources they reveal
information to could be involved directly or indirectly with
trafficking. Some NGOs may not wish to share data because of
the undertakings of confidentiality they provided in order to
obtain the data in the first instance. In discussing this issue
Williams succinctly notes:

Not all the data held in a central database will be relevant to
all agencies. Not all agencies will have either the capacity or
the inclination to ‘drill down’ to greater levels of specificity or
detail. For many agencies, routine or standard reports will be
sufficient and, for others, unit record files of relevant data will
be requested. In the absence of open and free exchange of
agreed sets of information, the end product will the poorer
and responses will be based on imperfect knowledge (2001:10).

There are other issues that affect whether agencies are
prepared to share data. Some agencies may be embarrassed about
the quality or quantity of their data. The extent to which this is
true highlights a need for capacity building with agencies and
countries to assist them in improving on the quality of data that
are collated. A recent survey of the Asia/Oceania region (IOM
2004) on the collection of data in relation, inter alia, to
trafficking/smuggling highlights the need for significant capacity
building in this area across the region (see Table 2).

The information in Table 2 indicates that there is clearly
no regional approach in terms of the occurrence of data
collection, of the frequency of that collection, of the fact or
manner of that data’s storage or of the sharing of that data. It
is common for the required information not to be available.
Ultimately, if data is not routinely collected, systematically
recorded and widely disseminated, tackling trafficking will
become yet more difficult.

The way ahead

The International Organization for Migration (IOM 2004) has
made a number of suggestions in relation to the improvement
of the collection and dissemination of data on migration per se
and these could of course be applied equally rigorously to data
on trafficking. IOM argues that:

• Data collection should have a purpose. It should
be regarded as a tool for the development of
effective policy and legislation.
• Definitions should be standardised within national
data collections. Thereafter, standardisation might
be attempted at the regional and global levels.
• Technical capacity for data collection should
become a focus of countries whether in terms of
noting best practice in other countries or through
the solicitation and/or acceptance of effective
training programs.
• Networks should be established to disseminate
data in a continuous and organised manner.
• Dialogue within and between nations on the
coordination and management of data collections
at the regional and global levels should become a
central facet of government thinking.

The key question to pose in relation to the collection, analysis
and dissemination of data is whether the data produced actually
assist in the fight against trafficking. Does knowledge of global
trafficking rates, for example, actually assist in terms of policy
development and delivery or in terms of pragmatic action, save
for confirming that it is a large and growing problem?
Table 2: Summary of data collated on trafficking/smuggling in the Asia/Oceania region

<table>
<thead>
<tr>
<th>Questionnaire</th>
<th>Trafficking/Smuggling</th>
</tr>
</thead>
</table>
| 1. Is data collected in these areas? | 86% Yes  
14% No |
| 2. Responsible Governmental Agencies? | 14% Refugees Office, Association of Committee  
57% Department of Immigration, Naturalisation and Citizenship  
14% N/A |
| 3. Paper Version or Electronic? | 29% N/A  
29% Electronic  
43% Both |
| 4. Data Sharing? | 57% Yes  
14% No  
29% N/A |
| 5. If Yes, with whom? | 14% No  
29% N/A  
29% Governmental Agencies  
14% Public (including publications and other media)  
14% Originating Country |
| 6. Frequency of collection | 29% Daily  
14% Monthly  
14% N/A  
14% Ad Hoc  
19% By Event |
| 7. Is there a Central Data Repository? | 57% Yes  
29% No  
14% N/A |
| 8. If Yes, where is it held? | 57% N/A  
14% Ministry of Interior Affairs  
29% Department of Immigration, Naturalisation and Citizenship |
| 9. Is there a list of migration terminology? | 29% Yes  
29% No  
43% N/A |
| 10. Is there a central statistical agency? | 71% Yes  
29% No |
| 11. What is (are) the agency (ies)? | 43% N/A  
14% Refugees Office, Association or Committee  
43% Department of Immigration, Naturalisation and Citizenship |


Arguably, where human trafficking differs from other serious crimes is in its transnational manifestations and in the numerous ancillary activities that facilitate it. Having only sound data for a country or region to the exclusion of all other countries or regions is a serious impediment to the successful mitigation or eradication of a phenomenon that routinely transcends national and international borders.

It seems logical to obtain data which is actually needed rather than to continue to accept data which happens to be collected and collated. Thus, governments, NGOs and law enforcement agencies need to establish what information they require in order to begin to tackle trafficking. If, for example, an understanding of the methods of recruiting is central to an anti-trafficking approach, then data on that issue should be collected and collated. Indeed, a more useful and possibly more readily attainable approach might be to concentrate instead on the essential characteristics of the trafficking process rather than to doggedly pursue the holy grail of victim quantification.
Whatever the chosen course of action, there must be a clear stipulation as to the rationale for collecting particular data and a concentration upon how this can best be achieved. There should be an equal if not greater focus upon indirect indicators of human trafficking which might include, for example, the number of entertainment visas issued for those working in the entertainment business (anecdotally a destination for trafficked persons). Other indicators might include the number, gender and origin of asylum seekers, figures on the number of illegal border crossings, statistics on departures of women leaving main countries of origin and the demand for visas at foreign consulates for the main countries of transit and destination.

Across a range of social and criminal justice policy areas, the research-based knowledge has large gaps and ambiguities, while the research literature is replete with small, ad hoc studies, securely draw (Davies and Nutley 2002). Although it may seem self-evident, the importance of collecting effective data should continue to be stressed. Until government and funding agencies include a mandatory 'tax' on program funding to support data collection and evaluation, the capacity to build a robust and policy useful regional database on human trafficking within the Asia–Pacific remains problematic.

Note

* The opinions expressed in this paper are those of the authors and do not necessarily reflect the views of the Australian Government.

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Transnational networking for detection and law enforcement

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Introduction
The globalisation of crime has seen its transnational proponents spread their trade and misery throughout all corners of the globe. In order to counter and succeed in detecting, disrupting and dismantling transnational trafficking crime groups, law enforcement has to come together as one. Collaboration and cooperation are essential elements of a law enforcement agency’s tool box in formulating investigation strategies. However, in addressing transnational criminal activity, in particular human trafficking for the purposes of sexual exploitation, law enforcement is required to develop solid anti-trafficking strategies and foster firm domestic and international networks.

This paper will explain the Australian Federal Police (AFP) experiences to date in dealing with people who have been trafficked to Australia for the purposes of sexual exploitation and what efforts are being undertaken to investigate and prosecute those who facilitate and profit from such activities. The discussion will also highlight some of the networking measures the AFP has developed and implemented to underpin law enforcement activity against transnational organised crime groups that engage in this abhorrent crime.

Current situation
According to the United Nations, human trafficking rates third behind the crimes of drug and firearms trafficking in terms of profit-making capacity. Each criminal act relates to a commodity — a gun, a drug or a human. Each crime possesses criminal commonalities regarding the methodologies used, the processes undertaken to ensure the commodity is successfully trafficked, and the manner in which a suitable price is negotiated for the commodity; this is the stark reality of how transnational human traffickers view a human being.

In simple terms, traffickers make huge profits through moving a commodity within and across national and international borders and this negatively impacts on society. An example is heroin trafficked from overseas. To the user it is addictive and can lead to fatal overdoses. The impact on the community is manifest through users either committing crimes or participating in the illicit market in order to gain a financial capacity to continue the supply for their drug dependency (Maher et al. 2003). Similarly, the trafficking of illegal firearms potentially enables deadly weapons to be used against the community in a variety of different ways, such as through armed robbery. Both these forms of trafficking have attracted a great deal of community concern, and have received an appropriate response from law enforcement.

Human trafficking is also an illicit activity, albeit the commodity is not an inanimate object such as a drug or a gun. This commodity is a human being who, like a drug or gun, attracts a tangible value, for example, as a sex object. This ‘object’ can be used, controlled and sold by traffickers for a good deal of their life and often results in a level of psychological, emotional and physical harm to the victim.

Nature of sexual servitude in Australia
Investigating this crime type is extremely resource and time intensive. As of August 2004, the AFP has investigated 81 matters in relation to breaches of the Criminal Code (Slavery and Sexual Servitude) Amendment Act 1999 and presently has four matters before courts in relation to alleged slavery and sexual servitude offences:

- June 2003 — three people were arrested in Sydney in relation to a sexual servitude investigation. Another person was arrested August 2003;
- July 2003 — four people were arrested in Melbourne in relation to a sexual servitude investigation;
- February 2004 — two people were arrested in Sydney in relation to a sexual servitude investigation; and
- July 2004 — a total of seven persons were arrested in Sydney (2) and Bangkok (5) in relation to a collaborative transnational sex trafficking investigation.

These matters are presently before the courts and as such it would be inappropriate to comment any further.

Victimology
Human trafficking throughout the world is biased neither by gender or age; it is driven purely by demand. Evidence gathered by the AFP reveals that so far only women have been trafficked into Australia. No males or children have been identified as victims of human trafficking in Australia. Although there is no clear estimate concerning the number of trafficking victims trafficked to Australia, the AFP can confirm through investigations a total of 22 since May 2003.
Experiences of the AFP to date see Australia as a destination country for trafficking victims. Intelligence reveals the primary source region for trafficked women is Southeast Asia. More specifically, Thailand is assessed as being the hub of the bulk of human trafficking activity that impacts on Australia. Consequently, the majority of victims identified to date are Thai nationals (14), although investigations have also confirmed that women from other nations, such as Indonesia, Korea, Japan, China and Malaysia, have also been trafficked into Australia.

From an Australian perspective, Thailand is where the AFP focuses its networking assets and the reasons are clear. Many victims of sexual exploitation are trafficked internally, externally from other continents and across the direct land borders from adjacent countries (Holmes 2003). Victims are prepared and staged within the country, awaiting sale and subsequently movement to their final destination. Traffickers within Thailand have access to the criminal activity of identity fraud and the trafficker's leverage of the known drug-trafficking routes out of Thailand to other destinations to move their commodity.

The existence of push factors working against human trafficking victims is supported by AFP inquiries that show many of the victims interviewed (either as witnesses or for the purposes of obtaining intelligence) have received limited exposure to education, have difficulty in finding employment and come from low socio-economic regions. This establishes the vulnerability factor for victims. Many women who have been recruited to work in the sex industry appear to be submissive and are easily prepared by the crime groups prior to being trafficked. They are:

- **Coached** — in how to respond to questions posed by immigration and law enforcement officials of another country. This activity is becoming increasingly apparent as law enforcement in many destination countries are seeing a pattern of similar responses given to officials by victims when questioned upon entry to a foreign country.
- **Threatened** — such as with threats of physical harm against the individual female and/or her family in their native land should they choose not to fulfil their obligation or contract.
- **Desensitised** — possibly as a result of prior lifelong involvement in, for example, the sex industry. Anecdotal information suggests that women may be subjected to a particular desensitising process (physical and emotional abuse) before or upon entering to the trafficking environment.
- **Distrustful** — most trafficking victims possess an inherent distrust in representatives of officialdom in their own country, for example law enforcement officers and immigration officers, either through their own personal experiences, or via the indoctrination of traffickers. When confronted by a person of authority such beliefs can encourage the presentation of misinformation and a regular pattern of altered statements.

It is essential that law enforcement be cognizant and attuned to these circumstances, as a failure to appreciate and understand the social and cultural environment of victims and their circumstances will potentially harm or disable any attempts to mount a successful investigation and subsequent prosecution.

The introduction of the specialist visa package earlier this year by the Department of Immigration (DIMIA) as a whole-of-government anti-trafficking initiative allows for intensive support in the initial stages of victim discovery and provides the AFP with the time necessary to obtain and assess the victim’s information and also to determine their willingness to support a trafficking investigation. Of course, should the victim wish to return to her home country, then the AFP, through the international liaison network, facilitates their return and assists with any possible reintegration back into their society, again highlighting the benefits of international networking.

**Criminal group modus operandi**

Organisation is essential for transnational criminal groups who participate in facilitating human trafficking. The criminal aspect of human trafficking can be broken down into a series of phases: recruitment, facilitation, transportation, distribution and exploitation. These elements will be discussed further on in this paper.

The success of a people trafficking syndicate is dependent on involvement in other criminal activity, including the production of or access to false documentation (identity cards, passports visas, marriage certificates, etc) and knowledge of and access to money structuring and laundering techniques. Historically, the incentives for organised groups to become involved in human trafficking have been high profits coupled with low-level risk of arrest and capture.

There are a number of options available to transnational human traffickers who involve themselves in this crime. These include sourcing women already working in the sex industry, deceptively recruiting women with the promise of paid employment in a foreign country, and through the arrangement of false marriages (scams) to support trafficking facilitation.

The most common methodology is to recruit women from within the established sex industry of a foreign country. The women are aware of what services they are to provide in the foreign country, the likely amount of money to be made, and are provided an understanding of the trafficking processes. However, it is only subsequent to being trafficked that the true nature and extent of the repayment scheme, commonly referred
to as the 'contract'; the level of freedom the individual is afforded; and the conditions of their working environment become known to victims. It is the mistruths that often lead to a victim presenting to law enforcement.

Trafficng groups also use the methodology known as 'deceptive recruiting', where victims are recruited under completely false pretexts with the promise of travel and paid employment in a Western country. Depending upon the circumstances, victims are approached by a syndicate member in bars and offered work in areas such as table dancing, household duties or traditional Thai massage in a foreign country. All the arrangements are made on their behalf and they are informed they will have to pay back the debt from the money earned working in Australia, albeit and unknown to them at a grossly inflated price.

On the day of travel, victims are escorted to the airport where they are provided with a ticket and their passport. Once the victim has arrived at her destination, she is met at the airport where her airline ticket and passport are usually removed and she is conveyed to the brothel or safe house before commencing work in the sex industry.

In some instances, a victim who resists complying is subjected to desensitising processes, including being subjected to rape, indoctrination processes (played pornographic videos and provided with pornographic magazines) and physical and emotional threats or abuse, not only against her, but also against her family back in her homeland. Although these experiences have been recorded as occurring in Australia, AFP information suggests that they appear to be few in number. The result is that often the victim usually relents to the pressures and the acts forced upon her and takes up work in the sex industry.

The AFP's response

The crime of human trafficking to Australia has become the subject of much media and political scrutiny and law enforcement attention. It is therefore imperative, as the primary law enforcement agency involved in detecting and investigating human trafficking related matters, the AFP adopts a greater understanding of the processes, phases and underlying methodologies involved in this type of transnational crime.

In 2003, the Australian Government announced a whole-of-government strategy to combat trafficking in persons to Australia. The main feature of this strategy was the funding received by the AFP and the victim-support package. As a result, the AFP created the Transnational Sexual Exploitation and Trafficking Team (TSETT), a mobile strike team based on the successful drug strike team format which was successfully used in dismantling elements of the drug trade in Australia. 

Absorbing the existing Transnational Sexual Offences Team, TSETT strengthened the AFP's capacity to actively target and investigate trafficking syndicates and provides a greater capacity to investigate human trafficking crimes.

Essential to the success of any investigation or prosecution by TSETT is the ability to proactively work with domestic and international stakeholders. The nature of transnational crime is complex and fluid, and the transnational crime groups involved in human trafficking are multi-faceted and active at local, national and international levels. Such a multi-faceted environment requires law enforcement to adopt equally innovative and adaptable tactics for detection and prosecution.

Networking in the international environment

The AFP now operates in many diverse geographical, social and culturally disparate regions throughout the world. To ensure operational effectiveness, the AFP must work with international law enforcement partners and clients through bilateral and multilateral investigations and through efficient and effective intelligence sharing.

The AFP International Network spans 25 countries with 31 AFP posts, including posts in Bangkok and Chiang Mai, Thailand; Cambodia; Ho Chi Minh City and Hanoi, Vietnam; the Philippines, Jakarta and Bali, Indonesia; Malaysia; and Burma. The role of the AFP International Network is to:

- foster cooperation between the AFP and local and other law enforcement agencies in the area of responsibility;
- represent the interests of the AFP and other Australian law enforcement agencies on matters of law enforcement, and, in particular, to exchange criminal intelligence to support investigations into transnational crime impacting on Australia, the host country and other countries in the area of responsibility; and
- support bilateral interests by identifying areas of future cooperation, including possible training opportunities and exchange of law enforcement personnel.

Through its global Law Enforcement Cooperation Program (LECP), the AFP aims to improve levels of cooperation and capacity of overseas law enforcement agencies. The LECP also provides assistance to the AFP to develop law enforcement intelligence that will lead to the identification and prosecution of transnational organised crime groups.

In recognition of the need for international cooperation and networking, the AFP established a Joint People Smuggling Investigation Team in Bangkok, with an attached AFP advisor. The team is located within the Immigration Bureau of the Royal Thai Police, and, whilst its initial focus was people smuggling, it has evolved and developed more of a transnational crime coordination role, with an emphasis now on human trafficking.
Similarly, the AFP also established an AFP/Cambodian Police Joint Transnational Crime Investigation Team (JTCIT) in Phnom Penh, Cambodia. An AFP officer acts in an advisory role to the five Cambodian National Police officers and one support officer assigned to the JTCIT. The team provides the AFP with a framework to facilitate the AFP's fight against transnational crime, including human trafficking.

In order to strengthen its knowledge of the human trafficking crime type, the AFP completed a series of assessments on the countries that impact upon Australia. The assessments allowed first-hand exposure to the crime of human trafficking and provided intelligence on the nature and extent of human trafficking in the Southeast Asia region. The assessments have provided the AFP with options on how the organisation can best assist and cooperate with Southeast Asian law enforcement agencies regarding the topic of sexual exploitation. The assessments included an in-country component. Currently, the AFP has drafted assessments on Cambodia, the Philippines, Vietnam, Indonesia, East Timor and Thailand.

A key international strategy supporting law enforcement activity is the Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime (the Bali Process; see also Millar, this issue) relating to the human rights dimensions of the problems of people smuggling and trafficking in persons, particularly women and children. The group, represented by foreign ministers from a variety of nations, share the view that the illegal human flows were creating significant political, economic, social and security challenges, and that journeys were undertaken without respect for either national sovereignty or borders. The group has further noted that many smuggling and trafficking activities were being orchestrated by criminal networks that were also involved in the trafficking of narcotics, document fraud, money laundering, arms smuggling and other transnational crimes.

The process has allowed law enforcement to focus on follow-up to advance operational cooperation and law enforcement strategies to combat trafficking and smuggling of persons. This will be enhanced through the provision of training and identifying standards or key elements that could contribute to the strengthening of law enforcement efforts. These efforts will effectively assist in combating trafficking and smuggling through strengthened coordination among multi-disciplinary enforcement agencies and ensures cross-jurisdictional cooperation at the national, bilateral and regional levels.

Networking in the domestic environment
As important as international networking is, it is equally essential that domestic networking takes place. The integrated Australian whole-of-government strategy to address human trafficking ensures collaboration and networking with other key stakeholders such as DIMIA and the Department of Prime Minister and Cabinet, and ensures timely identification and management of victims of suspected human trafficking. Similarly, by engaging and working with agencies such as AUSTRAC, law enforcement can successfully identify, target and act on the traffickers' profits, which are so essential to complete the cycle of crime.

From a domestic law-enforcement perspective, the Australian Policing Strategy to Combat Trafficking in Women for Sexual Servitude provides a coordinated national approach to the crime type. This strategy resulted from the July 2003 Australasian Police Ministers' Council (APMC) meeting, which recognised trafficking of women for the purposes of sexual servitude as a serious crime that all jurisdictions should address.

The strategy is specific to addressing the problem of people trafficking for sexual servitude, and, as with all law enforcement activities, Australian police are required to build and maintain operational and strategic partnerships with other government and non-government agencies. Local government and international policing connections are particularly important, with state and territory police and the AFP providing the nexus between the local and international dimensions. As such, a range of activities, including a review of legislation, enhancing intelligence and information sharing, and reviewing arrangements with pertinent stakeholder agencies is progressing.

The strategy has six focus areas, each of which contain clear objectives and focus on areas that are interdependent, but will have limited impact unless pursued collectively. The focus areas are:

1. Prevention
2. Capacity and Resources
3. Victim Assistance
4. Partnerships
5. Training and Education
6. Regulation and Legislation

The strategy seeks to provide a national framework for police services to combat people trafficking for sexual servitude by outlining the range of issues for police services to consider in their response to this problem, and identifying and sharing best practice, particularly in investigations, training, partnerships and victim support.

Finally, networking with non-government organisations (NGOs), both domestically and internationally, is equally if not just as important as networking with law enforcement. By engaging the relevant NGOs, the AFP has gained a heightened appreciation and understanding of the environment in which victims find themselves.
Conclusion
There is little doubt that human trafficking is an abhorrent crime. The very nature of human trafficking is transnational by nature and requires an integrated law enforcement approach to detect, disrupt and dismantle these cross-continent traffickers. The methodologies, tactics and procedures used by traffickers to move their human commodities within and across national and international borders require an equally dedicated and targeted response from law enforcement. As such, Australian and international law enforcement agencies and government stakeholder departments are collaborating and networking to ensure those criminals who involve themselves in the crime of human trafficking are brought to justice.

Notes
1. The use of the term 'human trafficking' or any other derivative of this term in this paper refers activities whereby people are trafficked and subjected to conditions of sexual servitude. Human trafficking for all forms of exploitation including labour and domestic servitude does not yet exist in Australian law. Current legislation exists only for one aspect of human trafficking — sexual servitude. Therefore, the use of the term human trafficking in this paper refers to this element of trafficking for sexual exploitation unless otherwise stated.
2. Since 1 July 2003, the AFP has committed approximately 80,000 hours in human resources to the detection and investigation of these crimes.
4. A specialist training program has been developed and delivered by the AFP’s School of Investigational Management, with the first two programs now completed. Presenters to the program have been sought both from within the AFP and from subject matter experts in external law enforcement and NGO agencies in Australia and overseas.
5. The ability to access the suite of DIMIA trafficking visas (Bridging Visa F, Criminal Justice Stay and Witness Protection Visa) predicates the invocation of the OSW intensive and ongoing victim-support package.
6. AusAID have funded a reintegration program in Thailand whereby those victims that choose to can access an all encompassing program which assists them to break the sex worker cycle and offer the victim ongoing counselling, medical support.
7. ‘Contract’ refers to the agreement between the victim and the trafficker, although often the victim is unaware of any contract or detail.
8. The team has the capacity to conduct intelligence projects and investigations with national and international coverage and flexibility. Currently there are 23 members nationally deployed in Canberra (TSETT intelligence), Sydney (Investigations), and Melbourne (Investigations). TSETT liaison officers from all regions have been identified and trained. While TSETT will be primarily focused on trafficking in persons, it will also continue the important work of TSOT in fighting child-sex tourism — another form of transnational sexual exploitation.
9. The Department of Prime Minister and Cabinet, through the Office of Status of Women (OSW), have the carriage of implementing and managing the victim-support package.

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Issues of corruption and crime: Transnational crime syndicates and trafficking

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Introduction
Trafficking in persons, whether sophisticated or elementary in nature, necessitates the crossing of geographical borders. Whether this is performed clandestinely or more openly, transnational crime networks could not achieve the movement of victims without the active or passive collusion of corrupt politicians, judiciary, law enforcement and other officials. It is they who facilitate the trafficking process through a myriad of ways ranging from the provision of fraudulent documents to the formulation of decisions either not to prosecute apprehended traffickers or to impose disproportionately low sentences upon the few who are brought before the courts. As the profits generated by trafficking, and the demand for trafficked persons, increase, the need for further and intensified corruption will also continue to rise. If trafficking is to be mitigated, the symbiotic relationship that exists between corrupt officials and transnational criminal networks must be systematically addressed.

Linking corruption and people trafficking
Burke once argued that 'all that is necessary for the triumph of evil is that good men do nothing'. Reconfigured within the context of trafficking his assertion might instead read, 'all that is necessary for the triumph of trafficking is that bad men do something'. This action might entail acts of active or passive corruption.

The UN Convention against Corruption, signed with enthusiasm in December 2003 by 111 nations, crystallised the notion that corruption was indeed a significant issue for nation states. The fact that, as at August 2004, only five of those signatories had ratified the convention points to the inherent difficulties in creating pragmatic solutions to the issue. Corruption, in various forms and to differing degrees, is arguably an inevitable feature of most developed and developing countries and regions. The rapid evolution of globalisation, with its insistence upon increased and increasing connectivity of banking, financial and data systems and of increasing demand for products and for the labour force required to produce them, has increased the propensity for heightened corruptive practices to occur and flourish. It is important to observe, however, that the definition and ambit of corruption might also include the corruption (witting or not) of those families who might, for example, decide to sell a daughter into sexual servitude, of individuals who assist in a minor but facilitating role in the trafficking process, of those sections of the travel industry who arrange sex tours of countries such as Thailand (Williams 2001a:81) and those individuals who frequent the brothels that utilise trafficked victims. Notwithstanding the ongoing debate concerning the rights of sex workers to operate as sex workers, customers feed demand for those sexual services and classical economic theory is grounded upon the simple equation that sales increase in order to satiate demand.

It is also worth observing that many countries have acquired, through historical and cultural developments, a natural predisposition to corruption. As Passas (2001:27) contends, '[t]he more societies are unequal and not based on merit, the higher the preparedness of individuals to pay bribes in order to secure a job or other favours'. This fact has not been lost, for example, upon multi-national enterprises (MNEs), many of whom have relocated their operations to those regions and countries of the world where notions of corporate social responsibility cannot reasonably compete with the demands that increased industrialisation and globalisation creates. The payment of 'speed' money (Pearson 2001:33) in which a legitimate end, such as the granting of a permit, is simply accelerated via the payment of an inducement appears to be fairly common. In countries in which bribery is a culturally accepted norm, it soon becomes relatively simple for the act of bribery to be rationalised into acceptable behaviour. Against such a backdrop, the payment of bribes to corrupt officials in connection with trafficking victims is likely to be both a natural progression and process.

As a group progresses from conventional crime to transnational crime, the behaviour of those involved becomes increasingly systemic in nature. Equally, as a group progresses, integration with economic, political and other institutions increases. The rationale for these changes is the obtaining of power, which in turn propels a group up the crime typology chain. Power once secured is maintained by corruption.

Transnational crime, like nature, abhors a vacuum. Given the ingenuity of such criminals in creating new crime targets and methods or of enhancing the impact they might have on
pre-existing crime types, it should come as little surprise that transnational criminals should involve themselves in trafficking.

Costigan (2004:1) has suggested that "the role of organised crime in corruption is a study in itself". Indeed, Passas (2001:27) argues that "no reasonably well-organized criminal enterprise can afford to disregard the need to neutralize administrative, legislative and police organizations - just as legitimate companies use lobbying and political campaign contributions to achieve the same end".

It might in consequence be argued that a presumption of a connection between corruption, trafficking and transnational crime might be made. For the majority of citizens in the majority of countries and regions, the freedom and ability to travel is taken very much for granted. Yet even the simplest overseas trip involves meeting a number of prerequisites. Thus, the possession of a passport (which would have required a designated person to have known the passport holder for a designated period), proof of accommodation in the destination country, and, if an extended stay overseas is envisaged, proof of financial means to cover such a period. Moving overseas on a permanent or semi-permanent basis increases the number of prerequisites. Thus, a police records check, a medical examination, an immigration check, proof of employment and, for the purposes of obtaining a bank account and driving licence, etc. an accommodation address would be required. Achieving such movements without the benefit of documentation, financial support, education or cultural and linguistic familiarity is likely to be prohibitive. On this basis, it is a relatively simple process to appreciate the complexity likely to be involved in transporting groups of people in such a situation through any number of transit countries, across borders and through the bureaucratic channels that might be present there.

Corruption is somewhat akin to electricity. It is easy to agree that it exists but rather less easy to prove that it does. In law, the term *res ipsa loquitur* (the thing speaks for itself) operates in circumstances in which, despite the absence of proof, an incident could only have occurred as a result of one action. Equally, unless trafficking in human beings is a socially accepted and acceptable form of behaviour, trafficking must involve systematic corruption at some or all stages of the process. In order to create such a level of corruption, it seems likely that a series of longstanding and far-reaching corrupt relationships and networks comprising such relationships exist.

Corruption per se ranges from low-level (petty) frequent or infrequent bribery of low-level enforcement officials to payments and inducements in kind (grand) of high ranking and influential government officials (Pearson 2001:33). Corruption underlies and facilitates the commission of transnational crime through the planned and systematic corruption of politicians, judges, local government officials and law enforcement officers.

Transnational criminals engage in corruption to the extent that they do because unlike other forms of criminality, they are enterprise criminals seeking to engage in profitable crimes over a sustained period of time and in order to acquire large sums of money. To achieve the desired level of success necessitates the almost monopolistic control of particular criminal markets or segments thereof. The most pragmatic method of achieving such
control is through the creation and maintenance of functional
corruption of that market via a symbiotic relationship between
the transnational crime network and its corruptees (Finckenauer
and Waring 1998:16). The symbiosis is a prerequisite of the long-
term sustainability of the network since the monopolisation of
any market inevitably raises the profile of the controlling
entity (Finckenauer and Waring 1998:17–18). In these
circumstances the relationship between corrupted officials and
organised crime groups becomes increasingly entrenched as the
financial commitment of the former rises in direct proportion
to the information or support provided by the latter. As Williams
(2001a:80) observes, '[w]hile the official is not part of the
criminal enterprise he has become a vital node in a criminal
network providing important services including timely
intelligence about law enforcement initiatives'.

It is arguable that at some point the increased risk that
increased activity on the part of the transnational crime group
tends its relationship with its corruptees from one of symbiosis
to one of parasitism. Certainly, transnational crime networks
must increase the range and volume of their corruption network
in order to obtain protection and information. Trafficking is
often portrayed as a low-risk/high profit activity. Risk and profit
are of course relative concepts. If, for example, intelligence is
not secured through corruption, the risk rises and the prospective
profits fall. If the relevant border officials or local government
officials have not been bribed and in consequence are not able
to provide the required documentation for the trafficked victims,
those victims suddenly become highly visible and the risk once
again rises and the profit margin falls.

Schloenhardt (1999:215) maintains that trafficking
organisations vary considerably in size and involvement in the
trade. He discerns three key variants:

1. amateur — often individuals who provide a single
   service such as the transport for the trafficking of
   persons across a border;
2. small organised crime groups — groups which
   facilitate the movement of groups of trafficked
   persons from one country to another; and
3. transnational trafficking networks — large
   enterprises that manage the trafficking process
   from recruitment to 'employment' within a
destination country.

Williams (2001:82–84) argues that transnational crime
networks provide criminals with access to people with specific
resources, which create mutually advantageous information
benefits and exchange relationships. He maintains that criminal
networks per se have a generic set of roles, each of which is designed
to protect and advance the activities of the transnational crime
group. These roles are 'organisers', 'insulators', 'communicators',
'guardians', 'extenders', 'monitors' and 'crossovers'.

It is arguable that such roles may have been adapted by
transnational crime networks engaged in trafficking so as to
facilitate the trade. Logically, there must be a high degree of
organisation involved. It is no easy task to take groups of people
on a frequent basis through a number of countries without being
discovered or compromised. It also follows, perhaps, that
corruption of appropriate parties at appropriate levels must form
part of that organisation. People, unlike any other illicit
'commodity', are difficult to conceal. Thus Schloenhardt
(1999:217–219) posits that a transnational trafficking network
might reasonably be constituted by investors, recruiters,
transporters, corrupt public officials or protectors, informers,
guide and crew members, enforcers, debt collectors, money
laundurers and support personnel. Each role provides support
to, and assists in the facilitation of, the trafficking process.

Elements of the trafficking process
The Programme against Corruption and Organised Crime in
South-eastern Europe (PACO 2002) has suggested that
opportunities for corruption exist at a number of stages in the
trafficking process, namely, the trafficking chain, the criminal
justice chain and the victim chain.

Trafficking chain
The recruitment or acquisition of victims, provision of
documentation (identification papers, visas and permits, etc),
transportation within country or across its borders, continued
control and exploitation of victims and the laundering of illicit
proceeds arguably necessitate and facilitate corruptive practices.
The conduits through which such practices might flow may
include police and customs officers, embassy staff, border control
officials, immigration services, local officials, intelligence and
security services, armed forces; elements from the private sector
(travel agencies, airlines, transportation sector, financial
institutions and banks) and people of influence.

Criminal justice chain
Proactive or reactive measures undertaken by relevant personnel
may enhance the likelihood of a trafficker not being arrested,
or if arrested not being prosecuted, or if prosecuted not being
incarcerated. The failure to draft or adopt pertinent legislation,
haphazard investigations into specific offences, incomplete or
spurious search and seizure of illicit proceeds, ineffectual or
incompetent or spurious search and seizure of illicit proceeds, ineffectual or
tainted prosecution, trial and verdicts, and poor enforcement
of sanctions may all contribute to the protection of the trafficker.

Victim chain
Corruption and organised crime elements might be present
among NGOs and public social service institutions, which
ostensibly provide support, protection and shelter to victims.
Infiltrated organisations such as these may in consequence harbour corrupt individuals willing to reveal information concerning the location of victims to traffickers.

PACO (2002) suggests that in one study of European countries, the police departments seemed to be a focal point of trafficking. Thus, police departments in charge of registering foreign citizens were believed to accept bribes to issue work and residence permits for foreign ‘dancers’. In addition, local police and political authorities may provide protection to pubs and bars in exchange for money or sexual services and may collaborate with pimps to put victims who were arrested or under protection back on the streets to be re-trafficked or prevented from testifying.

The US Trafficking in Persons (TIP) Report (2004) has revealed a number of countries for which there appears to be evidence of corruption and many more in which corruption is perceived to exist. In the East Asia-Pacific region, for example, Burma noted a major corruption problem in the form of local and regional officials suspected of complicity in trafficking and reports that the Burmese military continues to carry out trafficking abuses including forced portering and forced labour. Cambodia is deemed to have a weak judiciary with anti-trafficking efforts hampered by endemic corruption and an ineffectual judicial system. Cambodian government officials and their families are believed to be involved in or to profit from trafficking activities. The Indonesian Government has dismissed civilian and police officials involved in producing false identification and the Vietnamese Government prosecuted three police officers in 2003 who facilitated labour trafficking.

In other regions, the level and range of corruption continues unabated. In South Africa in 2003, six immigration officials, five police officers and airport inspection officers were arrested for facilitating illegal immigration into South Africa. In Azerbaijan, the government dismissed the chief of a regional passport registration office and two inspectors for issuing illegal citizenship identification cards to several individuals. In Bosnia and Herzegovina in 2004, federal authorities arrested the local Interpol Deputy Director on corruption charges and in the Kyrgyzstan 2004 police arrested three people involved in a trafficking scheme including an immigration official and a former employee of the state passport department.

The revelations of the TIP Report point to at least two points of linked concern. First, the fact that any cases of corruption in relation to trafficking is disturbing. Secondly, and more importantly, however, the fact that more cases have not been identified suggests, if anecdotal evidence alone on the nature and extent of corruption is to be believed, that there has been a lack of concerted action taken and attention paid to the presence and role of corruption in the facilitation of trafficking.

Conclusion
The crime–corruption nexus will continue to spiral given that transnational crime feeds corruption and that, in turn, corruption nourishes transnational crime. To reduce corruption there remains a need to reduce transnational crime per se, not simply transnational crime in relation to trafficking in people. At the local level, there remains a need to remove the cultural rationalisation of corruption whilst at the same time removing the endemic nature of corruption. Aside from sweeping changes in global societal values, such momentous changes will only be facilitated by a suitable macro-economic consensus in relation to world economic differences.

It has been suggested (UN 2004), short of such a consensus being achieved, that there are a number of conditions required to prevent corruption from gaining and/or maintaining a foothold. These include operational coordination of departments and agencies, which theoretically prevents corruption in isolation and thus corruption per se. There must be operational transparency so that the opportunity for corruption-enhanced deviation is reduced. Public trust in government, anti-corruption agencies and anti-corruption policies must be obtained and vigorously maintained. Part of this trust must evolve from a perception of integrity at the highest levels of government and of an environment in which corruption attracts a higher propensity for punishment as a result of systemic reform.

Ultimately, even the most utopian in society would have to concede that such monumental societal and political changes are unlikely to occur at the national level, let alone on the required global scale. Accepting the inevitability of the interconnectivity between corruption and society in general, and between corruption and transnational crime in particular, permits a focus to be placed upon the factors which feed corruption rather than corruption itself. Advocates of the United Nations Convention against Corruption can continue to press its signatories to ratify its content and enshrine it within their national legal frameworks. In the meantime, law enforcement agencies can continue to concentrate upon attacking those individuals who collectively maintain corruption and those activities that collectively underpin corruption. What is certain is that attempting to tackle trafficking without simultaneously attempting to tackle the corruption that facilitates it is to court disaster.

Note
* The opinions expressed in this paper are those of the author and do not necessarily reflect the views of the Australian Government.

References


The illicit business of human trafficking: A discussion on demand

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Introduction
Almost daily, those in the anti-trafficking community decry their lack of impact and point to a mounting body of evidence of an upward spiral in trafficking. In this paper, I argue that the incomplete analysis of the causes of trafficking has negatively influenced our policy responses to human trafficking, and, as such, contributed to these weak results. Nothing short of revisiting our initial assumptions will save us from perpetuating flawed responses. Taking Thoreau’s advice, the best way to correct a mistake is to make it right.

The purpose of this paper is to analyse the causes of trafficking by seeing it as a process destined to satisfy demand in illicit markets. In line with many organised crime theorists, I will argue that illicit markets are, like licit markets, driven by demand rather than supply. In public policy terms, acknowledging trafficking as a response to demand will contribute to understanding demand as the cause of trafficking, whereas poverty and other circumstances constitute vulnerability factors that put individuals at risk for being trafficked but do not constitute its cause. So far, most trafficking measures have focused on limiting these factors in supply countries, while the demand side remains neglected.

The paper is limited to trafficking of women into illicit sex markets. The reason for this limitation is, firstly, that trafficking into sex markets is the most detected form of trafficking, and, secondly, it is also the form of trafficking upon which my background in law enforcement and organised crime investigations experience bears most relevance. I do not claim to have had the opportunity to cast a wide empirical net. I draw largely on experience in organised crime investigations and criminal intelligence, and, in the following thoughts on human trafficking, I express my understanding of what drives the people I have only sometimes met but observed minutely. I will, as mentioned above, approach the subject from a perspective of illicit markets, a concept that has increasing currency amongst crime theorists.

By way of terminology, in this paper, ‘sellers’ includes the traffickers and exploiters (including brothel owners) responsible for the procuring, preparation and selling of women for sexual services. I do not include women in prostitution in this term, for in an illicit market context they are not the owners of the means of production, but rather are the commodity. ‘Buyers’ in this paper refers to those who purchase sexual services.

Before exploring trafficking for sex from the perspective of the illicit markets, I would like to return to the issue of understanding cause in trafficking in more depth in order to demonstrate how a one-sided understanding has contributed to one-sided policy choices.

Causality and trafficking
There is a common flaw in the logic that pervades global responses to human trafficking — the assumption that because one event follows another it must have been caused by it. To date human trafficking responses have almost exclusively focused on the supply side of the equation. However, while recognising that poverty and other circumstances are vulnerability factors, it is important to distinguish these vulnerability factors from the cause.

Causality is not necessarily determined by sequence — human trafficking is a far from linear activity. It is a flawed approach to examine a trafficking sequence and expect that what is at the supply source is a cause. I adopt a very simple definition of causality: find what makes it all happen and you have the cause. A cause by this definition, once found, should be recognisable and eminently provable by being a rule with few if any exceptions.¹

Hence, because most people are poor before being trafficked does not make poverty the cause. Indeed, most people in absolute poverty are not trafficked. The same fallacy applies to other vulnerability factors, which in migration contexts are often defined as ‘push factors’ (for example domestic violence, being in prostitution, lack of citizenship, age, or ethnicity). Such contributory conditions may exist in a supply country, but that does not make them the cause. A cause by this definition, once found, should be recognisable and eminently provable by being a rule with few if any exceptions.¹

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Hence, because most people are poor before being trafficked does not make poverty the cause. Indeed, most people in absolute poverty are not trafficked. The same fallacy applies to other vulnerability factors, which in migration contexts are often defined as ‘push factors’ (for example domestic violence, being in prostitution, lack of citizenship, age, or ethnicity). Such contributory conditions may exist in a supply country, but that does not make them the cause. I do not infer that supply-side measures are a waste, but that supply-side measures alone cannot solve trafficking because the market will remain regardless of what we do with supply. Sources of supply are so plentiful, cheap, and so little restricted to any one country or region — not to mention willing to move — that it is impossible to affect an illicit market sufficiently from that end. Supply-side measures are important in all illicit markets to limit push factors, however, they serve mostly to
displace the traffic, neither reducing the dimensions of the market nor creating fundamental change in the global problem.

The reasons for this current focus on the supply-side of trafficking are many and complex. Seeing trafficking as determined by sequence is one reason (that is, poverty and other vulnerabilities are followed by recruitment to trafficking). Importantly, too, demand countries prefer not to criticise their own laws and institutions. Political realities are such that most demand country governments need the international community to accept their prevailing understanding of trafficking, because it both excuses the failure of national and international efforts against trafficking and yet at the same time justifies their expansion. Furthermore, there is also a lack of willingness to locate ourselves as individuals creating the demand, or where social mores proscribe certain acts. The first step in our redefining the category of 'morality offences' (Beare and Naylor 1999:4).

Responding to demand for people to work in organised crime — a complicated and dangerous task, sellers in these markets are often included under the label organised crime — a complicated and confused term. For this paper, we may regard these criminal actors as conducting 'entrepreneurial operations in an area normally proscribed' (Schloenhardt 1999:5). Proscription may be by law or by morality, the markets of organised crime often falling into the category of 'morality offences' (Beare and Naylor 1999:4).

It is the perceptions of the sellers that are at the heart of the demand for trafficked victims. Yet only very little research has been done so far on the sellers and their perception of the market. In exploring the role of demand in trafficking, the focus on the clients of prostitution in International Organization of Migration (IOM) research (Anderson and O'Connell Davidson 2003), for example, is an interesting exploration of the minds of the sampled men, but only a start on the demand-side inquiry. If we are to understand better the demand side, it is essential that we go beyond the simple individual demand proposition and better understand the appreciation of aggregate demand and markets in the minds of those running the businesses.

In order to explore the minds of those running the businesses, it is helpful simply to turn to business management theory. While in all business models the consumer is sovereign, it is not individual demand that of itself causes the nature and volume of production. It is the seller's perceptions of consumer decisions that determine what services will be provided, in what quantities, and how resources will be allocated. Traffickers procure and supply in anticipation of demand, as well as attempting to create demand by push methods such as pornography and advertising.

There are four main policy areas acting on the minds of entrepreneurial criminal sellers:

**What services to provide.** This is influenced by the criminal interpretation of the prevailing market conditions for different services and their expectations of future demand. Market conditions include the legislative and enforcement environment, as well as the opportunities for camouflage (blending in with the environment) and concealment (not being seen at all) within the market. Camouflage and concealment ensure that crime flourishes in environments where sellers can mask their illicit activities amongst licit activities (for example, by placing trafficked women in legal brothels).

**How much to provide?** This is influenced by the relative cost (and, in an illicit market, the relative risk) of providing different services, by their anticipation again of future consumer demand, and by their volume of past sales. Assessment of future demand is of importance. Sellers in illicit markets know that trends in the market tend towards self-perpetuation. In an expanding market, current demand is a function of past consumption, sellers and buyers come to know each other better, search time is reduced the longer markets are in operation, law enforcement becomes increasingly stretched, and a growing market will have more new customers through introduction and word of mouth. The inverse is true also, negative performance in these areas can cause a market to go into a self-reducing spiral, governing future output decisions.

**Where to provide?** This is influenced by the location of the most lucrative markets, the location of commodities, and transportation. Transportation hubs become important to traffickers in their decision making, as they mostly bring services
to the market rather than the other way around. The essence of trafficking is the point of exploitation and it is there that the business is most obviously manifest and often to where decision making is devolved. Some leading considerations here are concentration of buyers, and search time (the time it takes for a buyer to find a seller or vice versa). Sellers seek heavy concentrations of buyers, for example, in places where prostitution is more normal, where there is a clustering of brothels or where advertising for sexual services is legal, all of which mean there is a shorter search time for buyers.

**How to maximise profit?** The chief object of illicit trades is the maximisation of profits. Sellers want to keep costs to a minimum. Most of the economic decisions of sellers are made in the light of factors such as price, search time, perceived cost, and perceived risk. Criminals engaging in illicit markets seek to keep prices only low enough to keep buyers coming back and keep volume high. They seek to evade detection while at the same time making themselves obvious to buyers to reduce search time. Further, they seek to maximise return on outlays, the leading reason for mark-up in debt bondage. A range of other costs and considerations in illicit business also factor in these decisions, including costs of corruption and the price of market substitutes, etc.

On the buyer side, policy decisions are less complex. Sexual services are higher order wants. Factors that influence or change demand for such wants, shifting the demand curve, include:

- changes in tastes and preferences;
- convenience and availability (including risk and cost of detection);
- changes in real or disposable income;
- changes in population, including gender equality;
- changes in price of substitutes or other goods;
- expectations about the future, and
- change in distribution of income in society.

A feature of higher order wants is that they are generally considered insatiable. With such luxury wants, the higher the general level of demand, the higher still that demand becomes in a somewhat self-perpetuating upward spiral. While we indicate an upward spiral of demand for such 'luxury' services, however, the spiral may also work downwards thanks to external economies of scale. The risk of any one transaction in an illicit market falls with an increase in the total number of transactions. Vice versa, the risk of any one transaction increases with a decrease in the total number of transactions. An increase in the volume of transactions reduces the per unit cost of the services, at the same time reducing the industry-wide risk of arrest, and cyclically leads to more transactions. The obverse is true of increased per unit cost and increased industry-wide arrest. These external economies of scale are self-perpetuating and impact both upwards and downwards on demand.

This self-perpetuating tendency is important for public policy on trafficking — a measure of demand-reduction to arrest an upwards trend of demand may trigger a spiral downwards. Human trafficking policy should aim at the decision making of both buyers and sellers, shrinking the illicit market, while simultaneously reducing the harms associated with both the existence and the shrinking of the market. To use business language, we seek safely to reduce the number of illicit transactions. This means we also protect the vulnerable, for whom shrinking markets mean livelihood challenges, by employing viable exit strategies for women in prostitution.

We do not have time here to address policy measures to act on all impact areas. Suffice to say that cogent policy aimed at reducing demand will seek to influence all decision-making factors. While changing attitudes to women will be the most effective long-term policy goal, from an enforcement perspective there are two especially important ways for human trafficking policy, in order of priority, to influence the number of transactions in an illicit market: search time and price.

**Search time** is how long it takes for buyers to find a seller and vice versa. The simple fact is that sexual services are, for the buyers, a luxury. This suggests a lower tolerance to inconvenience on the part of the buyer, which is important for it suggests that policy aimed at increasing search time will act to reduce the number of transactions. Buyers of sexual services are not totally committed. The simple fact of a lot of effort, or a lot of inconvenience, will take many buyers out of the market. The higher the search time for the buyer, the lower the number of transactions. The act of criminalising, normatively not punitively, the act of buying illicit services, pushes search time up and makes the more casual buyers think again before acting. Sweden's legislation on purchasing sexual services is the first and still the leading example of this approach. Wiretap evidence demonstrates the efficacy of this approach to reducing buyer interest. Cogent human trafficking policy should seek to drive up search times for buyers.

Sellers seek locations with lower search times, for example, by engaging in clustering behaviour alongside other vices including gambling and alcohol, clustering with other sexual service retailers, paying taxi drivers to tout for business, and advertising sexual services where that is legal. These and still the leading example of this approach. Wiretap evidence demonstrates the efficacy of this approach to reducing buyer interest. Cogent human trafficking policy should seek to drive up search times for buyers.

Sellers seek locations with lower search times, for example, by engaging in clustering behaviour alongside other vices including gambling and alcohol, clustering with other sexual service retailers, paying taxi drivers to tout for business, and advertising sexual services where that is legal. These are just examples of retailer action by traffickers that reduce search time and maximise buyer access. Public policy that allows or promotes these features plays well into the hands of traffickers. Public policy that pushes up search time makes a market less attractive to sellers.

**Price** is also a leading determinant of effective policy aimed at reducing demand and consumption. Since, as pointed out earlier, we are talking about sexual services being a higher order want, in that most would think about the budget for food before
buying sex, we can assume reasonably elastic demand (that is, demand that is sensitive to price). We can therefore expect that demand quite readily can be influenced by measures that push prices upwards. However, influencing price is not as unambiguously a beneficial policy as influencing search time — there are downsides to raising prices including potentially increasing criminal profit. However, because of elasticity, policy that allows price to fall, including legalisation of buying sexual services, increases demand.

At the risk of spending too little time on the role laws and their enforcement can play in reducing demand, it is observed that both can influence search time and price through altering perceived risk and perceived cost of detection. It is important to understand that actual cost and risk are not important per se for tackling illicit markets. The secret is in influencing the perceptions of the market in the mind of the trafficker. At present, the trade in humans is fat too viable and simple a business for traffickers — costs of detection are low, risk of detection is even lower, and profits are enormous while market opportunities abound. In the mind of the traffickers, high demand leads to profitable supply — an important realisation because it tells us where our balance must be in public policy.

**Conclusion**

I have in this paper tried to describe another focus on cause in trafficking. Drawing on theory on illicit markets, my argument has been that supply factors are indeed vulnerability factors, but they do not cause trafficking. I have argued that it is time to redefine our approach and shift the burden of hosting the driving forces behind trafficking from supply countries to demand countries and the illicit markets in these countries. Creating fundamental change in the extent and nature of the illicit markets for people requires that we act directly on the market. Governing the future decisions of buyers and sellers should be our public policy aims, with a view to reducing the number of transactions in the market. Without this demand-reduction strategy for illicit markets, we will not curb the trafficking of such morality commodities. The form that demand takes in each market, and the dynamics of each market, will vary. Demand-side efforts require more tailoring for each context than many supply-side strategies.

Public policy measures that act to reduce the bottom line of sellers and reduce demand of buyers in these markets serve to promote a self-perpetuating downwards spiral. An important catalyst for such a spiral, as an example, is normative legislation such as that implemented in Sweden that acts to discourage buyers of these illicit services, and through influencing what Mattar (2003) calls the functional equivalent of law — tradition, customs, norms, and values. It is important we settle for slow fixes that start the self-perpetuating nature of market forces. There is no quick fix to changing an illicit market.

Human trafficking is a crime in, and of, our communities. Virgil opined 'from a single crime know a nation'. There can hardly be one crime more telling of the state of our nations. The struggle to contain human trafficking comes down to personal choices. Success against human trafficking will come from individuals making informed choices about the things that they can do to change the situation, coupled with demand states assuming responsibility for the demand that drives global markets for people.

**Note**

1. I stop short of continuing to trace in turn the causes of that demand. I would anticipate that inequalities and power imbalances relating to both gender and ethnicity, as well as definitions of what it means to be a man, and the negative consequences these bring to society and individuals, play an important role in fostering demand. In order to develop a comprehensive set of demand-reducing interventions, my law enforcement perspective needs to be complemented by a gender-sensitive sociological analysis.

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Best practice strategy in the support, protection, reintegration and rehabilitation of victims of trafficking

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Introduction
In programs to restore and reintegrate victims of trafficking and return control over their lives to them, the focus is upon practices that meet and fully satisfy the needs and rights of victims. Best practice will focus on quality outcomes and the continuous improvement of services provided. The strategy will be comprehensive, integrated and a cooperative approach to continuous improvement.

Guiding principles

1. Victim rights
Trafficking in human beings is a clear violation of their human rights. By emphasising trafficking as a violation of human rights, rather than as a migration, labour or criminal issue alone, this principle ensures that states must take account of international human rights laws in the ways in which they protect victims of trafficking. This will be of significant value in the development of assistance and restoration programs and policies for victims.

2. Victim choice
A holistic response to the needs of victims of trafficking will be comprehensive, flexible, and capable of responding to the wide and complex variety of needs. It should be oriented to assisting all victims of trafficking to participate in their recovery, as soon as possible, as far as is possible, from the injurious effects of the criminal conduct against them. It will enable them to partake of all the social, cultural and economic opportunities society has to offer.

3. Community responsibility
Programs working to provide assistance and support to trafficked victims will work in partnerships with NGOs, people’s organisations, government organisations and coalitions within the community. In this sense, these programs will share responsibility for understanding and addressing the needs of former victims of trafficking within their real life context of families and communities.

Comprehensive program objectives
Comprehensive programs will need to address the needs of individual victims of trafficking, the victim’s family and social networks and the victim’s community.

1. Individual victims of trafficking
The services need to provide individual victims with the opportunity to recover and rehabilitate from physical and mental harm and injury, to regain some control over their lives, to have family and social networks reconciled and restored, to be assisted in reintegration, to be assisted in the prevention of re-victimisation, and to be recognised and acknowledged by the criminal justice system and obtain justice.

2. Family of victim/social network
Families and social contacts of the victims need to be provided with an understanding and appreciation of the complexity of reaction to being a victim of this crime. Programs should also emphasise and encourage social support for the trafficked victim, particularly in the early phase after the victimisation.

3. Community
Services need to develop links with other government and community initiatives to educate the community about the impact of the crime of trafficking on its victims and to contribute to justice and community safety initiatives and other measures aimed at preventing re-victimisation and breaking the cycle of trafficking within the community. At the cultural and societal level, the services can play a role in highlighting the influence of cultural and societal attitudes, beliefs and values on victims and their experience of trafficking. Such services will contribute to community capacity-building initiatives to overcome stigma and to build resilience within the community. The services need to be provided within a culturally relevant context.

Components within a strategic approach

1. Effective and timely access to assistance

Identification
The identification as quickly as possible of trafficked persons is a prerequisite for their recognition as victims and, consequently,
their access to assistance and protection. It is important to identify all persons and groups who would possibly come into contact with victims of trafficking, such as border guards, police and immigration officials, doctors, medical and social workers, housing and agricultural inspectors, and staffs of immigrant rights organisations, women's organisations, and refugee and asylum organisations. These personnel should be trained to identify trafficked persons and should have specific guidelines to refer them to specialised victim support organisations. Such training should be carried out in cooperation with specialised NGOs.

Rights
An essential element of protection of victims of trafficking and protecting their human rights must be that states not prosecute trafficked persons for trafficking-related offences such as holding false passports or working without authorisation (even if they agreed to hold false documents or to work without authorisation). Whether prostitution is legal or not, states should not prosecute persons for being trafficked into sexual exploitation, even if the person originally agreed to work in the sex industry. Victim assistance should not be dependent upon their cooperation as witnesses. Without this approach, victim assistance and support programs are rendered ineffective and relatively meaningless.

The Trafficking Protocol, as a major step forward in the recognition of the rights of victims of trafficking, will need to be used in conjunction with the full range of other human rights instruments in order to remind states of their obligations to protect the human rights of victims of trafficking. These legal rights will need to be translated into operational policies and practices both at domestic and international levels.

Information
Information about existing community facilities and services in the areas of law, justice, health, education, vocational training, professional counselling, and social welfare benefits will be provided as early as possible, although this may need to be repeated at times during the stages of recovery of the victim. The information should be comprehensively explained and discussed with the victim.

Of particular importance for the victim returned to the source country will be the development of communication and agreements between the destination countries and the source countries with monitoring, case management and feedback built in. In the destination country, the victim should be informed of the assistance that will be available when she does return home and provided with information on how this may be accessed.

Through inter-country liaison and by working closely with international and local NGOs, governments of countries of origin can build upon the initial work of the destination countries in restoring and maintaining the trafficked victim. This will also reduce the risk of the victim being re-trafficked.

2. Comprehensive and timely assessment of needs
An assessment of the immediate, short and long-term needs of trafficked victims, which includes social support, legal assistance and advocacy, and medical, psychological, cultural and spiritual assistance and support, should be undertaken as soon as possible. This should be a participatory process, with the victim fully informed and sharing in any decision making or advice. Government agencies and NGOs should work in a culturally sensitive manner with the victim and, where desired, her family or support person. The purpose of the assessment function is to determine the impact of the trafficking crime, prioritise the needs of the victim/s and formulate a case management plan for assistance.

Assessment will be an ongoing part of assistance. The needs of the trafficked victims will evolve over time as the impact of the crime moves through different phases, from the immediate short-term impact through to any long-term effects. Setting priorities is a pivotal feature of the ongoing assessment process. The focus of the assistance should be refined and revised as the assistance progresses.

3. Efficient delivery of services
A number of agencies and NGOs may be involved in the delivery of the most appropriate services. To coordinate the delivery of services, a case-management approach should be adopted. Victims should be encouraged to participate in the planning process and be encouraged and empowered to choose the most appropriate services and the timing of those services. The case plan should outline:

- short and long-term goals for the achievement of desired outcomes;
- information on the types of services available to meet identified needs;
- identification of the required resources and their availability;
- linking of victim with appropriate resources and supports;
- provision of social supports through community and NGOs; and
- practical assistance in education, training, finances, vocations and job placement.

Responsibilities should be clearly stated and coordination roles specified to ensure a smooth management process. Standards and protocols should be developed to ensure that clients are provided a comprehensive assessment and are given the same information and access to the same array of services at all entry.
points. Standard data and information should be gathered from the client, including demographic information about the victim and the crime. This information should be used for administrative purposes such as tracking, case management and evaluation of outcomes. The data should be recorded centrally, as well as at the regional level.

4. Effective coordination
The most critical factor in assistance and support strategies or programs is that they be both comprehensive and integrated. Assistance in medical, psychological, social, legal, rehabilitation, accommodation, education and training will not operate satisfactorily in isolation. Services must work closely together in coordinated and participative ways in the best interests of the victims.

To monitor progress and work towards the achievement of the restoration and reintegration of individual trafficked victims, a clear coordination function for the assistance and support strategy should be developed, agreed upon and implemented. This will provide the framework for service to be flexible, holistic and goal-directed. The planning and coordination function will provide a clear direction for each individual victim and monitor the progress of the assistance.

5. Comprehensive management
The range of services provided and delivered will be broad and comprehensive with services selected on an individual needs basis. It will be important to ensure that progress is reviewed and monitored regularly. The management function of a comprehensive support strategy for victims of trafficking will include a number of functions:

- training and professional development of health and social support staff who work with victims of trafficking to ensure that the service provided remains at a high standard and is relevant, effective and accessible;
- addressing the appropriateness, standards and qualification of providers of services, their training needs and ongoing professional development in all aspects of services for trafficked victims;
- working with agencies and NGOs to develop and implement standard protocols for the delivery of services;
- facilitating the integration of services and linkages with NGOs and community groups to ensure that trafficked victims gain easy access to the most suitable and effective assistance; and,
- coordinating with representatives from criminal and juvenile justice agencies to ensure that trafficked victims have adequate support and assistance at each stage of the justice process and that these agencies are sensitive to the special needs of these victim/witnesses.

The collection and analysis of available data is also an important management function, which will inform practice and encourage the development of new projects, encourage new funding and assist in gaining resources.

6. Evaluation
While it is acknowledged that defining 'success' in such a complex area as assistance and support for victims of trafficking in persons will be difficult, the future development and refinement of services will depend upon evaluation of outcomes of strategies and projects. Such measures as enhanced victim health and safety, victim satisfaction, satisfactory justice outcomes, return to a functional family unit, reduction of re-victimisation, victim reintegration into the community, and improved coordination of services can be measured in various ways.

It will be important to ensure that the effectiveness of the services is monitored regularly, allowing continuous improvement in the appropriateness, quality and timeliness of services, as well as the effectiveness of the leadership and management. The evaluation function needs to also address the efficacy and successes of the outcomes of each of the service components.

There is a need for outcome studies to ensure that funding and resources are well focused. Longitudinal studies would be valuable to evaluate the effectiveness and efficacy of the services provided. The data collected during the progress of assistance for each individual victim should assist in the development of key performance measures and assessments over a period of time.

7. Vision and leadership
The maintenance of a comprehensive support strategy for victims of trafficking, whether it be in destination, transit or source countries, requires the building of links between relevant agencies in the broader anti-trafficking services arena, including peak professional bodies, relevant academic institutions, and local and international leaders in the field, as well as international agencies and NGOs. Such links will provide forums for information sharing, facilities for data dissemination, and new research projects. Government and professional bodies can be informed by participation in such work. Media coverage can be encouraged.

Importantly, such a role will encourage the development of community education, provision of materials and information at the local level and debate and discussion within the general community. A bridge will be provided for local communities and agencies to provide their local and personal information, thus
significantly building the knowledge base. This function will contribute to the promotion of the issue of trafficking in persons and the acceptance of its place as an issue of great significance.

Conclusion
States, international organisations, and non-governmental organisations are now more aware of the magnitude of the problem of trafficking in persons and are facing increasing demands on their law enforcement agencies, their social support agencies, and in their legal and social policy responses driven by this traffic. New national laws concerning trafficking, emerging assistance and research projects, and new commitments made by international organisations, all demonstrate that concern and action against trafficking is dramatically increased. An overall strategic approach as outlined above to projects and programs designed to support and protect victims of this trade and to assist in their restoration and reintegration will ensure that the best use is made of available resources, skills and knowledge and that these interventions continue to provide relevant and quality assistance.
Introduction
There was little discussion about Australia as a destination country at the Development Studies Network conference, People Trafficking, Human Security and Development, for the good reason that many of the speakers were from source countries and understandably spoke about the issues from that perspective. Nevertheless, the trafficking of people into Australia, mostly for the purposes of exploitation in the sex industry, has been the subject of considerable political controversy in recent times. This article outlines the challenges posed by transnational crimes of this nature; discusses the extent of the problem in Australia; explains the confusion between people trafficking and people smuggling; critically analyses the existing Australian Government policy response to the issue; and argues that this response is still out of step with international best practice.

The global context of trafficking
The globalisation of the world economy has provided new and lucrative opportunities for criminal entrepreneurs to act with little fear of detection or prosecution (Findlay 1999). With the compression of time and distance, alongside the rapid development of information technologies, criminal syndicates operate in a global village criss-crossing national borders (Findlay 1999:2-3). By operating outside the boundaries of the legal regulation of nation states, transnational crime syndicates engaged in trafficking have been effective in evading law enforcement activities (Findlay 1999:3). Consequently, their regulation poses a particularly difficult challenge for both source and destination countries in the twenty-first century (Grabosky and Smith 1998).

According to some experts, rather than organised criminal syndicates being at the centre of the growth of trafficking in women and children, the key players in the international sex industry in the twenty-first century are entrepreneurs operating in a liberalised global market (Taylor and Jamieson 1999:274). These entrepreneurs offer products in high demand by consumers prepared to pay substantial sums of money for the commercial sex services they offer (Sullivan and Jeffreys 2002:1145).

Australia as a destination country: The size and extent of the problem
Due to the illicit nature of people trafficking, the number of people trafficked into Australia is impossible to quantify. However, national and international sources agree that the global trade has increased substantially over the last decade (Mameli 2002:67; Taylor and Jamieson 1999:257, Thorbek and Pattanaik 2002:1; Meaker 2002:57). People are trafficked to work as low-paid illegal labourers, domestic servants, or into various forms of sexual exploitation in the lucrative international commercial sex industry.

In any market there are demand and supply forces at work. Some argue that the commercialisation of sex on the internet and satellite television have increased the demand for women and children from the developing world to be trafficked into these new sexual entertainment industries in the Western world (Sullivan and Jeffreys 2002:1145). On the supply side, the rise in displaced persons during the 1990s and decreasing opportunity for regular migration are other factors contributing to the international growth of people trafficking. Refugee camps for displaced persons provide a ready pool of people vulnerable to the deceptive recruitment tactics of traffickers (Taylor and Jamieson 1999:263). Many believe they are migrating across international borders to work as labourers, domestic workers, waitresses or models for the fashion industry, not in the sex industry or as slave labour. Some are aware they are going to work as sex workers, but are deceived about the conditions of their work and find themselves in debt bondage, servitude or slavery. Given this global context of push and pull factors, it is reasonable to suspect that Australia has become a lucrative destination country for people traffickers.

There are contradictory assessments about the extent of the problem in Australia. According to Project Respect, an organisation that promotes the rights of trafficked sex workers, it is reasonable to assume that approximately 1000 women are trafficked into the country each year (Wynhausen 2003). While this estimate is rejected by Australian Government sources, there is no definitive or reliable government estimate on the size or extent of problem.

According to the latest Australian Government estimate, the number of people trafficked into Australia is 'well below 100' (Australian Government 2004:2). A year ago, during the 2003 parliamentary debates, the government fiercely disputed claims that there were even more than a few individuals trafficked into the country (see, for example, Ruddock 2003). The problem for the relevant minister at the time was that these claims were contradicted by earlier government estimates, such as the 1995...
The tension between migration law and the protection of victims remains a significant source of contention, despite a package of new measures introduced in early 2004 to address the problem. Under Australia's Migration Act 1958, the mandatory detention provisions require the detention and
removal of unlawful non-citizens as soon as practical (DIMIA 1999). The unintended consequence of this policy has been that foreign and local agents involved in trafficking have enjoyed relative immunity from prosecution as investigation is impossible without the cooperation and testimony of witnesses who, until early in 2004, were routinely deported. Meanwhile, victims who are promptly deported are at risk of being returned to an unsafe environment, and exposed to possible re-victimisation. The crux of the problem, identified by a variety of commentators (Costello 2002; Maltzahn 2001; Greig 2003) is that women trafficked into Australia to work in the sex industry are treated as commodities for exploitation by traffickers and brothel owners and as illegal immigrants by the government.

Throughout the first six months of 2003, the Australian Government’s policy of routinely deporting trafficking victims was exposed to strident public criticism: by Project Respect, a victims’ support group; by Elisabeth Wynhausen, an investigative journalist for the Australian newspaper; and through persistent questioning of the government by the Australian Democrats and Australian Labor Party, following the inquest into the death of Puangthong Simaplee in Villawood Detention Centre, allegedly trafficked to Australia at the age of 12 to work in the sex industry (Milovanovich 2003).

Succumbing to public pressure, in October 2003 the government announced an A$20 million initiative to tackle people trafficking. It established a 23-person AFP strike team, positioned a senior migration officer in Thailand, established new victim support measures, put together a reintegration package for victims returning to Southeast Asian countries, embarked on a community-awareness strategy and introduced new visas for the victims of trafficking (Australian Government 2004:4).

Witness protection visas (temporary and permanent) were introduced, along with a new 28-day Bridging Visa Class F, in early 2004 as a response to the widely perceived failure of the Australian Government to tackle the issue of people trafficking or to take seriously the claims that Australia had become a significant source country for people trafficked in the Asia-Pacific rim. Under the new visa regime, trafficking victims are not eligible to apply for a witness protection visa. This visa is granted by the minister where a victim’s protection is considered necessary in light of evidence they have given to assist the prosecution or investigation of traffickers.

There are significant problems with this new visa regime. First, as there is no guaranteed migration outcome for assisting a prosecution, there is still little incentive to assist prosecutions. Second, tying the support of trafficking victims to the capacity to assist prosecutions brings into question whether Australia is discharging its duty to protect victims of trafficking from further violations of their human rights. Those victims unable to assist the prosecution of traffickers for fear of reprisal, either against themselves or family members abroad, or other reasons, remain unprotected.

On the day of the People Trafficking, Human Security and Development conference in September 2004, the audience was informed by an Australian Government representative that no trafficking victim was currently holding a Bridging Visa F, that 10 alleged victims of trafficking were holding criminal justice visas and that no one had yet qualified for a witness protection temporary or permanent visa. While it is premature to assess whether this new visa regime will offer trafficking victims a migration outcome that supports their safety and wellbeing, on these early indications it is not looking too promising.

The persistent failure to offer victims adequate support or protection has meant that there have been very few prosecutions of traffickers in Australia. In fact, the only conviction related to trafficking in Australia is that of brothel keeper Gary Glasper, prosecuted under Victorian law before the Commonwealth offences came into effect. He was convicted of importing and imprisoning around 20 Thai women and received a fine of A$31,000 and a suspended sentence (Tailby 2001:6, and see Costello and Hui Zhou in this issue). Currently there are four prosecutions under Commonwealth law underway of 11 people for trafficking related offences involving 22 victims (Phillips 2004). Prior to this, the AFP had only undertaken 13 investigations into offences related to sexual servitude, none of which had ever led to a prosecution (Ellison 2003).

From witness protection to witness support

From a public policy viewpoint, there is an inextricable link between legislation criminalising people trafficking and the implementation of mechanisms to protect the human rights of trafficking victims (Norberry 1999:7). The successful prosecution of traffickers relies on the cooperation of the victims of traffickers, who, without mandated support, protection or means of redress, are understandably reluctant about cooperating with law enforcement agencies.

The package of assistance announced by the Australian Government in October 2003 goes some way to providing victims statutory rights to counselling, legal advice, temporary stay visas and financial assistance of the kind urged under the United Nations Trafficking Protocol. However, it stops short of complying fully with the protocol for reasons already mentioned. One possible reason for the Australian Government’s apparent hesitance to comprehensively provide support for trafficking victims is that the issue inevitably raises questions about their residency status.

A more effective approach might be to accept the Trafficking Protocol in its entirety, remove the existing declaration limiting
the migration outcomes for trafficking victims, and consult widely within federal, state and territory governments, law enforcement agencies and the non-government sector to extend the current package of victim support measures. This approach would demonstrate our commitment to the governments of Southeast Asia that Australia is serious about protecting their nationals from exploitation, and not just preoccupied with protecting our borders.

Conclusion

While securing the cooperation of potential witnesses may be difficult, recent developments suggest that an approach that respects the human rights of victims is more effective in achieving the interrelated goals of prosecution and protection. In light of these recent developments and Australia's forthcoming ratification of the protocol on people trafficking, it can be argued that it is timely to commission independent and thorough research into the extent and nature of the problem in Australia and review how best to align domestic policy with international best practice. While the Australian Government has taken some steps in this direction with the release of an $A20 million package to combat people trafficking, this paper has argued that existing government responses still remain out of step with internationally agreed standards as they do not adequately provide victim-centred support. At worse, the current approach of tying victim support to a prosecution process puts victims who are either unwilling or unable to meet this requirement at risk of refoulement with sometimes life-threatening consequences.

Note

* This article is partly based on a revision and updating of a research brief co-written with Jane Hearn: K Carrington and J Hearn (2003), *Trafficking and the Sex Industry: From Impunity to Protection, Current Issues Brief No 28*, 2002–03, Department of Parliamentary Library, Canberra. The author is now Professor, School of Social Sciences, University of New England.

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Knowing the road: Law reform, legal decisions and understanding the journeys of women trafficked to Australia for prostitution

Georgina Costello and Hui Zhou*

Introduction

Australian legal, governmental and non-governmental agencies need to change and improve their responses to meet the needs of trafficked women in Australia. The right responses would include: funding and establishing victim-centred support programs for trafficked women and exit programs for women in the sex industry; creating a new visa so that when trafficked women are detected by immigration compliance officers, they can remain in Australia free from immigration detention and protected from risks of reprisal and re-trafficking to home countries; reforming laws to better target trafficking-related activities; and resourcing specialist counter-trafficking law enforcement.

These responses would lead to important changes to the treatment of trafficked women and the prosecution of traffickers in Australia. Further, policy makers and officials in Australia would need to thoroughly understand the contexts and realities of trafficked women's lives before the suggested policy responses can be effective. Awareness raising and training for those who interact with trafficked victims will be crucial to whether the Australian Government's recently announced package of A$20 million will free victims from trafficking and significantly disrupt organised crime.

Australia does not need to reinvent the wheel when it comes to our laws and practices in relation to trafficked women. There are excellent examples of policy approaches to trafficked women overseas. For example, in Italy and the United States, special visas have been introduced for victims of trafficking and in both countries successful prosecutions of traffickers have been made (Department of Justice 2003; Maltzahn 2001). Trafficked women's shelters have been established in Eastern Europe (IOM 2001), awareness-raising programs for: the judiciary have been implemented in the Balkans (Holmes 2003) and programs to address demand for sex as a cause for trafficking have been explored in Sweden (Iselin 2003). The countries with the most success in prosecuting traffickers are also those countries where the awareness of police, governments, lawyers and judiciaries about trafficked women has been raised and where police, immigration authorities and non-government organisations work together to provide a victim-centred approach to trafficking victims (Costello and Maltzahn 2003).

This paper argues that understanding the context of trafficked women would improve responses to trafficked women in three main areas: first, legal and migration decision making; second, law reform; and, third, law enforcement. The paper demonstrates the failure of the legislature to understand what happens to women trafficked to Australia by reference to one particularly pertinent case study and several pieces of legislation. Beyond Australia, research shows that poor practices relating to the treatment of victims of trafficking by authorities 'stem from lack of identification of trafficked persons as such by authorities' (Anti-Slavery International 2002:32). There is little reason to believe it would be otherwise in Australia.

Legal and migration decision making: The Gary Glazner case

One Australian legal case study aptly illustrates the failure of a range of individuals and organisations to properly understand the context of trafficked women and respond accordingly. This case is the trial of Gary Glazner, who was found guilty of seven offences under the Prostitution Control Act 1994 (Vic).1 This case indicates that in the absence of adequate laws and sufficient training of the judiciary to address the issue of trafficking, sentences reflecting the seriousness of the crime will not eventuate.

In 2000, Gary Glazner was charged and convicted for various offences under the Prostitution Control Act 1994 (Vic). The Victorian Supreme Court heard that Glazner had arranged for Thai women to come to Australia, had held them in a debt bondage situation, imprisoning at least 40 women in the Clifton Hotel in the Melbourne suburb of Kew. A lack of sex slavery laws in Victoria and at the Commonwealth level at the time of Glazner's activities meant that Glazner's crimes were classed as breaches of state laws regulating prostitution, rather than as sex slavery or trafficking crimes. Despite the attempts of the prosecution to highlight the slavery-like conditions the women were subjected to, the trafficking context of the women could not adequately be addressed by the laws that were in place at the time. The sentencing judge found that there was no suggestion in the material before the court that Glazner forced the Thai women to work in the sex industry, despite finding that he exercised close control over their domestic and working conditions.
In this case, the context of victims of trafficking was not understood and was disregarded by the court itself. Glazner was found guilty of seven charges by the jury, but was sentenced to a suspended sentence of 18 months imprisonment and a fine of A$31,000. On appeal, the fine was reduced to A$30,000 and the term of imprisonment to be wholly suspended was increased to 30 months. The penalty Glazner received was grossly disproportionate to the severity of the crimes he committed, and may be explained by the court's ignorance of the context of Glazner's actions and the experiences his victims. This can be illustrated in three ways. Firstly, evidence showed that Glazner made approximately A$1.2 million from the women's debt bondage situations. A mere fine of A$31,000 clearly indicated a lack of understanding of the lucrative nature of international sex trafficking, and created a sense of legitimacy in the debt bondage 'contracts' formed between trafficker and victim. Secondly, referring to vouchers seized at the Glazner's premises that offered men a free sexual service, the trial judge joked 'there are eight gentlemen of the jury — do we have eight freebies for them?' (Ford 2000:25). This inappropriate comment indicates a lack of understanding of the severity of Glazner's crimes, and a disregard of the degree of harm and trauma suffered by the women who were his victims. Furthermore, it illustrated a lack of respect for the women, and illustrated that the trial judge's attitude towards the women was such that he saw them as objects or commodities, rather than as victims of a serious crime.

Thirdly, three of Glazner's victims gave oral evidence of the level of abuse and the threat of fear that they were constantly subjected to. A translator for one of Glazner's victims stated at the trial: 'She said if she is here maybe she will die. If she goes back to Thailand she will die' (Ford 2000:23). Despite this, the trial judge assessed that Glazner had acted 'decently' towards the women, and that Glazner had not forced the women into the sex industry, but merely exploited women who were willing to enter the sex trade (Ford 2000:25). Not only was the trial judge's assessment at odds with the definition of trafficking in the United Nations Trafficking Protocol (UN 2001), to which Australia is a signatory, it was also evident that this type of conclusion could only be drawn by someone with little understanding of the push and pull factors that draw women into the sex industry, and the types of harms that women suffer whilst they are trafficked, including rape and imprisonment, that cannot be described as 'decent' behaviour.

**Acts and omissions: Laws in Australia**

Legislation aimed at addressing trafficked women will miss its mark unless it reflects what trafficking means, what pushes and pulls women to be trafficked, and what happens to trafficked women. The *Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999* (Cth) ('Commonwealth Code') was introduced in 1999 to target trafficking crimes. The laws are inadequate, not least because they fail to address what actually happens to trafficked women in important ways. At a state level, some jurisdictions fail trafficked women even more starkly. While New South Wales, Western Australia, and, most recently, Victoria have introduced some legislation similar to the Commonwealth Code to address intra-state trafficking and sex servitude and trafficking crimes, South Australia, Tasmania and Queensland do not have legislation implementing the Commonwealth Code.

Slavery and servitude are considered to be two of the most serious international crimes and are clearly against international law. Australia signed the Trafficking Protocol on 12 December 2002. The Commonwealth Code has not been amended since Australia signed the Trafficking Protocol, and, not surprisingly, the Commonwealth Code does not comply with the standards of practice contained in the Trafficking Protocol. This non-compliance is problematic because the Trafficking Protocol contains a better definition of and approach to trafficking for sexual exploitation than Australian law currently has.

The Trafficking Protocol definition of trafficking is the culmination of a long international process of deciding on an appropriate definition of trafficking (Raymond 2002) and the definition more closely applies to what actually happens to trafficked women than the Commonwealth Code. The protocol better encompasses circumstances where women's vulnerability is exploited and where coercion, rather than force, is used to sexually exploit women. Also, the protocol has a strong focus on witness protection, rather than just focusing on criminal prosecution.

There are three main relevant offences to trafficking in the Commonwealth Code: sexual slavery, sexual servitude and deceptive recruiting. Sexual slavery relates to both the buying and selling of women for sexual exploitation. Sexual servitude involves the imposition of servile conditions in the sex industry. Deceptive recruiting offences target deceiving a person to come to Australia to work outside the sex industry when the work is actually in the sex industry.

The Commonwealth Code would better address slavery and sexual servitude if new offences were introduced to target, as much as possible, the typical conduct of those who traffic women for prostitution. For example, the parts of Division 270 of the Criminal Code, which define 'slavery' and 'slave trading' do not include 'imprisoning' or 'detaining' a person. Given that the traffickers of women to Australia for prostitution tend to lock the women up either at the brothel or in cramped living quarters, this common aspect of the traffickers' activities is not captured by this law.

Contracts requiring women to perform sexual services in debt bondage circumstances are often transferred from brothel
operator to brothel operator, but are not sufficiently targeted by our laws. A new offence that makes it illegal to assign, or take an assignment of, a sex worker's contract of employment could be introduced to target this buying and selling of 'contract girls'. Another offence that would target this form of debt bondage in relation to trafficked women would be an offence making it illegal to require someone to perform sexual services to pay off a debt.

'Sexual servitude' in the Criminal Code is narrowly defined. It needs to be expanded to address some of the harm that women trafficked to Australia for prostitution commonly suffer. For example, provisions should address situations where a woman is compelled to perform sex in ways she does not want to, at times she does not want to, or more often than she wants to, due to threats of force, harm or detriment. Examples of the types of exploitative sexual requirements trafficked women may be forced or coerced to do include engaging in sex without a condom, engaging in anal sex, sadomasochistic sex, requirements to see enormous numbers of customers in one day, requirements to work long hours and at night rather than during the day, and requirements to have sex when menstruating.

To address the abuse suffered by trafficked women, anti-trafficking laws need to target coercion to undertake these exploitative sexual practices. Trafficked women often fear that their family members will be harmed by traffickers. But the Commonwealth Code has no offence specifically targeting coercing someone to perform sexual services by threatening their family or friends.

Importantly, offences need to extend to men who obtain sex from trafficked women if the men are recklessly indifferent as to whether the woman is freely consenting to perform the relevant sexual services. Such a provision could have the important normative effect of signalling to brothel customers that they may have some responsibilities in this crime. Also, an offence should be introduced to target circumstances where traffickers mislead someone about their migration status or take advantage of that person's lack of accurate knowledge about their migration status. This would be very useful given that traffickers frequently lodge false and fraudulent refugee visa applications and deceive women about their migration status. An offence of lodging false and fraudulent visas for the purpose of sexual exploitation would be very relevant to the trafficking reality. Another important fall back, which exists in the US but is absent from Australian laws, is an offence of withholding travel documents. An offence of this kind would address the common trafficking conduct of refusing to allow victims to have their passports and visas.

Finally, traffickers typically arrange for women to be accompanied on the plane trip to Australia and pay large amounts of money to people willing to act as 'couriers'. An offence that outlawed the activity of accompanying someone to Australia for the purpose of sexual exploitation would be a useful targeted offence.

The offence of deceptive recruiting is an important fall back offence because it focuses on preparatory conduct — it is not necessary that a situation of sexual servitude or slavery has arisen — and also because sexual servitude and sexual slavery can be difficult concepts to define and prove. The major weakness in the current Commonwealth deceptive recruiting offence is that it does not outlaw deception about the terms and conditions of the sex industry employment. It is only directed at traffickers who deceive women to believe that their work in Australia will not involve prostitution. This means that the deceit of someone who knows they are being recruited to be in the Australian sex industry, but does not know they will be in a position of slavery or sexual servitude, is not covered by this offence.

There are two misconceptions underlying the narrow scope of this deceptive recruiting offence. First, there is an inappropriate moral distinction that sees those who agree to work as prostitutes as less deserving of justice. Secondly, there is an assumption that trafficking always involves severe force, rather than a range of coercion, exploitation of vulnerability and violence in varying degrees.

**Asking those returning**

Australia is a long way behind many countries of the world in the area of counter-trafficking. In particular, we lack cooperation between governments, non-government organisations and law enforcement bodies, and we do not yet have a visa available to all victims of trafficking. The current visas available to women who are victims of trafficking in Australia are Criminal Justice Visas (CJVs), protection visas (PVs), witness protection visas and visas relating to other circumstances, such as a spouse visa. Under the *Migration Act 1958* (Cth), PVs are only granted to women who can prove that they meet the definition of a refugee. CJVs are granted if the presence of a non-Australian person is required in Australia for the 'administration of criminal justice'. Whilst this is in some respects similar to the special visas and stay permits for trafficked women in the US and Italy, CJVs in Australia expire as soon the person is no longer required for the administration of justice or the requesting agency can no longer support her, which indicates that Australia's approach is prosecution focused not victim focused. Recently, a new witness protection visa was introduced (Regulations 2.07AJ and 2.07AK of the *Migration Regulations 1994* (Cth)), but it only applies to witnesses of trafficking crimes who are useful to prosecutions. We need victim protection rather than merely witness protection.

Another problem with CJVs is that women who are granted a CJV lack autonomy and power over their lives. Their ability to remain in Australia, the money in their pocket and the roof...
over their head are at the whim of the requesting agency. An approach that has been shown to work better for trafficked women is one where they 'are provided with necessary support and assistance to make informed decisions about their lives' (Anti-Slavery International 2002:34).

Police in Australia have never successfully prosecuted anyone directly for crimes arising from trafficking a woman for sexual exploitation. The first prosecution under the Commonwealth Code sexual slave offences, which have been in Australian law for five years, was committed to trial after a 14-day committal in Melbourne in May this year and will be heard in February 2005. Similarly, in NSW, prosecutions against traffickers for federal offences are in the process of being heard. There have been some indirect prosecutions for crimes related to trafficking crimes. For example, tax avoidance for failing to declare profits related to exploiting trafficked women (Payne 1997) and offences under the Prostitution Control Act 1994 (Vic), for example the Glazner case discussed above, but the penalties for these peripheral offences were grossly inadequate to reflect the violent crimes perpetrated.

International research indicates that the countries with the most comprehensive measures for assisting victims of trafficking, including residence permits, (Belgium, Italy, the Netherlands and the USA) are also the countries with the most successful prosecutions of traffickers (Anti-Slavery International 2002:9). This paper focuses on the US and Italy as examples of how we can do better to beat trafficking. These countries show us that the right way forward is to put victim protection at the centre of approaches to trafficking crimes. Although there are still some problems with the approaches in these countries, the increased victim support and protection in these two countries has led to increased prosecution and conviction of trafficking criminals.\(^3\)

In the United States, victims of severe forms of trafficking may be eligible for a number of benefits and services regardless of immigration status. The US State Department has established a trafficking office that provides victims of trafficking with access to services such as shelter, medical care and voluntary repatriation. To receive the assistance, victims of severe forms of trafficking who are 18 years or older must be certified by the US Department of Health and Human Services (HHS) in consultation with the US Department of Justice. Victims of severe forms of trafficking who are under 18 years of age are also eligible for certain benefits, but do not need to be certified. The HHS must certify that the victim:

- is willing to assist in every reasonable way in the investigation; and
- is a victim of a severe form of trafficking in persons; and
- has either made a bona fide application for a T visa with the Immigration and Naturalization Service or is a person whose continued presence in the United States is necessary for the prosecution of traffickers in persons.

In the US, government-funded programs, services, and assistance necessary for the protection and rehabilitation of trafficked women, such as crisis counselling, short-term shelter or housing assistance and mental health assistance, are available to trafficked women, regardless of their immigration status. Victims are also provided with reasonable access to translation and interpretation services and receive information about pro bono and low-cost legal services, including immigration services. Victims of severe forms of trafficking may also be eligible for other services and benefits that are generally available to federal crime victims. Federal agencies, such as the Federal Bureau of Investigation (FBI), the Immigration and Naturalization Service (INS), and US Attorneys' offices have victim specialists who assist victims of federal crimes throughout federal criminal investigations and prosecutions and ensure that victims receive information about their rights and referrals to necessary services (Department of Justice 2003b).

The US Trafficking Victims Protection Act (2000) created a new special visa for victims of trafficking who are willing to provide information on traffickers to police. The visa provides temporary residence for up to three years and may also lead to permanent residency in circumstances where repatriation may lead to harm or extreme hardship (Murphy 2001; Carrington and Hearn 2003). Since introducing the T visa and support services, the US has doubled the number of investigations into trafficking and tripled the number of convictions for trafficking (Carrington and Hearn 2003:14-15). According to Dr Mohamed Mattar, adjunct professor of law at John Hopkins, Georgetown and American Universities, the US trafficking legislation has created 'a Bill of Rights ... on behalf of victims of trafficking' and has shifted the focus from criminalising trafficked women to penalising those who abuse and exploit victims (Trombello 2003).

Italian law provides a stay permit for victims of trafficking (Article 18 of the Legislative Decree 286/98 (the Immigration Consolidation Act)). Unlike many other countries, including the US, the Italian system enables victims who are unwilling to testify in court to stay in Italy, provided that they provide information to police. There are two kinds of stay permits. The 'judicial path' involves permitting a woman to stay to be a witness in a prosecution of traffickers. The 'social path' enables a woman to stay if she provides information to police but does not wish to press charges. This recognises that women who are trafficked face threats to themselves and to their families back home and therefore are reluctant to testify against their traffickers. The stay permit enables victims of trafficking to stay in Italy, work, study and access social and health services.
One reason why there have been successful prosecutions of traffickers in Italy is the involvement of local authorities and NGOs in assistance to trafficked persons, which enables women to access the support and services they require in order to cooperate in trafficking prosecutions. In particular, NGOs are funded to provide a range of accommodation types to trafficked women and to provide a toll free number against trafficking. Police also work closely with NGOs who provide support for women. This collaboration ensures that adequate support of trafficking victims is provided, especially in relation to contact with police, which can be essential to the interviewing process (Anti–Slavery International 2002:85).4

The Italian approach is an example of a 'horizontal and vertical transversal/circular global approach which implies the involvement of law enforcement agencies, the judicial system, public authorities … and NGOs at local, regional and national level' (On the Road Association; Italian Ministry of the Interior 2001). By contrast, in Australia there has to date been a lack of government support for the work of counter-trafficking NGOs. For example, rather than funding and supporting the work of Australia's leading counter-trafficking NGO, Project Respect, the government recently awarded a contract for a victim support to an organisation with no experience of working with trafficking.

Conclusion

The Australian Government’s announcement of an A$20 million dollar anti-trafficking package is good news for victims of trafficking. It signals a willingness to thoroughly address this serious organised crime. Three factors are crucial to whether this package will enable victims of trafficking to escape trafficking permanently and whether organised crime engaging in trafficking is disrupted. First, awareness-raising and training of those who interact with trafficked victims to ensure they respond humanely to the victims and make accurate decisions about trafficked women. Second, reform of relevant state and federal laws to reflect the substance of what happens to trafficked women, taking into account the forces and incentives that make this crime so lucrative for criminals and exploitative for victims. Third, a cooperative approach across agencies and governments, so that the immigration department provides the right visas, NGOs provide the right support, police take the right approaches to policing the issues and governments pass the right laws. A multi-sector, whole-of-government approach, which builds on the lessons learned overseas, would give Australia a real chance of stopping the traffic.

Notes

* Georgina Costello is a Melbourne barrister and Hui Zhou is an Arts/Law student at Melbourne University. This paper is based on a presentation by Georgina Costello at the Stop the Traffic II Conference, RMIT, Melbourne, 24 October 2003.

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Australia’s anti-trafficking measures

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Introduction
This article describes Australia’s measures to combat trafficking in persons as they stood at 12 December 2004.

Background: The situation before 13 October 2003
A suite of new measures to combat trafficking in persons was announced by the Australian Government on 13 October 2003. These measures built on a range of anti-trafficking measures operating in recent years, which are outlined below.

Legislation
In 1999, amendments to the Commonwealth Criminal Code created new slavery, sexual servitude and deceptive recruiting offences which criminalise most trafficking in persons activities. These laws provide for imprisonment of up to 25 years for slavery; imprisonment of up to 17 years for entering a commercial transaction involving a slave where the person is reckless as to whether the transaction involves a slave or slavery; imprisonment of up to 15 years (or 19 if the victim is under 18) for sexual servitude, and imprisonment of up to 7 years (or 9 if the victim is under 18) for deceptive recruiting.1

In these offences, slavery is defined as the condition of a person over whom any or all of the powers attaching to the right of ownership are exercised, including where such a condition results from a debt or contract made by the person. The slavery offences have universal jurisdiction. Sexual servitude is defined as the condition of a person who provides sexual services and who, because of the use of force or threats, is not free to cease providing sexual services or leave the place where they are provided. Threat is very broadly defined to include a threat of force, a threat to cause a person’s deportation or a threat of any other detrimental action unless there are reasonable grounds for the threat of that action in connection with the provision of sexual services by that person. The threat does not necessarily have to be directed at the victim of sexual servitude — it could be directed at a third person, such as a family member of the victim. The deceptive recruiting provision makes it an offence for a person to deceive a second person about the fact that their employment or other engagement will involve the provision of sexual services, where the first person intends to induce that second person into an engagement to provide sexual services. The sexual servitude and deceptive recruiting offences apply to conduct committed overseas in some circumstances.

At 31 August 2004, all states and territories but Queensland and Tasmania had offences criminalising sexual servitude, including conducting a business involving sexual servitude. Queensland and Tasmania have other criminal offences that could be used to prosecute incidents of trafficking in persons, for example, unlawful confinement and compelling a person to engage in sexual behaviour.

International activity
Australia participated in a number of international activities to combat trafficking in persons in the period 2000 to 2003. The Regional Ministerial Conferences on People Smuggling, Trafficking in Persons and Related Transnational Crime have led to a number of practical, operationally focused workshops as part of what is now called the Bali Process (see Millar, this issue). This has led to improvement in cooperation between law enforcement agencies in the region and increases the ability of Australia and other countries to combat transnational organised crime, including trafficking syndicates.

Before the announcement of the enhanced package in October 2003, the Australian overseas development aid program, managed by AusAID, already included some A$14 million worth of projects aimed at preventing trafficking in persons (see Proctor, this issue). Specifically, AusAID had commenced funding an A$8.5 million Asia Regional Cooperation to Prevent People Trafficking (ARCPPT) Project to reduce trafficking in the Southeast Asia region by strengthening the capacity of governments to deal with traffickers through the criminal justice process (see Gallagher, this issue).

International law
Australia participated in negotiations for the UN Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Trafficking Protocol). Australia signed the convention on 13 December 2000 and the Trafficking Protocol on 11 December 2002. Australia made the following declaration when it signed the Trafficking Protocol:

The Government of Australia hereby declares that nothing in the Protocol shall be seen to be imposing obligations on Australia to admit or retain within its borders persons in respect of whom Australia would not otherwise have an obligation to admit or retain within its borders.
This was an interpretive declaration setting out Australia's understanding of its legal obligations under the Trafficking Protocol and how they fit within Australia's broader obligations under relevant international law. The declaration does not preclude action (such as providing visas for trafficking victims) — it simply sets out Australia's understanding of the obligation. The Australian declaration is not a reservation and does not change the fact that once it has ratified the Trafficking Protocol, Australia would be bound by its provisions.

Australia was also actively involved in negotiations for the UN Convention against Corruption (UNCAC). UNCAC is a broad, global instrument designed to criminalise corruption activity, and facilitate international cooperation to combat it. Australia signed UNCAC on 9 December 2003, the day it opened for signature. The UNCAC was tabled in Parliament on 7 December 2004, another step towards Australian ratification, which should occur in mid-2005 subject to Government approval.

Action Plan to Eradicate Trafficking in Persons

On 13 October 2003, the Australian Government announced an A$20 million package of measures to combat trafficking in persons. The Australian Government’s Action Plan to Eradicate Trafficking in Persons was the result of a major whole-of-government review of the existing measures. The review involved more than 12 Commonwealth departments and agencies and consultation with non-government organisations and academics. The Minister for Justice and Customs held a roundtable meeting with representatives of Project Respect, ChildWise Australia and the Sex Workers Outreach Project in July 2003. Officials from the various agencies conducting the review also consulted with these and other non-government stakeholders. These measures were largely implemented by early 2004. The measures can be categorised under the broad headings of prevention, prosecution and protection, which are discussed below.

Prevention

Community Awareness Project with NGO participation

A domestic community awareness project is being developed by the Attorney-General's Department. The project is designed to raise awareness of trafficking within a targeted audience — victims of trafficking who are working in the legal or illegal sex industry in Australia, as well as others who are likely to come into contact with these people, for example, other sex workers, clients, brothel owners and managers, brothel regulators, migration agents, sex worker outreach organisations, and providers of sexual health services. The strategy will also promote greater awareness of people-trafficking matters in the general community by working with the media to encourage reporting of the subject in a responsible, culturally appropriate and context-sensitive manner.

A specialist Project Advisory Group whose representatives include Project Respect, the Sex Workers Outreach Project, the Immigrant Women’s Speakout Association, and the Office of the Status of Women (OSW) assists Open Mind, the Melbourne communications consultancy which was the successful tenderer for the project. As at 31 August 2004, Open Mind had met the Project Advisory Group, completed an analysis of anti-trafficking communication strategies developed overseas, and commenced interviewing relevant people to further understand trafficking issues and develop ideas about how an effective communications strategy might proceed.

In addition to the community awareness project, legislation, investigation and prosecution also have a preventive effect.

Prosecution

The broad heading of prosecution includes legislation and international law, investigation, and prosecution itself.

Legislation and international law

The 13 October 2003 package included a review of the existing federal offences relevant to trafficking in persons (described earlier). The review was completed in mid-2004 and an exposure draft of a proposed Criminal Code Amendment (Trafficking in Persons Offences) Bill 2004 was released on 31 August 2004 and the Bill was introduced on 8 December 2004. While Division 270 of the Criminal Code already criminalises most aspects of trafficking in persons (as defined in the Trafficking Protocol), the Bill proposes new and amended offences to ensure Australia’s laws comprehensively criminalise all trafficking-in-persons activity. The Bill has two main features: a significant extension to the deceptive recruiting offence in Division 270; and a new Division 271 (Trafficking in Persons and Debt Bondage).

Proposed amendment to existing offences

The amendment to the existing deceptive recruiting offence would address a situation where a person knows that he or she will be providing sexual services, but is deceived about the exploitative conditions under which they will be provided. The present deceptive recruiting offence does not cover this situation. The proposed amendment would expand the offence to include deception not only about the ‘fact that the engagement will involve the provision of sexual services’, but also the extent to which the person will be free to leave the place or area where the person provides sexual services; to cease providing sexual services; to leave his or her place of residence; and/or the fact that the engagement will involve exploitation, debt bondage or the confiscation of the person's travel or identity documents.
In order to assist the court in determining whether such an offence has occurred, the Bill proposes that evidence of the following matters would be admissible: the economic relationship between the person and the alleged offender; the terms of any written or oral contract or agreement between the person and the alleged offender; and the personal circumstances of the person, including, but not limited to, whether the person is entitled to be in Australia under the Migration Act 1958; the person's ability to speak, write and understand English; and the extent of the person's social and physical dependence on the alleged offender.

**Understanding the proposed new offences and new Division 271**

The Bill proposes a new Division 271 (Trafficking in Persons and Debt Bondage) of the Criminal Code. Broadly, there are seven proposed new offences. Trafficking, aggravated trafficking, child trafficking, domestic trafficking, aggravated domestic trafficking, domestic child trafficking, and debt bondage. The new offences are closely aligned with the definition of trafficking in persons in Article 3(a) of the Trafficking Protocol (see further, Williams, and Dammann and Williams, this issue). Each of these proposed offences would attract a penalty of 12 years imprisonment.

The Bill includes a proposed 'aggravated offence of trafficking in persons' and 'aggravated offence of domestic trafficking in persons'. These proposed offences would attract a penalty of 20 years imprisonment. The offence is made out if the person charged, in committing the offence, subjects the victim to cruel, inhuman or degrading treatment or engages in conduct that gives rise to a danger of death or serious harm to the victim, and is reckless as to that danger.

The proposed trafficking in children offences are structured differently to reflect the terms of Article 3(c) of the Trafficking Protocol, which removes the need for force or threats in the case of trafficking a person under the age of 18. These proposed offences also attract a penalty of 20 years imprisonment.

The Bill proposes an offence of debt bondage, with a penalty of 12 months imprisonment (two years if the victim is under 18). This would allow these offences to be dealt with as summary offences where appropriate.

**International Law**

The 13 October 2003 announcement included the Australian Government's decision to ratify the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, as well as Convention against Transnational Organized Crime, once domestic requirements had been met. The protocol was tabled before the Parliamentary Joint Standing Committee on Treaties (JSCOT) on 3 December 2003, along with the convention and the related Protocol against the Smuggling of Migrants by Land, Sea and Air (Smuggling Protocol). JSCOT recommended ratification of all three instruments. The convention and the Smuggling Protocol were ratified on 27 May 2004. The final domestic requirement for Australia's ratification of the Trafficking Protocol is the passage of an appropriate amendment to the deceptive recruitment offence in Division 270 of the Criminal Code (see discussion above).

Australia played a major role at the First Conference of Parties to the UN Convention against Transnational Crime in Vienna, Austria, from 28 June to 9 July 2004. In particular, Australia helped shape the forward agenda for the 2005 conference to focus closely on practical discussions on the implementation of necessary legislation, including on trafficking in persons. In doing so, Australia's delegation drew on the experiences gained from the Bali Process, particularly on the benefits of involving practitioners and experts, rather than exclusively diplomats.

**Investigation and prosecution**

The AFP received extra funding under the new package of measures to establish and operate the Transnational Sexual Exploitation and Trafficking Team (TSETT) to investigate people trafficking offences (see Wright, this issue). Within Australia, the AFP and state and territory police forces now cooperate in fighting trafficking through the now-completed Australian Policing Strategy to Combat Trafficking in Women for Sexual Servitude.

In Australia, the Commonwealth Director of Public Prosecutions (CDPP) prosecutes offences against federal law, including Division 270 of the Criminal Code. CDPP prosecutors on these trafficking cases have close working relationships with the AFP TSETT and with the SET victim-support case managers. At 12 December 2004, the CDPP was prosecuting 14 persons under four separate cases.

**Protection**

There are three main components of Australia's anti-trafficking measures that fit under the broad heading of protection. These are the visa regime for trafficking victims, the comprehensive victim-support program, and the reintegration project for key source countries in Southeast Asia.

**Visas for trafficking victims**

A three-phase visa system enables persons who are assisting, or who have assisted, with an investigation or prosecution of people trafficking offenders to remain lawfully in Australia.

The Bridging Visa F came into effect on 1 January 2004. These visas are for persons who may be victims of trafficking and who are of interest in a people trafficking matter. The visas apply for up to 30 days. During this period, the potential victim
has access to comprehensive victim-support services, set out in detail below. The Bridging Visa F provides a 'reflection period' for the potential victim to receive counselling and other support, and determine whether she or he is willing to assist law enforcement agencies. Meanwhile, the AFP uses the time to make further investigations into the case, to determine whether the person is a victim of trafficking and whether further action can be taken. When a potential trafficking victim is identified, a careful methodology is used to assess whether that person is possibly a trafficking victim. The threshold for this assessment is deliberately low: the AFP, state or territory police need only assess that there are any indications that the person is a victim of trafficking. These visas are also available to the person's immediate family members.

The Criminal Justice Stay Visa is for victims of trafficking who are able to assist the AFP and/or the CDPP in the investigation and/or prosecution of trafficking offences. They are available for a wide range of purposes and also entitle the victim to access support services. The visa allows the person to remain in Australia for the duration of their involvement in the criminal justice process (that is, the investigation and/or the prosecution and/or trial).

The Witness Protection (Trafficking) Visa may be available to trafficking victims who hold a Criminal Justice Stay visa, have contributed significantly to the prosecution or investigation of a people trafficking matter, and are in danger of harm upon return to their home country as a result of having assisted law enforcement agencies in a trafficking case. The visa is initially for two years, and can become permanent after that.

Victim support
Australia has in place a comprehensive individually case-managed victim-support system for victims of trafficking. The program is divided into two phases that mirror the visa arrangements. The first phase is available to suspected trafficking victims who are on a Bridging Visa F, and who may choose to take the full 30 days to decide whether they intend to assist in an investigation or prosecution. The second phase is for those trafficking victims who are remaining in Australia to assist in an investigation or prosecution, and who have transferred onto a Criminal Justice Stay Visa.

During Phase 1, victims have access to fully furnished and secure accommodation within close proximity to the AFP; a living allowance and weekly food allowance; a one-off amount of $300 for the purchase of essentials such as clothing and toiletries; the Medicare Benefits Scheme and the Pharmaceutical Benefits Scheme; legal services (a maximum of 3 appointments per client throughout both phases of support); training if desired and to social support (including English language training, budgeting skills, counselling, etc) and vocational guidance where appropriate; and intensive case-management support from a dedicated, appropriately qualified case manager. The level of support provided in Phase 1 will depend on the circumstances and needs of the victim, and may be provided around the clock if required.

During Phase 2, victims have access to the following support: Special Benefit and Rent Assistance (if they meet eligibility requirements); assistance with securing longer term accommodation; access to the Medicare Benefits Scheme and the Pharmaceutical Benefits Scheme; access to legal services (a maximum of 3 appointments per client throughout both phases of support); and access to training if desired and to social support (including English language training, budgeting skills, counselling, etc) and vocational guidance where appropriate. Case-management support becomes gradually less intensive during this phase as victims adjust to their new circumstances and develop more control over their lives.

Reintegration assistance
AusAID, in association with the International Organization for Migration (IOM), is establishing a capacity building reintegration assistance project for trafficking victims who are returned to key source countries in Southeast Asia. Initial activities will be in collaboration with Thailand. The reintegration assistance is available to trafficking victims regardless of whether they assisted in an investigation or prosecution. However, victims must agree that they want to access these services. For those who do not want to access the services, information will be provided to enable them to do so later, for example, if they experience difficulties after their return.

AusAID is working with the IOM to arrange scoping study tours and to provide technical input and management services for the subsequent program of capacity building and other appropriate support to government and NGO agencies in Thailand, and other source countries in Southeast Asia. Under contract to AusAID, IOM will be working in collaboration with Thai agencies and NGOs in order to enhance their capacity to receive and care for returning Thais and others, to monitor reintegration of victims, and to facilitate investigation and/or prosecution of traffickers. A comprehensive range of activities to achieve these objectives will be undertaken over the next three years.

AusAID's efforts are directed at funding and enhancing the capacity of source countries to receive and reintegrate returning victims. For example, benefits provided in Thailand include accommodation, meals, basic medical treatment, advice on hygiene and STDS, counselling, IQ testing, a psycho-social recovery program, non-formal or vocational education, recreational services and social activities, life skills education and reintegration assistance, that is, preparation for reunification with families and reintegrating into society.
Notes

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1. All these offences are found in Division 270 of the Criminal Code Act 1995 (Cth) which can be accessed at: <http://www.scaleplus.law.gov.au/html/pasteact/1/686/top.htm> by following the links to Division 270.


5. Article 3(a) states: "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs." The full text of the Trafficking Protocol is available at <http://www.ausdii.edu.au/au/other/dfat/treaties/2004/13.htm>.


7. The Australian Delegation was led by the first author. Documentation of the conference of parties, including the report, should be available soon at the United Nations Office on Drugs and Crime website at <www.unodc.org/unodc/en/crime_toc_parties.html>.
People trafficking and development: Issues for Australia's aid program

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Introduction
A range of Australian Government agencies have come together to combat trafficking in persons. I want to cover specifically the Australian aid program's commitments in this area. AusAID is the arm of the Australian Government that administers the official overseas aid program. Over many years, Australia has provided funding to regional and bilateral projects that aim to reduce the incidence of trafficking, provide support to trafficking victims and assist with their reintegration. The value of Australia's aid commitment to anti-trafficking activities since 1998 is over A$16 million, which I will detail later. The geographic focus of AusAID's assistance has always been primarily on East Asia and the South Pacific, and this is reflected in the scope of this paper.

Context
There is no doubt that poverty is related to trafficking. As Joseph Eichenberger, Vice President of the Asian Development Bank said in 2002, most of the women involved in trafficking (for prostitution and labour) are poor and uneducated. For this reason, I would like to focus on some broader issues for aid donors. The vulnerability of people to trafficking can be addressed by direct programs, but, in the longer term, also through poverty reduction and capacity building. Arming women with job skills and wider opportunities, and encouraging street children to return to school or acquire vocational education are a few good examples.

In terms of nations moving out of poverty, the East Asia region is generally returning to strong economic growth. The World Bank predicts an overall economic growth rate of nearly 6 per cent in 2004 (this figure includes China and newly industrialised economies). Historically, economic growth in East Asia is highly correlated with poverty reduction. For example, Vietnam and Thailand's strong growth has seen a significant drop in poverty levels. Between the mid 1960s and 1997, Indonesia, with its GDP growth rate approaching 8 per cent annually for 30 years, reduced poverty from about 60 per cent to around 14 per cent of its population.

Reducing poverty is, however, a slow means of reducing trafficking — and sustainable growth for East Asian countries could be undermined by a number of issues that face the region, for example, HIV/AIDS, SARS, security issues and water resources. Moreover, growth is not always uniform. Areas of high poverty incidence in Southeast Asia are increasingly ingrained in smaller communities. These are the 'hard yards' to win in poverty reduction.

We are all aware that people are more mobile than ever before. Economic growth inevitably leads to more mobile populations — legal and illegal, internal and across borders. Increased migration can result in increased susceptibility to and transmission of HIV/AIDS, the crime of people trafficking, and social dislocation. Risk groups include seasonal domestic and factory workers, migrant labourers and refugees. Powerlessness, poverty, isolation and difficulty in accessing information all contribute to increased susceptibility to traffickers. Of course, not all of this is strictly across borders — people trafficking occurs somewhat invisibly within larger countries as well.

Clearly, the issue of people trafficking is not one of simple causes or solutions for governments or donors. We have to adapt to meet such challenges. One particular donor example is the Greater Mekong Sub-Region (GMS) development program. This Asian Development Bank (ADB) program initially emphasised developing physical infrastructure linkages to increase trade and investment. The GMS Program has now moved to emphasise reducing non-physical barriers between countries. One illustration of this is the framework agreement that has been signed by Cambodia, Laos, Thailand, and Vietnam to facilitate the cross-border movement of goods and people. The ADB has acknowledged that some local populations are particularly vulnerable, and therefore all new funding proposals must now include consideration of the risks of HIV/AIDS and people trafficking.

The International Organization for Migration (IOM) has produced an excellent paper that documents causes of irregular migration. It identifies growing numbers and diversity of recruiters, lack of information, insufficient laws or lack of relevant laws, poverty, lack of employment and educational opportunities, debt, family relationship breakdown, gender-based discrimination, increasing materialism, political instability and armed conflict as causal factors in irregular migration.

Australia's responses
AusAID is working collaboratively with other parts of the Australian Government, including the Department of Foreign Affairs and Trade (DFAT), Department of Immigration and
Multicultural and Indigenous Affairs (DIMIA), the Australian Federal Police (AFP), and the Attorney General’s Department (ADG) to combat people trafficking and its causes and to mitigate its effects. The aid program will be providing assistance to trafficked victims being returned from Australia to their source countries in Southeast Asia. This assistance will take the form of upgrading the skills of government agencies and NGOs to facilitate reintegration of victims into their home communities and to work against re-trafficking.

Since the year 2000, the aid program has operated a number of activities across the spectrum of combating people trafficking, now valued at over A$16 million. Activities include:

- A$8.5 million on the Asia Regional Cooperation to Prevent People Trafficking Project, which aims to strengthen regional cooperation and legal policy frameworks and build national and regional capacity to prevent trafficking in women and children. It is initially focusing on activities in Cambodia, Laos, Burma and Thailand.
- A$1 million to support the United Nations Development Programme Inter-agency Project on Trafficking in Women and Children (UN-IAP), which aims to reduce the incidence of trafficking of women and children in the Mekong Sub-Region.
- A$5.4 million for the implementation of the International Organization for Migration (IOM) project Return and Integration of Trafficked Persons in the Mekong Region. The project is establishing systematic and sustainable cross-border working arrangements for return and reintegration of trafficked victims, especially vulnerable women and children in Cambodia, Laos, Burma, Thailand, Vietnam and China's Yunnan Province.

In addition, the aid program has provided over A$1 million to Child Wise Australia to prevent child abuse in ASEAN tourism destinations, as well as funds to DIMIA and AFP for work involving border control and immigration matters. AusAID has also, of course, been working with East Asian partner governments, especially Thailand, to combat trafficking and child sex tourism by addressing a range of areas including care and support for victims and law enforcement.

The need for regional cooperation to prevent trafficking is now widely appreciated. We work with our partners in the region, particularly through UN-IAP, and through the IOM and Child Wise. Because some of our projects are primarily at grassroots, community and advocacy level, where NGOs and IOM have developed considerable expertise, Australia finds it cost-effective to develop activities with these as partners.

Not only is regional cooperation essential, so too is sectoral cooperation. Our programs work with law enforcement, security and social development departments, and include all levels — ministerial, government officials and civil society. The Asia Regional Cooperation to Prevent People Trafficking Project referred to above is the first to work closely with law enforcement and social development agencies of governments in the Southeast Asia region.

Populations are becoming more mobile for a variety of reasons. As countries formalise arrangements to facilitate seasonal movement of workers, and even legal migration, it will be necessary to include programs to prepare these people for their new lives. UNIFEM currently has a migration program that does just that, including raising awareness of people trafficking. The program operates in some countries in Southeast Asia and the Middle East. UNIFEM have, for example, facilitated a memorandum of understanding between Jordan and Indonesia for domestic migrant workers. This program is being expanded into more countries in Southeast Asia. Nepal is moving to regulate agencies recruiting workers for the Middle East and elsewhere, at the same time lifting bans on female migration.

Conclusion

In this paper, I have looked briefly at the broader developmental activities that should reduce trafficking in the longer term. In addition to those and the specific programs we have with IOM and through the Asia Regional Cooperation to Prevent People Trafficking Project, some other issues deserve mention — the need to look closely at the interrelations of trafficking with factors such as drugs, HIV/AIDS, corruption and money laundering. The good news is that donors tend to increasingly focus on these areas.

Note

* Murray Proctor is Assistant Director General, East Asia Branch, AusAID. This is an edited version of a paper given at the People Trafficking, Human Security and Development conference, 1–2 September 2004, Canberra.
Sites of vulnerability, gendered violence and trafficking of women and girls for prostitution

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Introduction

Discussions of the causes of trafficking of women and girls for prostitution tend to identify a range of push and pull factors behind trafficked women's decisions to migrate abroad for tenuous and often vaguely construed work opportunities. The most commonly cited of these factors include poverty, familial obligations and, more recently, personal opportunism. The view taken in this paper is that these and other such factors are not the cause of trafficking, but rather the first stage in the trafficking process (Iselin 2004). The cause of sex trafficking is male demand for trafficked women's sexual labour and traffickers' demands for the large profits that may be generated through the deployment and sale of such labour.

In this paper I wish to use this distinction between demand as the cause of trafficking and sites of vulnerability as the first stage of trafficking as a basis for elaborating on a range of these sites that expose women and girls to trafficking. Further, I wish to make a case for the importance of some sites of vulnerability apart from those—including family and poverty—that are usually discussed in literature on trafficking. Considering only these well-recognised factors can tend to reinforce stereotypical understandings of 'third world' women and girls as, for example, trapped by a combination of economic marginalisation and familial obligations. Most women and girls who are vulnerable to sex trafficking are indeed from poor backgrounds, and certainly some women are primarily concerned with remitting money to their families. Yet, these factors, while often important, can conceal a more complex picture that involves a deeper engagement with individual women's pre-migration experiences and lives.

This paper examines how women describe their lives at home prior to being trafficked and identifies a range of sites of vulnerability from their descriptions. At least ten sites of vulnerability can be identified as common factors exposing women and girls to trafficking. These include: poverty; changing economic structures, particularly structural adjustment policies that can lead to heightened rural poverty and out-migration by younger community members in search of job opportunities elsewhere; family support obligations and responsibilities, which are often related to structural adjustment in that remittances of family members who have migrated can act as a household economic strategy; lack of direction, boredom, lack of opportunities and the desire to improve one's life chances through migration; global consumerism which can create consumer wants amongst persons in developing countries without the concomitant ability to fulfil these wants; war, conflict and population displacement; (local) prostitution; prior trafficking experiences; a patriarchal social context and gender discrimination; gendered violence and abuse in the home country; and family dissolution and breakdown of relationships.

Discussion in this paper focuses particularly on the last three of these factors: violence, abuse, family dissolution and the ways these are informed by gendered norms as particularly common and pronounced sites of vulnerability. In this sense, women and girls' decisions to migrate could be contained in a single, life-changing event or episode of violence or the coalescence of repeated encounters over time, but common to many women's decisions to migrate abroad are position of vulnerability created by experiences of gendered violence and family dissolution—what Suzuki (2002:100) calls 'restrictive or distressing affective ties at home'. Such positions of vulnerability tend to be extremely well-understood by recruiters and agents (traffickers), who play on women's negative experiences at home in developing imaginaries of personal transformation abroad.

It is possible that experiences such as those discussed in this paper have been neglected in most explanations of the trafficked women's migration decisions because of the practical difficulties associated with in-depth research with trafficked women (Kelly 2002). Moreover, most research with trafficked women tends to focus on what happens to them during, rather than prior to or after trafficking experiences. A sense of shame, embarrassment or fear of reprisal can also mean that trafficked women do not often disclose these more intimate reasons for migrating in initial or one-off interactions with researchers, policing and immigration authorities or support workers.

The discussion and arguments presented in this paper are based on fieldwork with trafficked Filipinas (85 participants) and Russian/CIS women (11 participants) in South Korea's entertainment/prostitution sector. Virtually all these women entered Korea on 'entertainers' (E-6) visas. In 2001, according to National Statistics Office figures, 8586 entertainers came to Korea, of whom 6971 (81 per cent) were female. They included 1599 Filipinas and 3518 Russian women, who together comprised approximately 60 per cent of the total entertainers coming to Korea that year. Others enter on E-6 visas and run
away from their place of employment. They usually become illegal migrant factory workers or ‘GI brides’ pursuing relationships with American military personnel they meet during their work at the clubs (Yea 2004). During a period of 17 months (July 2002 – November 2003), I undertook a combination of ethnographic research, in-depth interviews and questionnaires with these women. These methods both established their status as trafficked persons (according to the definition laid out in the UN Trafficking Protocol) and captured the individual texture of their experiences at home and abroad. All but one of the Russian participants worked in clubs oriented to Korean customers (hereafter, Korean clubs), while without exception all of the Filipinas worked in clubs catering to US military personnel (hereafter, GI clubs). These two sites represent the two major destinations of women trafficked for prostitution in Korea, as well as the mainstays of Korea’s multifarious sex/entertainment sector (Cheng 2000).

The paper recounts stories of gendered violence and family dissolution experienced by three of the participants in this research (all Filipinas). For these three women the negative experiences discussed here proved instrumental in their decisions to go abroad and were formative as sites of vulnerability for them. Their stories are not exceptional, with the majority of women interviewed in Korea narrating similar experiences to me and identifying the importance of such experiences as motivations to go abroad.

**Gendered and sexual violence in trafficking research**

Maltzahn (2004) identifies four ways in which the relationship between domestic violence and trafficking are expressed: domestic violence as a push factor (as discussed in this paper); exposure of women to violence in recruitment and breaking in periods and ongoing violence in trafficking destinations to instil fear and intimidation in women; experiences of (lack of) support that are common to domestic violence and trafficking situations; and men’s roles as perpetrators of domestic violence and sexual exploitation of women in trafficking and domestic situations.

Each of these factors is worthy of far greater consideration than they currently assume in research on trafficking. At present, when violence experienced by trafficked women is discussed at all, it tends to be limited to a focus on women’s experiences after they leave home (for an exception see CATW 2002). Yet, incipient research and statistical analyses of trafficked women’s experiences point to the significance of gendered violence at all points in the trafficking process, particularly prior to migration. A recent study by Poppy Project in the United Kingdom,² found for example that of 26 women they surveyed, ten (38 per cent) disclosed having experienced multiple forms of violence before being trafficked, two disclosed witnessing political violence/ family members being murdered during internal conflict/war, and 12 (46 per cent) had been sexually abused or raped before being trafficked (Poppy Project 2004:1–2).

Most of the women who participated in my research experienced various forms and degrees of violence whilst abroad, but what was initially surprising was the tendency of most of these women to downplay and trivialise these experiences. I interpret this as a reflection of the normalisation of abuse by many women because of other manifestations of gendered and sexual violence both at home and in the context of other migration/trafficking experiences. The connections between the various manifestations of violence are thus multiple and complex. It is to an examination of these that we now turn.

**Experiences of pre-migration violence and family dissolution**

Gendered violence and family dissolution in trafficked women’s migration decisions can affect women’s experiences whilst abroad (for example, by making them more vulnerable to similar forms of abuse) and because it is a crucial site through which women’s sense of self (and therefore what options they think are open to them, including migration) is constructed. Cheryl (Filipina, 24 years), Jenny (Filipina, 26 years) and Len Len’s (Filipina, 28 years) experiences are discussed in detail here. While they derive from each woman’s unique life history, they nonetheless reflect a theme that is common to many of the women who participated in my research.

**Cheryl**

Cheryl is from Manila, where her parents still live with her two younger sisters and her seven-year-old daughter. She came to Korea in April 2001 and worked in Club ‘M’ in Toka-ri, 40 kilometres north of the capital, Seoul,³ for 15 months before she ran away with the assistance of her GI boyfriend and a Filipino priest in Seoul. In the Philippines, Cheryl was an erotic dancer and would regularly perform the ‘pussy-smoking cigarette show’. She did not engage in any type of prostitution-related work in the Philippines and considered herself to be a professional dancer.

Cheryl broke up with the father of her two children in 1999 because he was a drug addict and would physically abuse her regularly. He beat her so badly on one occasion just before they broke up that she phoned the police and had him arrested. Her son is still with her ex-partner, which means she is forced to maintain contact with him. Unfortunately for Cheryl, she became involved with another Filipino man, a dentist, only a few weeks before she came to Korea. She revealed that he was also a drug addict and he beat her so badly that she still had deep bruises on her body when she arrived in Korea a month later. She recalled:
He wrapped wire around my ankles so that I couldn’t run away and you could still see the cuts on my ankles when I arrived in Korea. That was why I was so sick when I first came here. In the costumes I had to wear in the club you could see my arms and legs and so I couldn’t hide the bruises … The guy (the dentist) put me in hospital because he beat me so badly. I remember lying on the bed in the hospital and all I wanted to do was just lie there because I was in so much pain. The only one who came to help at that time was my manager in the club in the Philippines. I got so skinny because I just wanted to die. My life was useless and I didn’t want to live anymore — that is why I stopped eating.

Cheryl’s immediate pre-migration experience of violence represented an extreme instance of a longer-term pattern of abuse she experienced with her two Filipino partners. Her decision to go abroad was driven by the wish to distance herself, physically and emotionally from these men. Cheryl was making good money as an erotic dancer in the Philippines and was only marginally influenced by the desire to earn more money by working abroad.4

Jenny

Jenny is 26 years old and from Manila. She has one brother and one sister in the Philippines and one half-sister who works as a midwife in Japan. Her parents are separated, but she maintains strong contact with her siblings and often sends money to them. Jenny’s father and her half-sister in Japan supported Jenny while she was studying a five-year degree in physical therapy. However, in 1997 Jenny lost contact with her father and could not continue university without his financial support, forcing her to drop out after only two years of study. The incident that caused the rift in their relationship occurred when the son of a family friend raped Jenny. She recounted how the rapist had tied her to a bed for two days and raped her whenever he pleased. She told her father, who said that Jenny should not report the incident to the police.

Jenny became pregnant to her rapist and, after much indecision, decided to proceed with the pregnancy. She said she thought her father was ashamed of her and the incident, including her pregnancy, ruined their relationship. Because Jenny could not continue her studies without the support of her father and because she was pregnant, she decided to come to Korea and work once her baby was born after seeing an advertisement in the local newspaper. She arrived in Korea on 1 June 2001 and worked in Club ‘U’ for just under 12 months before running away.5

Rather than eliciting support and sympathy from family members, especially her father, Jenny’s rape was only met with a sense of shame by her family because she had transgressed accepted pre-marital sexual norms (albeit unwittingly) for young Filipino women. This rupture in her family situation was not only personal distressing; it also destroyed her financial security and therefore her ability to continue her physical therapy course at university.

After having her baby Jenny was also faced what Suzuki has labelled ‘public surveillance’ as a single mother in Manila. According to Bautista (1997 in Suzuki 2002:102), ‘numerous young unmarried working-class mothers in Manila are subject to public surveillance of their female chastity and … often suffer severe ostracism, poverty and reduced chances of marriage while still in the Philippines’. Jenny’s situation, like that of a number of other Filipinas participating in this research, could be characterised this way. Half the Filipinas and three of the Russian women participating in this research were single mothers and many, like Cheryl, broke up with their partners because of drug habits or alcoholism leading to domestic violence, or, like Jenny, had conceived through forced or coercive sexual liaisons.

Jenny and Cheryl’s experiences are extreme, but threads of their pre-migration histories are also woven into the narratives of other women. Many endured physically and psychologically abusive relationships with their partners or other family members, including parents, prior to coming to Korea and more generally suffered from a distressing family situation. Many of the single mothers in this research were in fact at one time in relationships that involved legal marriage or a de facto arrangement with their ex-partners. Similarly, many of the women, such as Len Len (whose story is related below), experienced the dissolution of relationships with their natal families and of their marriages prior to migration. The lack of strong family anchoring at home — whether in their married lives or with their natal families — can compel women to look at the possibility of fulfilling these needs transnationally.

Len Len

Len Len came to Korea on 31 January 2003. She has a ten-year-old son in the Philippines who lives with her sister. She is separated from her 40-year-old Filipino husband and has two brothers and one sister. Her mother died when she was one year old, so she never knew her mother, and her father died when she was 17. Len Len’s personal history had a huge influence on her decision to come to Korea and this history continues to impact on her emotionally. These are the circumstances that led to Len Len’s decision to migrate to Korea as an entertainer:

I was only 19 years old when I met my husband who is Visayan and he was 29 … When I marry I have no friends and no relatives because my husband is a very jealous man. He never lets me go out anywhere and he just chooses for me my friends. My husband said to me, ‘If you leave me I’m going to kill you’. I don’t like my son seeing me crying. One day when he’s only four years old he said, ‘You know mama, all you have to do is find another guy’ … My husband is a jeepney driver. We are married 6 years and split when I come to Korea. Even though we were together, no respect. We just live together because of my son … Everything I do is wrong. He always say, ‘You must follow me — I’m older than you’.

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In Len Len's case, a combination of her unhappy family situation when she was a child and the early death of her mother and father, as well as her pregnancy, compelled her to an early marriage with a man she admitted she didn't really love. The relationship deteriorated to the point where she experienced continual psychological abuse from her husband and so made the decision to split with him, thus making her the sole breadwinner for her child. All these family circumstances influenced Len Len's decision to go abroad — a decision she reflected she would not have made otherwise: 'If my ex-husband (did) not abuse me I never work in a club. If my ex-husband treat(ed) me good I never choose this for my life.'

Conclusion

This paper has sought to explore some of the circumstances and events in trafficked women's pre-migration experiences that propel them to transnational destinations such as Korea. Specifically drawing on the narratives of three Filipinas participants in my research, I have suggested that whilst these women identify poverty, family obligations and individual desires as important elements in their decisions to migrate, they often conceal other factors.

I have attempted here to draw particular attention to gendered, sexual and psychological violence, especially with ex-partners and family dissolution that figure in women's transnational migration decisions. Such experiences negatively affect women's self-understandings, as well as the views others (both immediate family and friends, and society in general), come to hold of them. A fertile ground is, in other words, laid in the broader context of women's lives prior to migration, which can be easily nurtured by promotion and talent agencies positive constructions of life abroad as 'entertainers'.

Women such as Jenny and Cheryl, who had profoundly violent and intensely negative experiences, are driven to migrate to escape further abuse, and, in Jenny's case, the feelings of shame engendered by rape and single motherhood. Cheryl and Len Len also discuss the importance of longer-term patterns of physical and psychological abuse at the hands of partners in their decisions to go abroad.

Also common to the women whose experiences figure in this paper, is the coalescence of a combination of factors propelling their migration. While women such as Jenny and Cheryl were pushed to migrate because of a single negative event of experience at home and also pulled by vague and idealised constructions of employment by recruiters, returnees and promotion agents, all these women were already vulnerable to trafficking. Longer-term patterns of abuse or lack of family anchoring and ties, or boredom and lack of alternatives for work or relationships helped to crystallise the women's decisions when the opportunity or circumstance arose. In this sense, these women's decisions to migrate cannot necessarily be reduced to one or another factor and what women conceal about their migration decisions may be as important as the clichéd renderings of poverty and family they often openly and freely cite.

Prior to their first experiences abroad, many women construct idealised images of their futures as migrants, often discounting the possibility of physical danger and sexual and financial exploitation, even when these have been presented to women as very real possibilities. Many women and girls are still willing to take their chances despite considerable anecdotal and factual (media, governmental, NGO) evidence of possible exploitation and danger. In exploring reasons why women are exposed to these situations, despite the risks attached to migration decisions involving tenuous destinations, the texture of women's lives at home is important to consider.

In existing research on trafficking, it is often assumed that if women are fully aware of the potential dangers of trafficking and risks associated with migration to a particular destination they will choose not to migrate. This is a rather simplistic construction of women's choice and knowledge and does not allow for any consideration of the broader circumstances and events in women's lives that instil in women a particularly low sense of self-esteem and self-worth. Recognising that women and girls will remain exposed to trafficking situations despite various levels of knowledge about their destination allows for a far more productive engagement with women's thinking, imaginings, circumstances and sense of selfhood.

Notes

1. This paper is based on the author's presentation to People Trafficking, Human Security and Development symposium, Canberra, 1–2 September 2004.
2. Poppy Project is an accommodation and support organisation for women trafficked for sexual exploitation in the United Kingdom.
3. Tongducheon is 20 kms north of Seoul and 25 kms south of the North Korean border. It is home to several United States military bases in South Korea, including Camp Casey, which is the largest base in the country.
4. Other women whose partners were drug addicts or alcoholics tended to also reflect the patterns of abuse Cheryl described.
5. Eva (Filip ina, 26 years) has a seven-year-old daughter and a five-year-old son. She stated that she came to Korea to support her son and daughter, who live with her sister back in the Philippines. The Filipino father of her children is her real husband, but they separated because he became a drug addict. She described him this way: 'He's bad. All the guys are nice but after one year my boyfriend has more friends and they influenced him to use drugs. We were married in 1997 and broke up in 2000. He's beating me up ... My mother in law need(s) my signature for my annulment and my parents want
that too.' Unfortunately, Eva has to pay the cost of the attorney needed to process the annulment, which is around US$600. Eva must try to save this money from her salary in Korea.

5. Jenny's rape and the rupture it caused in her family situation was an incident that she did not share with me immediately. In fact, I can clearly recall the evening Jenny disclosed this, and other details of her situation. I went to Jenny's Tongducheon apartment that she was sharing with her GI fiancé to have dinner. After dinner she sat on the couch and said, 'Okay Sallie. I'm going to tell you everything'. Although I had not raised the subject of my research that night, Jenny nonetheless proceeded to give a detailed account of several pre-migration experiences, including her rape and experiences once in Korea, including a severe beating from the mamasan (Korean female club owner) a month before she ran away (September 2002), after which she lost the baby she was carrying to her GI fiancé. This information came seven months after I first met Jenny.

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Study of the SAARC convention as an initiative to combat trafficking in South Asia

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Introduction
This paper gives a brief overview of the trafficking problem in the South Asia region, its causes and the effect on victims, and the operation of various national and international laws along with their impact on trafficking victims. The focus of the paper is the operation of the SAARC (South Asian Association for Regional Cooperation) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, and an assessment of its strengths and weaknesses in order to determine its efficacy in interdicting trafficking in the South Asia region.

Comprehending trafficking: Its dimension and definition
Millions of women and young girls, primarily from marginalised and impoverished communities of the third world, eke out a living in the burgeoning red light districts of major cities, either in their own or neighbouring countries. According to the United Nations Population Fund, 4 million girls and women are trafficked each and every year (UNFPA n.d.). India remains the main receiving country in the South Asian region of victims of trafficking. Non-government organisations estimate that more than 12,000, and perhaps as many as 50,000 persons, are trafficked into India annually from neighbouring countries (Coomaraswamy 2000:29). This human trade is flourishing, in part because of the inaction of enforcement authorities such as the customs and border forces and other agencies such as hospitals, adoption homes and transport agencies. The magnitude of the trade in human beings is evidence of the inefficacy and inadequacy of the existing legal framework. At the regional level, there is an urgent need for coordination of efforts and the encouragement of partnerships between NGOs and states.

Vulnerability of the victims
An examination of the causes of the rapid growth in trafficking reveals that underdevelopment and poverty have been a major push factor, adding to the vulnerability of women and children in the South Asia region. Poverty coupled with gender is a debilitating factor. Girls are seen as burdens who do not add to the family income. Parents themselves sell their young daughters into prostitution for a few thousand rupees. The opening up of markets has exposed new forms of exploitation at the workplace. Long hours of work in unhygienic surroundings for disproportionately low wages (often far below the standard minimum) is the norm for labouring women in Third World countries. With little bargaining power, workers, and women in particular, are unable to demand a decent wage or standard conditions of work. The dictates of globalisation and the global market mean that the cheapest goods can only be produced in the Third World. The logical ramification is the further exploitation of already marginalised sections of society so as to create and sustain a market for ‘exotic goods’ at competitive prices.

Additionally, in countries such as Thailand and India with a high prevalence of HIV/AIDS, clients' fears of infection have led traffickers to recruit younger women and girls (sometimes as young as ten) from remote areas, as a way of ensuring their 'purity' or virginity, because these areas are perceived to be unaffected by the pandemic (Human Rights Watch 2000:197). Traditional practices also contribute towards trafficking. The sexually exploitative Devdasi system, where very young girls are offered by their parents to temple priests for marriage with God, is still prevalent, despite being abolished by law.

Human Rights Watch highlights the complicity of implementation agencies, such as border officials and police, who facilitate trafficking return for a profit from the trade: 'For a price they ignore abuses that occur in their jurisdiction; protect the traffickers, brothel owners, pimps, clients and buyers from arrest; and serve as enforcers, drivers and recruiters' (Human Rights Watch 2000:196). This is what explains the large number of Bangladeshi and Nepali girls and women in the brothels of India.

Nature of human rights violations
The process of trafficking implicates civil and political rights; social, economic and cultural rights; equality rights; and the right to be free from slavery and slavery-like practices (Farrior 1997:213). It vitiated the freedom of movement through use of criminal means of deception, fraud or coercion. Subservience is maintained through debt-bondage, passport confiscation, physical and psychological abuse, rape, torture, threats of arrest and deportation and threats to the trafficked person's family. The right to personal autonomy and the right to enjoy...
psychological, physical and sexual health is reduced or destroyed by threats of reprisals, deprivation of food and a lack of medical and health facilities. In the case of trafficking for forced labour, conditions of work are unmonitored and in contravention of international labour standards.

Countries in the South Asia region have ratified various instruments and enacted laws to combat trafficking. However, the laws devised to combat trafficking are themselves in opposition to regard for basic human rights, thereby making their implementation against the spirit of equality and justice guaranteed in their constitutions. For instance in Bangladesh, government and health officials deny services to prostituted women and their children on the sole basis that a woman is in prostitution. Children born to women trafficked for prostitution are rendered stateless under Article 7 of the Nepalese Constitution, as it stipulates that citizenship can be acquired only through a child's father or a woman's husband. This provision, apart from being discriminatory towards women in general, creates difficulties for trafficked women.

While laws relating to violence against women, including rape, apply equally to prostitutes, in practice, sex workers are discriminated against as they are deemed to be 'habituated' to sexual intercourse, thereby making conviction near impossible. In Nepal, the existing law against rape provides that if the woman raped is a prostitute, then the punishment for it is very minimal, for example, a term of imprisonment of up to one year or a fine of 500 rupees. The Indian Supreme Court took a more enlightened view in the case of State of Maharashtra v Madhukar N Mardikar (1991) 1 SCC 57) where it held that the unchastity of a woman does not make her 'open to any and every person to violate her person as and when he wishes. She is equally entitled to the protection of law.'

Protectionist measures adopted by Nepal have infringed the right to freedom of movement for women. Under the amended Section 12 of the Foreign Employment Act, a licence holder authorised to operate foreign employment-related activities shall have no right to provide jobs to women and minors in foreign countries. The proviso to Section 12, however, states that such jobs may be provided to women with the consent of their guardian and the government. It subjects the movement of the women to the men in their families, undermining their capacity to take decisions for themselves. This provision is counterproductive, too, as traffickers are in some cases family members of victims or known to victims. It allows the trafficker to don the garb of a guardian and legally traffic women.

The laws singularly target the person who works as a prostitute as the culprit. The Immoral Traffic (Prevention) Act 1986 of India criminalises actions related to prostitution, such as keeping a brothel, procuring, inducing or taking a person for the sake of prostitution and soliciting in public place. However, the most frequently invoked provision of this Act has been the one on 'soliciting in public place', thus harassing the victim of exploitation.

**Regional initiative**

The SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002) is the first attempt at acknowledging and undertaking measures to combat the trafficking problem plaguing the region. It intends to promote cooperation amongst member states to effectively deal with various aspects of prevention, interdiction and suppression of trafficking in women and children, repatriation and rehabilitation of victims of trafficking, and the prevention of the use of women and children in international prostitution networks, particularly where the SAARC member countries are the countries of origin, transit and destination.

The definition of 'trafficking' under the SAARC Convention is restricted to the movement, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person of the person subjected to trafficking. It fails to provide for other purposes such as forced labour, camel jockeying and mail-order brides. It is imperative to recognise that the main motive of the trafficker is profit through trade, however that profit may accrue. By defining trafficking as requiring both coercive recruitment and forced prostitution, women subject to one but not to the other practice, as well as those subjected to non-sexual forced labour/slavery-like practices, remain ineligible for protection (Chuang 1998). In this regard, the definition as provided in the UN Trafficking Protocol may usefully be adopted. However, the definition should also include knowingly financing any act of trafficking, including the act of purchasing the victim.

The SAARC Convention conflates trafficking in women with that of children. The similar treatment of the two results in the formulation of overprotective measures, which necessarily impinge on the liberty and freedoms enjoyed by adult women. There must be a balance maintained between the right of a woman to choose her profession and migrate to secure a better livelihood and the duty of the state to accord protection to its citizens, especially the vulnerable. The Nepalese Government's protective measures directly affect the right of women to move across borders. The same measure can be upheld for children as they are more susceptible to exploitation, but not for women as it interferes with their autonomy.

A critical component in the effective detection, investigation and prosecution of traffickers is the willingness of trafficked persons to assist in prosecutions. Recognising and protecting the rights of trafficked persons acts as an incentive to report to the authorities and to act as witnesses. Compensation must be
provided to the victims, which should be obtained from fines imposed on the accused. Presently the laws in India, Bangladesh and Nepal fail to provide support to victims if they are to come forward with prosecutions. The convention is lacking in this aspect, as it fails to provide witness and victim protection measures.

Repatriation and reintegration of victims is critical to repairing the violations perpetrated against them. Rescued victims hail from the neighbouring countries are often perceived as illegal immigrants who have violated domestic immigration and prostitution laws, thereby warranting arrest and punishment. The absence of a provision that explicitly prohibits the prosecution of trafficking and forced prostitution victims for violating domestic immigration and prostitution laws opens the door to further victimisation of these women (Chuang 1998:97). Article 9(3) of the SAARC Convention requires the establishment of protective homes or shelters for rehabilitation of victims of trafficking and the provision of legal advice, counselling, job training and health care facilities for victims. It imposes obligations on both the country of origin and the host country to make suitable provision for victims' care and maintenance.

Article 9(1) of the SAARC Convention requires the state parties to work out the modalities for repatriation of the victims to the country of origin. It imposes obligations on the destination state to make provision for their care and maintenance, including legal services and health care services. It does not, however, require governments to grant temporary visas or permanent residency to victims when traffickers in the home country pose a serious threat to victims' safety (Jordan 2001). Nor does the convention require consent of the victim prior to repatriation. Trafficked people often are afraid to return to their country of origin because of smuggling debts, fear of public humiliation upon disclosure of the work that they have performed, and possible further victimisation of themselves and their families (Orhant 2003). The UN Trafficking Protocol is a model in this regard as it mandates consideration of the willingness of the trafficked person to return to their country of origin, along with due regard for their safety.

The SAARC Convention requires states to support the efforts of non-government organisations in extending critical support services through the establishment of protective homes or shelters for victims of trafficking, as well as assisting in the prevention of trafficking. Under Article 8, training and assistance to enforcement authorities to enable the effective conduct of inquiries, investigations and prosecution of offences, along with their sensitisation is to be arranged. A regional task force has been set up under the convention to facilitate its implementation and undertake periodic reviews. Measures increasing cooperation in interdiction include the sharing of information on a regular basis in respect of traffickers and routes used for trafficking.

Economic empowerment of women in vulnerable areas is an effective strategy in reducing trafficking and the convention itself calls for concentration of efforts in vulnerable source areas. An example of an effective and innovative empowerment strategy comes from a tribal village in north Kerala. Traditionally a potters' village, north Kerala became destitute when earthen pots went out of use. Women resorted to prostitution for survival. With the intervention of an NGO proposing the use of their skills for making ceramic tiles, within less than five years the entire village had rid itself of prostitution, with the women profitably employed in manufacturing designer ceramic tiles (Manohar 2002).

Conclusion
To be truly effective, the SAARC Convention needs to incorporate a non-discrimination clause that will prohibit and punish all forms of discrimination against trafficked victims. Also, there is a need to expressly exempt trafficking victims from prosecution for immigration violations and other offences that are a result of their being trafficked. Without such a provision, women are subject to double victimisation. The convention reflects little regard for the rights, interests and needs of the victims. It fails to safeguard against the complicity of enforcement officials in trafficking. Given the documented evidence of official involvement in trafficking, the convention should necessarily require state parties to criminalise the acts of officials who engage in corruption or in any way facilitate trafficking. In the process of strengthening both national laws and international and regional commitments, the fundamental rights of victims and potential victims must be protected, not vitiated.

Notes


2. Based on interviews of victims of commercial sexual exploitation conducted by the writer while interning with the Nodal Officer for Trafficking of Women and Children, NHRC in 2003.

3. Traffic in human beings and forced labour is prohibited by the Constitutions of Nepal [Art. 20(1)], Bangladesh [Art. 18(2)] and India [Art. 23]. They have also ratified the Universal Declaration of Human Rights (1948) and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1951) and are signatories to the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1996). Texts of UN documents are available via the University of Minnesota Human Rights Library at <http://www1.umn.edu/humanrts/instree/ainsds1.htm>.
References


Risking one’s life: Trafficking of women and children and migrant workers in Indonesia

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Introduction
This paper describes trafficking in Indonesia and the risks that trafficked persons and migrant workers face. The reasons why women and children are drawn into trafficking or become migrant workers are explored. The deceptive practices of recruiters and the effect of prevailing socio-cultural values, as well poor education and low socio-economic background, are identified as key factors. The increasing reach and sophistication of transnational crime networks is explored and it is noted that eradicating these networks is and will continue to be an extremely difficult task. In addition, any chance of success depends on source, transit and destination countries working collaboratively to fight these networks. The economic benefits to both source and destination countries are identified as one reason why governments have failed to take sufficient action to combat trafficking in women and children and the problems faced by migrant workers.

Background: Trafficking in Indonesia
The film Trafficking of Women and Children (Yayasan Jurnal Perempuan 2003) revealed sad stories of the trafficking of women, girls and of babies smuggled along the border of West Kalimantan and Malaysia. The film begins with the stories of girls living along the Sambas River regarding their experiences as domestic workers in Malaysia. They tell of how badly they were treated, of how they were not given enough food, forced to eat pork, beaten, not paid for their labour and how they then had either to escape or were fired by their employers. Some returned to their villages with no money, some also with deep emotional traumas and physical scars, while another returned home with permanent physical injuries, having become paralysed, only to have to depend on family members for the rest of her life.

The film also tells the story of a woman from Singkawang, West Kalimantan, a mother of two whose Taiwanese husband often abused her. She went to Taiwan as a mail-order bride but had to run away from her new husband, leaving behind her children, because of constant physical abuse. Assisted by a local lawyer, she is mounting a legal case against her husband, but whether she will succeed in bringing home her children and obtaining a marital settlement is very difficult to predict. The personal economic rewards for domestic workers, commercial sex workers (CSWs) and mail-order brides is nothing compared to the abuses and discrimination that these women and children suffer. For example, in 2003 Indonesian domestic workers in Malaysia might earn as little as US$107 per month, and then only if their salaries are not withheld by their employer or trafficker. Commercial sex workers in Batam Island are already in debt when they are forced by their pimp to start working. A woman’s debt can extend to 4 million rupiah for transport, accommodation and fees for the trafficker. A matchmaker who arranges mail-order brides can receive as much as 50–100 million rupiah, while the family of the bride-to-be might receive as little as 10 million rupiah. Thus, it can take a long time before a woman can earn her own income as she has to pay off her debt first (Yayasan Jurnal Perempuan 2003).

The case studies shown in the film cannot be generalised, but the women’s experiences as domestic or commercial sex workers are not uncommon among other trafficked and migrant women and girls (Kompas 2004a; Kompas 2004b; Kompas Cyber Media 2004; Media Indonesia 2004; Suara Merdeka 2004; Radar Tulungagung 2004). The focus of this paper is on trafficking of women and children, because overall women and girls are probably the majority of trafficked persons (Corner and D’Cunha 2002).

Trafficking of women and children in Indonesia began in the Javanese Kingdom (Parjoko and Maesuroh, forthcoming; Susilo, forthcoming) and continues today. Trafficking of women and children in Indonesia occurs both internally, with women trafficked from rural areas to urban areas or from one province to another, as well as internationally. Women are trafficked from Indonesia to various countries in the region, such as Singapore, Brunei, Malaysia and Hong Kong, as well as to Japan, Taiwan,
the Middle East, Australia and even to North America and the Netherlands. Today, more and more women and children are forced to risk their lives through involvement with traffickers or by taking on risky jobs as domestic helpers, restaurant, factory and plantation workers or sex and entertainment-related workers, while servile marriage in the form of mail-order brides is another form of trafficking.

 Trafficking has increasingly become a national problem, with little attention given to it by the government (Hull et al. 1997). In his article 'Asian women trafficking boom', Koesoebjonono (2001) clearly states that because trafficking of women is one of the hottest businesses in Southeast Asia, involving experienced traffickers and officials who are accustomed to receiving bribes, it is very difficult to eradicate. Furthermore, Koesoebjonono (2000; 2002) adds that as long as the demand for cheap labour by developed countries remains and economic differences between countries exist, people trafficking and illegal migration will not only continue unabated, but will flourish.

** Trafficking push and pull factors**

Why would women and children want to be trafficked or migrate to find work? The answer to this question is very straightforward — the poverty experienced by these women and children forces them to look for work in other parts of the region or other countries. Having low levels of education with no relevant skills, often the only option for these women and children is to engage in prostitution. For those with secondary education, there are more alternatives — one can take a gamble and join the recruitment process to work overseas as a domestic helper, nanny and or plantation worker.

The number of Indonesians living in poverty is about 37.7 million, including 13.2 million living in the urban areas, while 8.1 per cent of the total Indonesian workforce is unemployed (BPS 2001). These conditions are consistent with about two-thirds of the population living on fewer than US$2 per day, and about 15 per cent of the population living on less than US$1 per day (Rosenberg 2003). Thus, even though many women and children have heard or read about sad stories from their village friends who tried to migrate to the cities or neighbouring countries to find work, they still think that finding opportunities to work outside their village is a better option than staying home without work.

The chance to live a better life and help support their family drives many women and children to take such risks, often with little idea of the consequences. Women and children are often recruited by strangers, who, acting as agents, come to their villages promising well-paid jobs in the city or neighbouring countries. Tragically, some women and girls are sold by family members, friends or neighbours. With little education or knowledge about life abroad and not understanding the legal system and workers' rights, these women and children are trapped in a condition of vulnerability, becoming objects of both physical and economic abuse. Most often, their dreams of a decent job evaporate and instead they find themselves with low-paid and illegal jobs, often involving the use of false documentation, rushed and unqualified job training, long waiting periods in 'training centres', poor living conditions during the waiting periods and owing large sums of money to their recruiters or employers. Even though there are many success stories from returning migrants, cases of unpaid wages, abuse, sexual harassment and rape, punitive legal actions (including gaol or the death penalty) and even death at the hands of traffickers, employers or clients, are the stories most often heard and published in the media.

**Source areas for trafficking**

There are many provinces in Indonesia that have been known as sending, receiving and transit areas for trafficking and illegal migration. Table 1 describes provinces and districts in Indonesia known as places where trafficking of domestic workers, sex workers and servile marriage mail-order brides originate, and the transit points and receiving points for these workers. Bali is well known as a receiving province for sex workers because of the nature of the province as one of the country's most popular tourist destinations. Other places identified as receiving areas share commonalities — they are mega cities, recreational areas, or isolated districts with major projects in mining, plantation and forestry or oil industries.

Table 2 illustrates the flow of international trafficking and migration from various provinces in Indonesia and those places most-often used as departure points. Various studies have shown that Indonesia is known as sending country for trafficking of women and children to Southeast Asia, the Middle East, Japan, Australia and North America for sex industry workers, domestic workers; other forms of forced work and servile marriage (Misra and Rosenberg 2003a; 2003b; Agustinanto and Davis 2003; Surtees 2003; Davis 2003; Darwin, Wättie and Yuarsi 2003).

** Trafficking in persons and migrant workers: Processes and involvement**

Table 3 illustrates the stages of human trafficking and the problems encountered, as well as the perpetrators involved in trafficking and exploitation of women and children in Indonesia. Falsification of information, money (either in debt bondage or reduced or withheld wages) and documentation is the mode of operation at all levels of the trafficking processes. Physical, psychological and sexual abuse is embedded with the whole business of trafficking.

One of the problems not mentioned in Table 3 and yet most-often faced by trafficked women and children and migrant workers is the poverty experienced by these women and children forces them to take such risks, often with little idea of the consequences. Women and children are often recruited by strangers, who, acting as agents, come to their villages promising well-paid jobs in the city or neighbouring countries. Tragically, some women and girls are sold by family members, friends or neighbours. With little education or knowledge about life abroad and not understanding the legal system and workers' rights, these women and children are trapped in a condition of vulnerability, becoming objects of both physical and economic abuse. Most often, their dreams of a decent job evaporate and instead they find themselves with low-paid and illegal jobs, often involving the use of false documentation, rushed and unqualified job training, long waiting periods in 'training centres', poor living conditions during the waiting periods and owing large sums of money to their recruiters or employers. Even though there are many success stories from returning migrants, cases of unpaid wages, abuse, sexual harassment and rape, punitive legal actions (including gaol or the death penalty) and even death at the hands of traffickers, employers or clients, are the stories most often heard and published in the media.
Table 1: Known sending, receiving, and transit areas for trafficking and migration

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(continued overleaf)

December 2004

workers, is their low level of knowledge and awareness of human rights and other laws. Many never understand that their rights have been violated. If they are accused of misconduct, it is unlikely that they will have the knowledge to claim their rights and so receive a fair trial. This is demonstrated by increasing media coverage on the deportation of Indonesian migrant workers from Malaysia. Although they are the victims of abuse, rape and/or withheld salary, Indonesian migrants working abroad can face life imprisonment and even the death penalty. Meanwhile, the perpetrators involved in trafficking are very difficult to pin down, as they also include law enforcers, government officers, embassy personnel, village chiefs, brokers and legal and illegal recruitment agencies. The bottom line is that trafficked women and children are victims of both 'legal' and illegal perpetrators who have manipulated, exploited and used women and children to receive high economic return.

The work that trafficked or migrant women and children are involved in or trapped into can be categorised into two types. The first is being forced or involved in any work related to sex. There is a high demand for labour in the sex industry, which is related to increasingly easy travel, more lenient entry requirements for temporary migrants, the growth of the sex tourism industry, the increasing number of male migrants workers, the involvement of international syndicates and the demand for mail-order brides. The second category is employment as cheap labour, for example, as domestic help, or in factories or plantations. Demand for cheap labour is increasing, not only from traditional employers, but also because of the rising numbers of middle and upper class families who require domestic workers and nannies.

There are also beliefs and cultural values that support the whole framework in which the use of women and children as sex workers and cheap labour is an acceptable practice. In Indonesia, even though age at first marriage is increasing and marriage is more and more based on love as compared to arranged marriage, many girls are still married at a very young age and many too are soon divorced (Jones 2004; Utomo 2003; Hull 2002). Being young and divorced, with little education and few skills, for some the only easy solution to survival is sex work. Another cultural value that is still strongly preserved in many villages is a sense of responsibility for the care of aging parents and support of extended family members, which motivates many daughters.
Table 1 (continued)

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<tr>
<th>Province</th>
<th>District</th>
<th>Studying</th>
<th>Receiving</th>
<th>Transit</th>
<th>Domestic Work</th>
<th>Sex Work</th>
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</table>

Source: Rosenberg (2003:28-30, Table 4).

Media, especially television, can have a negative impact on girls and women. Advertisements and soap operas expose people to glamorous middle and upper class lives. Advertisements also foster beliefs that girls and women have to maintain their beauty by staying slim, having white and silky skin, beautiful black hair, and wearing trendy clothes and accessories. To become a modern and trendy girl/woman, young Indonesian women feel they have to have money to buy beauty products, clothes and accessories, and, again, the answer is an easy job that requires limited education and skill — sex work or other cheap labour jobs.

Gender power dimensions also play a prominent role. Some men like to have sex with young girls to demonstrate their masculinity and power. There are also beliefs that by having sexual encounters with young and virgin girls, men's masculinity can be rejuvenated. For Chinese and other Asian businessmen, there are prevailing beliefs that having sex with virgin girls can bring good luck (He 2003). In this era of HIV/AIDS, there is also a belief that having sex with young and virgin girls reduces the likelihood of contracting STDs or HIV/AIDS.

 Trafficking of women and children for cheap migrant labour and the sex industry is a multi-million dollar industry involving complex international and national networks. International trafficking in persons syndicates have formed professional networks and are increasingly difficult to eradicate. Cross-border mobility, whether in the form of migration or trafficking in persons between Southeast Asian countries for the purposes of sexual exploitation, will remain problematic if countries within the region do not work together (Darwin et al. 2003).

The continuing prevalence of patriarchal values at the national as well as international level makes trafficking of women and children even harder to eradicate. The fact is that policy making and politics at both the national and international level is dominated by men and the key players in the trafficking of women and children are also predominately men. Gender stereotyping of work, where women are associated with the domestic sphere and men with the public sphere, strongly affects how governments treat working class women and children. Women are still seen as secondary income earners or substitute income earners, who should only work when the husband or primary earner of the household cannot. Thus, women and children's work is marginalised. Even when women and children are subject to very poor working conditions and violations of their human rights, these issues are not given adequate attention. Moreover, as women and children, they are more likely to be sexually harassed and abused (Santos and Munez 2003). Government officials understand that many women and girls are trafficked, but not enough action has been taken to stop this phenomenon.
Advantages for the home and host governments

Collier (2004) estimates that the foreign domestic workforce contributes as much as HK$13 billion to Hong Kong's economy annually. Each foreign domestic worker (FDW) can spend up to 40 per cent of their salary in Hong Kong for personal care, recruitment agency fees, international calls and other expenses, while 60 per cent of their salaries are remitted home. FDWs also contribute in other ways. For example, the 36 per cent of FDWs who care for children saves employers more than HK$2.1 billion yearly, while the 10 per cent who care for the elderly save Hong Kong families more than HK$2.5 billion per year in nursing home costs. Other contributions include: savings from FDWs tutoring English and maths to children of employers, estimated at HK$351.7 million; caring for the sick and disabled, estimated at HK$409 million; fees paid by FDWs to recruitment agencies, estimated at HK$1 billion; levies paid by employers of FDWs to the Hong Kong Government, estimated at HK$1 billion; and savings by employers of FDWs working illegally in shops, businesses or homes, estimated at HK$1.1 billion. In total, FDWs' estimated contribution to the Hong Kong economy is about 0.85 per cent of GNP (Asian Migrant Centre 2004). Of course, Indonesian domestic workers also contribute to the economies of other host countries, such as Saudi Arabia, Malaysia and Singapore.

Table 2: International trafficking and migration routes

<table>
<thead>
<tr>
<th>Origin</th>
<th>Destination</th>
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<tbody>
<tr>
<td>Bali</td>
<td>Japan, East Java, Central Java, East Kalimantan</td>
</tr>
<tr>
<td>East Java</td>
<td>Hong Kong, Malaysia, Saudi Arabia, Singapore, Taiwan</td>
</tr>
<tr>
<td>Central Java</td>
<td>Malaysia, Saudi Arabia, Singapore, Taiwan</td>
</tr>
<tr>
<td>East Kalimantan</td>
<td>Brunei, Malaysia</td>
</tr>
<tr>
<td>Jakarta</td>
<td>Hong Kong, Japan, Malaysia, Saudi Arabia, Singapore, Taiwan</td>
</tr>
<tr>
<td>Lampung</td>
<td>Hong Kong, Japan, Malaysia, Saudi Arabia, Singapore, Taiwan</td>
</tr>
<tr>
<td>North Sulawesi</td>
<td>Hong Kong, Malaysia, South Korea, Philippines</td>
</tr>
<tr>
<td>North Sumatra</td>
<td>Malaysia, Singapore</td>
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<tr>
<td>West Nusa Tenggara</td>
<td>Brunei, Hong Kong, Malaysia, Saudi Arabia, Singapore, Taiwan</td>
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<tr>
<td>Riau</td>
<td>Malaysia, Singapore</td>
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<tr>
<td>West Java</td>
<td>Hong Kong, Japan, Malaysia, Saudi Arabia, Singapore, Taiwan</td>
</tr>
<tr>
<td>West Kalimantan</td>
<td>Taiwan, Malaysia, Singapore</td>
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</tbody>
</table>

Source: Rosenberg (2003:31, Table 6).

Table 3: Trafficking and exploitation within the Indonesian labour export system

<table>
<thead>
<tr>
<th>Stage</th>
<th>Identified elements of human trafficking</th>
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<tbody>
<tr>
<td>Recruitment</td>
<td>• False information about jobs</td>
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<td>• Fabrication of official documents (ID card, passport, family permission)</td>
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<td>• Illegal fees/debt bondage</td>
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<td>Pre departure</td>
<td>• Restriction on freedom of movement</td>
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<td>• Sexual harassment and assault</td>
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<td>• Debt bondage</td>
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<tr>
<td>In destination country</td>
<td>• Work conditions or type of employment violates contract and/or verbal agreement with the worker, including placement in brothels</td>
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<td>• Assignment to new employer in the recipient country carried out without worker's consent, and in some cases, through coercion and physical abuse, including for prostitution</td>
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<td>• Physical, psychological and sexual abuse</td>
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<td>• Illegal confinement</td>
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<td>• Withholding of identification and immigration documents</td>
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<td></td>
<td>• Debt bondage</td>
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<td>• Reduced or withheld wages</td>
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<tr>
<td>Upon return</td>
<td>• Deception, extortion, and sexual harassment upon arrival at the airports or other transportation transit areas</td>
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</tbody>
</table>

Perpetrator

<table>
<thead>
<tr>
<th>Perpetrator</th>
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<tbody>
<tr>
<td>Broker</td>
<td>Recruitment agency</td>
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<td>Village Chief</td>
<td>Immigration Officer</td>
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<tr>
<td>Recruiting agency</td>
<td>Centre management</td>
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<tr>
<td>Local authorities</td>
<td>Employer</td>
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<td>Placement agency</td>
<td>Embassy officer</td>
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<td>Immigration officer</td>
<td>Policy</td>
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<td>Government officer</td>
<td>Airport authorities</td>
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<td>Police</td>
<td>Mafia/thugs</td>
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<td>Airport authorities</td>
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<td>Broker</td>
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</table>

Source: Mirsa and Rosenberg (2003a:54, Table 11) (Taken from Coalition of Indonesian NGOs 2002).
As a sending country, Indonesia benefits enormously from the remittances sent home by international migrant workers (Table 4). In 2002, Indonesia gained US$2.2 billion, mainly sent from countries in Asia-Pacific and the United States. At the micro-level, families of international migrant workers benefit in many ways, through, for example, being able to send their children to school, make financial contributions to elderly parents and extended family, carry out home improvements, contributions to local village funding and acquiring consumer goods.

**Indonesian Government responses**

Recently, two female Indonesian migrant workers, Istiqomah Binti Misnand and Casingkem, were held hostage in Iraq. President Megawati Soekarnoputri quickly and rightly acted to have them freed and brought home, doubtless in part because this occurred in the domain of international politics. Yet when hundreds of thousands of illegal migrant workers were being processed to be sent home from Malaysia, the government responded at a snail’s pace (Media Indonesia Online 2004). Similarly, when migrant workers face discrimination, life imprisonment or the death penalty in host countries, the Indonesian Government fails to provide adequate assistance or protection to its citizens.

The Indonesian Government has recently passed a law on international labour protection. Ideally, the law should provide protection for Indonesian migrant workers working abroad. However, NGOs working on this issue believe many aspects of the new law have actually made the whole process of legal documentation more complicated and bureaucratic, as well as being discriminatory to migrant workers who cannot pay the prescribed documentation fees. In effect, this means that protection is only provided to legal migrants. The new law also accommodates the state’s function as the implementing agent of placement of migrant workers, instead of enhancing its responsibility to provide protection and services to migrant workers. Another weakness of the new law is the burden placed on migrant workers by the imposition of various fees.

Recently, the Federated Organisation of Indonesian Migrant Workers (Federasi Organisasi Buruh Migran Indonesia/FOBMI), a network of 14 NGOs from eight provinces in Indonesia, disseminated an open letter to the public protesting against the new law. FOBMI insisted on changes to the law, saying that President Bambang Soesilo Yudhoyono should not sign the law until changes were made that would better accommodate the needs of Indonesian migrant workers. Other FOBMI recommendations include the development of a memorandum of understanding between Indonesia and host countries regarding obligations to fulfill the formal and informal needs of Indonesian migrant workers; assigning labour attaches in host countries; abolishing the practice of bribery; and the development of measures to stop the work of middlemen and private agents who facilitate the production of false documentation, recruitment and placement processes.

In conclusion, regardless of the various commitments that the Indonesian Government has developed (see Adioetomo, this issue) and the efforts of NGOs working on this issue, the trafficking of women and children, baby smuggling and the practice of employing illegal international migrant workers still occurs. The magnitude of the problem is great and it will remain difficult to eradicate as long as poverty, the demand for cheap labour and the gap between developed and developing countries exists.

 Trafficking of women and children is also difficult to eradicate if countries of origin, countries of transit and countries of destination do not extend their political commitment and collaboration to overcome this problem. Socio-cultural values, especially those among poor families where a daughter is seen as an asset that can bring a high economic return, should be addressed. Public education, especially in rural areas and villages, on the consequences for trafficked women and children and the dangers posed by recruiting agents’ false promises of high-paying jobs, should be disseminated so that many families, women and children can be saved.
December 2004

Notes

1. Muslims are prohibited from eating pork.
2. Singlewang is famous for having young Chinese-Indonesian women who are in demand as mail-order brides for Taiwanese men.
3. In December 2003, AS1 was equal to 6166 rupiah.
4. It has been agreed by the Malaysian and Indonesian governments that in January 2005, 700,000 illegal Indonesian migrant workers from Malaysia will be sent home. The Indonesian Government is still preparing the Presidential Instruction to deal with this problem. Recently, the East Java provincial government, for example, has allocated funding of 2 billion rupiah for incoming illegal migrants. This amount is far from adequate as 200,000 illegal migrants from this province will return home. The funding is only sufficient for 40,000 migrants, with each to receive as little as 50,000 rupiah (less than AS10) for transport money to return to their village.
5. The Indonesian International Labour Migrant Protection Law is called Undang-Undang Perlindungan Tenaga kerja Lalu Negeri in Bahasa.

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Indonesia: Trafficking and counter-trafficking issues

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Introduction

I would like to start this paper by reiterating the definition of trafficking in persons as stated in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. According to this protocol, 'trafficking in persons' means:

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The definition implies that trafficking does not involve the consent of the victim, while the recruitment, transportation, transfer, harbouring or receipt of a child (any person under 18 years old) for the purpose of exploitation is considered to be 'trafficking in persons'.

The purposes of this protocol are: (a) to prevent and combat trafficking in persons, paying particular attention to women and children; (b) to protect and assist the victims of such trafficking, with full respect for their human rights; and (c) to promote cooperation among state parties in order to meet those objectives. Thus, trafficking in persons, especially women and girls, is very different in nature from people smuggling. The policy and strategy to combat trafficking in persons, especially women and girls, is highly victim-oriented, emphasising protection, that is, rehabilitation and reintegration, including protecting victims' privacy and identity, and providing necessary information on relevant court proceedings. This, in turn, includes providing assistance to enable victims' views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders.

Indonesia: Issues on trafficking in persons, especially women and children

In Indonesia, the practice of trading women or girls for particular purposes goes back to the Javanese kingdoms in the seventeenth and eighteenth centuries (Hull et al. 1997). After independence, it was not very clear whether the practice had disappeared or was growing. Recently, the issue of trafficking has caused great concern to the government, NGOs and society. Trafficking violates women's rights, which are also human rights, destroying human dignity and the hopes of victims to lead normal and happy lives.

Trafficking in persons, especially women and girls, is an illegal activity. But it is also a lucrative business, leading traffickers to seek huge benefits through the violation of others' human rights. The illegal nature of trafficking makes it very difficult to obtain an accurate number of victims and of traffickers and their facilitators. A recent estimate puts the number of trafficking victims at 40,000, comprising mainly women and children
But this number may be an underestimate because many victims prefer to remain silent and not to let their families or friends know what has been happening to them.

Figure 1 shows the source, transit and destination areas for women and girls trafficked within Indonesia and to neighbouring countries. From this map, we can see that most areas/localities in Indonesia are source areas for trafficking in women, boys and girls. Thus, we may estimate how large the practice is, the scope of trafficking in persons and the problems it creates. Field surveys showed that women and girls are usually trafficked by someone they know well, such as relatives, friends, grassroots-level officials or even parents. Thus, trafficking has its origins in the family and the community. Poverty, low education and a lack of employment opportunities in their areas of origin have made these women vulnerable to being trafficked, mostly through coercion, abduction, fraud, deception and the abuse of power or through the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation.

Victims were trafficked for different purposes and in different ways. Some were promised work in restaurants or as domestic helpers with good salaries, others were married to foreigners as mail-order brides, or, as in many cases, victims were sent to work as ‘dancers’ in other countries. Instead of meeting their dream, these girls ended up in brothels and forced into prostitution or other worse forms of labour. Further, having no legal documentation or having illegally entered the destination countries makes the situation of these women even worse. Destination countries have a tendency to treat victims of trafficking as illegal migrants and therefore as suspects, rather than as victims who should be provided with help, rehabilitation services and counselling.

**Measures taken by the government of Indonesia**

Under the Bangkok Accord and Plan of Action, Indonesia has developed the National Plan of Action (NPA) to Eliminate Trafficking in Women and Girls (secured by Presidential Decree, No 88 of 2002), and the National Plan of Action to Eliminate Commercial Sexual Exploitation of Children (Presidential Decree, No 87 of 2002). Indonesia has also enacted the *Child Protection Law* (No 23 of 2002). These three measures are powerful tools to combat trafficking in women and children. The NPAs aim to provide legal norms and legal remedies applicable to the perpetrators of the trafficking; to provide legally guaranteed rehabilitation and social reintegration of trafficking victims; to prevent all forms of trafficking in women and children in the family and in the community; and to establish cooperation and coordination in the elimination of trafficking in women and children among institutions both at the national and international level.

Other goals under the NPA are:

- ratify the Convention on Transnational Organized Crime and the two protocols on trafficking in people and children;
- enact laws on the elimination of trafficking in persons, on witnesses and protection, elimination of domestic violence, migrant workers’ protection and related implementing regulation;
- synchronise the international standard on trafficking with national laws through the revision of the Criminal Codes, Criminal Procedural Codes, Marriage Law, Immigration Law, and the Law on the Human Rights Tribunal;
- develop a picture of the overall situation and cases involving the crime of trafficking in women and children;
• improve the size and quality of crisis service centres for the rehabilitation and social integration of trafficking victims, especially in high-risk regions;
• decrease the number of cases of trafficking in women and children and increase the number of cases processed through the court by at least 10 per cent per year;
• establish a model mechanism for the protection of children and women in the labour recruitment, distribution and placement process, especially with respect to migrant workers distribution;
• provide central and local government budget allocations for the rehabilitation and social reintegration of the victims;
• guarantee access for families, especially women and children, to education, training, income generation and social services; and
• create networking through partnership at the national and local levels, cooperation between regions, and at the regional and international levels.

In short, an integrated approach to combating trafficking should be taken between agencies, across sectors, and nationally and internationally. Indeed, the government realised that no single department or law enforcement agency or NGO is able to combat trafficking alone. Thus, a national task force was established, with stakeholders to the Ministry of Women’s Empowerment as the focal points. Task force members include the Police Department, the Attorney General, the Department of Justice and Human Rights, the Immigration Office, the Ministry of Foreign Affairs, the Department of Social Affairs, the Department of Education, the Department of Health, the Department of Religious Affairs and the Department of Labour. The Coordinating Ministry for People’s Welfare acts as coordinator to synchronise and strengthen the teamwork.

Law enforcement and prosecution

After a long debate among stakeholders, in July 2004, the president presented a draft Bill on the Elimination of Trafficking in Persons to the Parliament. While waiting for this law to be enacted, the police were able to use the existing criminal codes related to slave trading and violation of an individual’s freedom. There was no definition of trafficking in these codes until the 1999 amendments of the Criminal Code and Law on Human Rights, which provided for a maximum of six years’ jail for traffickers. The new Law on Child Protection criminalises trafficking in children and the sexual exploitation of children, with provisions for terms of imprisonment from 3 to 15 years or fines of up to 3 million rupiah (US$60,000).

Using the current legislation, law enforcement agencies are able to prosecute and gaol traffickers. According to the National Police Headquarters in 2001, 179 cases were reported, with 129 of these filed with the Attorney General’s Office. In 2002, 90 of 155 cases, and, in 2003, 67 of 125 cases were filed with the Attorney General’s Office. However, the Indonesian judicial system is not able to detect how many of these cases were finally processed in court. However, during the first ten months of 2003, 21 traffickers were sentenced to jail from one to six years and another 11 cases were waiting to be processed by the court. This shows that the awareness and enthusiasm of the law enforcement agencies to prosecute traffickers is increasing (Coordinating Ministry for People’s Welfare 2004).

In conducting these activities, collaboration between source and destination countries is important, especially collaboration between law enforcement agencies at border areas such as that between the Regional Police of East Kalimantan, Indonesia, with the Royal Police Contingent of Sabah, Eastern Malaysia; between the Regional Police of West Kalimantan, Indonesia, and the Royal Malaysia Police Contingent, Serawak, Eastern Malaysia; and that between the Regional Police of Riau, West Sumatra, and the Royal Malaysia Police of Johor, West Malaysia.

Collaboration has been developed between Indonesia and the police departments of Singapore, Timor Leste, the Philippines, Australia and Hong Kong. The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (see Millar, this issue) was actually a good vehicle to develop such a collaboration, although, in the first few years of its establishment the follow-up activities seemed more focused on people smuggling. It was only recently that the Asian countries stressed their concern about the increasing challenges of trafficking in persons, especially women and children, and that therefore the follow-up meetings should be more focused on how to increase national collaboration on this issue.

Protection of the victims

Under normal conditions, responsibility for the protection of Indonesian citizens in other countries lies with the Department of Foreign Affairs. The department is obliged to give protection, legal aid and assistance, to shelter victims of violence and to do their best to return them to Indonesia at the state’s expense. However, the increasing number of labour migrants and trafficking cases has impaired the ability of the department to provide protection for all victims. A referral system has been implemented. In the case of repatriation of victims, the Department of Foreign Affairs returns victims from the destination country to their nearest place in Indonesia and hands victims over to the Department of Social Affairs, which returns victims to their province of origin. Finally, local officials from
the Department of Social Affairs escort victims from the province to their home village.

Victims are handled by female police officers at the special service rooms established by the Indonesian police department. Currently, there are 208 special service rooms established in 30 out of 32 provinces, housed both at provincial and district police departments. These special victim units are operated by policewomen to provide protection and services for victims of violence against women, including victims of trafficking (National Police Headquarters 2004). The system is highly praised for its effectiveness in investigating cases and helping victims, and in following-up cases to be processed and filed into the judicial system.

The fact that special service rooms are staffed by women has many advantages. First, policewomen know better how to handle women victims because they are gender sensitive, especially in terms of protection of victims’ privacy and identity, and in interviewing and investigating victims in such a way that victims feel supported and helped. On top of that, these female police officers are so committed to their job in the protection of victims, that they are free from corruption or bribes that may come from traffickers, in contrast to male police officers who may be gender-biased and vulnerable to corruption and bribes.

In spite of their success, the newly established special service rooms are faced with some challenges. They may lack personnel with sufficient knowledge about what constitutes trafficking, about how to identify victims and what measures should be taken to process the cases for court. In these cases, capacity building is the answer. A number of training programs have been set up, including one conducted by the International Organization for Migration in collaboration with a local NGO.

In relation to health services, the Department of Health in collaboration with the Ministry of Women’s Empowerment and the Department of Social Affairs, has established integrated service centres in public hospitals. These centres provide comprehensive services for victims in terms of medical, psychological and social services, as well as services that relate to the legal aspects of the victim’s situation. The centres are operated by a team comprising doctors and nurses, psychologists, police investigators and social workers, coordinated by the head of the integrated service centre. These centres are established in public hospitals at the central, provincial and district level and at the Central Police Hospital and Bhayangkara Hospital at the local level. Currently, the Ministry of Social Affairs is establishing a model protection and trauma centre, which will be put into action very soon. In addition, there are also women’s crisis centres operated by NGOs that help victims of violence and trafficking, providing trauma counselling and legal aid.

**Prevention**

Properly conducted law enforcement and punishment is the most powerful trafficking prevention measure. However, the unavailability of criminal codes with adequate penalties and corruption at the grassroots and upper levels in the process of prosecution hampers prevention activities. Secondly, public awareness among girls and women about the dangers and impacts of trafficking seems very low. However, electronic and printed media are enthusiastically disseminating news on cases of trafficking in women and girls, its effects, how the victims have been able to escape, and the face of traffickers being arrested. Such news is popular among middle and lower class viewers.

Another problem of prevention is that each time the government and its team rescue and repatriate a number of victims, another group of women and children are trafficked out of the area or out of the country. In many cases, women will choose to go through an illegal migrant labour agency because they think they would not meet pre-departure training requirements or because they are put off by the time the training and other formal processes will take. The reasons for such considerations are poverty, unemployment and low education.

Indonesia is challenged by the impact of high population growth in the past and the economic crisis in 1997. Every year, about 2.5 million children who could not continue schooling to higher education enter the labour force. Even with a high economic growth rate, the market could not absorb this new influx of labour. Girls are prone to marry early, encouraged by their parents, while others try to migrate for jobs, with many attracted by work abroad. All are vulnerable to being trafficked.

In addition, the patriarchal culture has put women in a weak position — daughters are obliged to do whatever their parents wish, including working abroad to help the family income.

Under such conditions, the best way to prevent women and children from falling prey to trafficking is to provide them with employment or increase their income. But this is a macroeconomic problem for Indonesia today. The government strategy for poverty alleviation is to create productive employment and to help poor people with their basic needs through the provision of subsidies. Meanwhile, in 2002, the Central Bank and the government agreed to circulate US$3.4 million to develop small and medium enterprises and microcredits. This is a general strategy for poverty alleviation, which, through income-generating projects, assists in the economic empowerment of women. However, the number of programs specifically developed to prevent women and children from being trafficked is negligible.

Among the few, there is training for women who have dropped out of primary school to become professional housekeepers. In 2003, the Coordinating Ministry for People’s
Welfare, in cooperation with Directorate General of Out of School Education and Youth (PLSP) of the Ministry of National Education, developed the Guidelines on Implementation of Education for Domestic Workers, which includes provision for alternative education aimed at improving the life skills of drop-out, illiterate or poor women and children. Two NGOs in Yogyakarta and Banyuwangi, East Java, field-tested the guidelines and training for 700 girls to become professional housekeepers followed. There is also a program to keep children at school or to get drop-out children back to school. Implemented by the Ministry of Social Affairs, this program for street children provides shelters, financing for education or enrolment in a foster children program. Some private-sector skills training institutions provide education and training in babysitting for elementary or junior high school graduates (150 hours), while those with senior high school education may join courses that prepare students for employment as nannies or governesses (550 hours for three months, plus English courses).

Conclusion
Indonesia is very proud of its effort to combat trafficking. In only two years, this effort was internationally recognised as being highly significant. However, the effort is still negligible when it is compared to the scope of the problem. The underlying problem of trafficking in persons, especially women and girls, is poverty, and lack education and employment opportunities. The solutions are deeply rooted in successful development policy, economic growth with quality, and employment creation.

Note
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References
Challenges in eliminating sex trafficking: Victim control mechanisms and compensation in South Korea

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Introduction

Counter-trafficking efforts generally fall into four inter-related areas: prevention, protection of victims, return and reintegration of victims, and elimination of trafficking. This paper reflects on some of the major challenges for current efforts aimed at elimination of trafficking to be effective, focusing particularly on the roles, experiences and circumstances of victims themselves. Elimination of trafficking is normally seen as being achieved by the complete removal of traffickers from trafficking operations. This is most effectively achieved by formal prosecution, whereby convicted traffickers receive a prison sentence and/or pay fines that are substantial enough to reflect the magnitude of their crimes and therefore remove funds that could be used to re-establish operations at a later date.

One of the major requirements for the successful prosecution of traffickers is the (strength of) testimonies of victims of trafficking themselves. There are a multitude of problems encountered by policing, legal, and non-governmental organisations in achieving the permanent elimination of traffickers that are related to the willingness of victims of trafficking to give evidence against their traffickers. In this paper I focus on four reasons why trafficked women and girls rarely become involved in efforts to eliminate traffickers, even though their roles in such a process are undoubtedly of central importance.

My reflections draw on insights gained from an 18-month study carried out in South Korea, which is a relatively new, but rapidly expanding destination country for sex trafficking (Yea 2004). Filipino, Russian and Commonwealth of Independent States (CIS) women have been entering South Korea on the E-6 (entertainer) visa category since the late 1990s. In 2002, the Ministry of Justice recorded around 5000 foreign women in Korea on this visa. Virtually all of these women are deceptively recruited, having been deceived either about the nature and/or conditions of work. Exploitative sexual and labour practices to which the women are regularly exposed in Korea include debt bondage, forced labour, forced prostitution, forced overtime with no recompense, forced detention, inadequate provision of medical, food and living requirements, and verbal, physical and sexual abuse and gendered violence by managers, club owners or their relatives and friends, or customers. Thus, these women clearly fall within the United Nations definition of victims of trafficking as stated in the Trafficking Protocol.

Although I was primarily concerned to collect information about women trafficked into Korea's sex industry for research purposes, I also became involved in supporting the work (through voluntary and paid positions) of three anti-trafficking/migrant labour non-governmental organisations based in the capital, Seoul. The reflections that form the basis of this paper are drawn from activities as both a researcher and support worker in the non-governmental sector during this 18-month period.

Despite a recent spate of media, non-governmental and inter-governmental attention (for example, Time Magazine 2002, Air Force Times 2002, KCWU 1999 and 2002, IOM 2002), very little ground has been made in eliminating sex trafficking in Korea. Women continue to be trafficked into the country, illegal or informally operating networks and agencies continue to facilitate their migration, and the clubs where they eventually work continue to operate virtually unhindered. Questions surrounding the seeming mismatch between rigorous efforts aimed at its elimination and the persistence of trafficking operations — both in Korea and elsewhere — therefore drive my discussion in this paper.

Drawing on experiences in Korea, I discuss the importance of ‘victim control mechanisms’ in relation to the effectiveness of counter-trafficking efforts aimed at elimination of trafficking. Then I briefly discuss the role of financial compensation as an alternative mechanism by which trafficking victims can seek some justice without the necessity of becoming involved in the prosecution of traffickers directly. Whilst my reflections on the trafficking situation in Korea are specific to that country, I would suggest that the discussion has a broader resonance for other trafficking contexts.

Victim control mechanisms

‘Victim control mechanisms’ (Holmes 2003) are the means by which power is exerted over trafficked women and girls in the destination (and often in her home) country and, in one example presented here, after women leave trafficking situations. There are three victim control mechanisms discussed here that negatively affect victims’ willingness to become involved in
punitive actions against traffickers. These include the normalisation of labour, pseudo-constructions of family by traffickers, and violence and fear of reprisal against victims.

**Normalisation of labour**

For trafficked women and girls, a series of isolation and alienation tactics are often strategically employed by traffickers, including club or brothel owners and other employees (in the Korean case this would include Korean bar managers, disc jockeys and so on). In Korea, such tactics are employed immediately after victims' arrival in clubs and bars and maintained for approximately three months thereafter. These tactics aim to normalise prostitution-related duties amongst the women. This reduces the likelihood that women will take action against traffickers because they come to either accept or be resigned to their situations.

Foremost amongst normalisation measures in Korea is the restriction of women's freedom of movement outside the clubs and brothels where they are deployed. This could mean that they are allowed to only go out with 'bodyguards' (normally a Korean employee of the club or relative of the owner of the club) or not at all. This is rationalised to the women as either for their safety and protection, since they are newly arrived in a foreign and unfamiliar country and/or because they are not 'legal' in Korea until they get their Alien Registration Card. This second justification for restricting women's freedom is false, since foreign nationals working in Korea on a legal visa (in this case an E-6, or entertainers visa) can move freely within the country immediately upon their arrival. They can also claim their Alien Registration Cards immediately after arriving in the country and do not need to wait three months as suggested by the club and brothel owners and managers.

Another successfully used isolation and alienation tactic in Korea is punishment of women for inadequate work performance or breaking club rules (which are normally imposed arbitrarily on women). In 2003, one newly arrived 18-year-old Filipina was deployed to Club 'K' in Tongducheon, outside one of the major US military bases in Korea. Here she was forced into undertaking prostitution and other sexual services, and into performing nightly strip shows. This young woman related to me (via text messages, as she was not physically able to go out of the club) that she was continually denied free time to go out during her first few months in Korea because her drink sales were too low. In other words, because she failed to meet an arbitrarily imposed drink quota she was punished by having her freedom restricted.

Initially this young woman sought my assistance, as a representative of a local non-governmental organisation, as she wished to run away from the club. As I could not physically meet her, and could normally only communicate by text messaging, it was difficult to support her decision to run away. After four months she informed me that she had changed her mind and was going to stay at the club and finish her contract. By this time she had become resigned to her situation and life in Korea.

This scenario finds resonance in other trafficking destinations as well. Bales (2002:207) in discussing the case of one 15-year-old, internally trafficked Thai girl, stated that, '[s]old by her parents a year ago, she finds that her resistance and her desire to escape the brothel are breaking down and acceptance and resignation are taking their place'. Under circumstances of extreme isolation, often coupled with violence and abuse, it is difficult for trafficked women and girls to maintain resistance indefinitely.

In Korea such tactics are the single most effective way of normalising women and girls to the duties they are forced to perform because it renders them completely isolated from any influence apart from the club for a period of at least three months upon their arrival in Korea. After this initial period women can usually 'be trusted' to go out, usually in groups. In these situations where women move beyond an initial phase of shock, shame and embarrassment at their work (although some women retain a reticent attitude throughout their sojourn in Korea) they are unlikely to publicly label themselves as trafficked or sexually exploited — an obvious pitfall for policing and other authorities intent on punitive action against traffickers.

**Pseudo-constructions of family**

Within the club regime in Korea, club owners and employees utilise a strategically deployed discourse of familism as a way of undermining women's resistance to the exploitation they endure in the clubs. Participants in this research almost always referred to the older Korean women in the club where they work as 'mama' (short for masan-san), 'ajumma' (auntie) or 'onni' (older sister). Where the club owner is male he is generally referred to as 'papa', while Korean males working in the club are referred to as 'obha' or 'changsin' (older brother).

In fact, most clubs are run as family operations in which the husband, wife, their siblings and children are often the mainstay of the business. Such terms of address are sometimes, but not always, extended to the women's managers (promotion agencies) as well (see also Allison 1994). These pseudo-constructions of family have in many cases acted to undermine women's willingness to take any legal or punitive action against the club owners. If women do pursue any claims or complaints about their situations in Korea, these are almost always directed towards their managers (except in cases of extreme violence and abuse, as in the case of eight Filipinas discussed below where one woman was raped by 'papa' and two of the others
claimed attempted rape by him), thus leaving the clubs to which the women are deployed able to continue operations unhindered.¹

The use of family in this way is particularly effective since young women in the clubs do not normally have any natal family members with them in Korea (although sometimes women have sisters or cousins deployed in other or the same clubs). Thus, transnational sex trafficking allows traffickers to utilise women’s dislocation (in another country and without pre-existing support networks) as a means of extending control over them. In addition, many of the women, including at least half the participants in my research, had intensively negative experiences of family crisis or breakdown back in the Philippines or Russia, thus marking them as particularly vulnerable to the use of family rhetoric within the clubs in Korea (Yea 2003).

Violence and fear of reprisal

The lucrative nature of trafficking means that traffickers will not remain idle while women file complaints, press charges, discuss their situations with media or police, or undertake other actions that expose and threaten traffickers and their operations. Several participants in my research in Korea recounted instances of death threats (generally against women who talk or against the participant specifically) and/or other punishments.

One case of four women who filed complaints against their Korean promotion agent with the Philippines Embassy upon escaping from the club where they were deployed in 2002 is a compelling example of the ability of traffickers to respond to threats to themselves. In this particular case, the embassy received copies of signed affidavits from the women several weeks after they had filed complaints (and after they had returned to the Philippines) retracting their original complaints. The affidavits stated that: ‘After careful evaluation and deliberation of the actual facts ... we realised that we filed the same out of misunderstanding and misapprehension.’ In this case, the trafficker (promotion agent) located these four women in the Philippines at their homes, putting their families at risk if they did not agree to sign affidavits retracting their complaints. Threat, intimidation and bribes act as a powerful means for traffickers to ensure that their operations remain unchallenged by women seeking justice or retribution.

Financial compensation and ‘deals with the devil’

Currently, women and girls who run away from clubs in Korea before finishing their contracts utilise intermediaries, particularly non-government organisations working in concert with police, to assist in the recovery of salary or other monies owed to them by their employers (usually unpaid commission for sexual services rendered and unpaid overtime and salaries) and compensation for damages. These interventions are undoubtedly successful for the individual women and girls concerned, with victims usually receiving all monies owed to them and often more. Sometimes meetings to discuss compensation and owed monies are mediated by the police, and at other times involve a direct negotiation between the woman’s manager and the supporting non-governmental organisation (the women are rarely present for reasons of personal safety and concerns over re-traumatisation). Nonetheless, these negotiations and payments virtually always occur at the expense of legal action against traffickers.

In this sense, such deals are both successful and empowering for women (in that women receive the monies they are owed and women generally feel they have been able to ‘punish’ their exploiters by means of financial recompense) and problematic (in that once women receive owed monies they are generally not interested in pursuing legal, punitive action). In some cases, particularly those mediated by the police, women are pressured to sign ‘agreements’ after receipt of monies owed to the effect that no further action, legal or otherwise, will be taken against the compensating party(ies). In the absence of full support for legal, punitive action and compensation and/or opportunities to remain in Korea and work by women that could result in the conviction of traffickers, this mode of assistance to women is likely to continue and become more common.

Large financial payouts by traffickers to women can, of course, have also have a positive effect in that it can force traffickers (particularly promotion agencies) to adhere more fully to the terms of their contracts with women and more effectively monitor the daily practice of the clubs to which women are deployed. It can also have the positive effect of providing women with enough money to be able to return to their home countries and pursue other livelihood options (such as opening a small business or pursing higher education) there, thus marking them as far less likely to be vulnerable to re-trafficking in future.

The juxtaposition of two cases, both involving clubs in the US military camp town Tongduseeon, 40 kilometres north of the capital, Seoul, aptly illustrates the dilemma of this issue of compensation. Case One, highly publicised at the time, involved 11 Filipinas rescued by the Philippines Embassy in June 2002 from Club ‘D’, and Case Two, which has received no media attention, involved eight Filipinas who ran away from Club ‘S’ and sought shelter at the Centre for Filipino Migrant Workers in Korea in Seoul in October 2003. All 19 Filipinas from the two cases respectively participated in this research.

In Case One, the 11 Filipinas were encouraged by the Philippines Embassy in Seoul to press charges against their former employer. The women did indeed bring charges against
the club owner and all 11 were subsequently deported to the Philippines on 18 July 2002 (since Korea does not have a protection visa or guarantee right of abode for trafficking victims). As yet, the case is still pending because, although the club owner was found guilty he subsequently laid counter-charges against the 11 women for breach of contract, thus further delaying the conclusion of the case and compensation for the women (estimated to be between KRW2–3 million for each woman). The women have returned to the Philippines with little money and having received no compensation for 18 months since returning, struggling with unemployment, financially binding family obligations, and the possibility for all of returning abroad for work, despite their intensely negative experiences. In addition, there is now no guarantee that their trafficker will be convicted.

By contrast, the eight women who sought assistance from the Filipino Centre in Seoul had their matter settled with their trafficker (promotion manager) out of court, but nonetheless pursued a civil claim that was mediated by the Korean police. Within two weeks of running away from the club, the women received all their owed monies (unpaid salary and commissions) and an agreed to amount of compensation of between KRW2–7 million per woman. In addition, the club owner is now in jail pending charges of rape and attempted rape against three of the eight women. However, the owner of the Korean promotion agency that brought the women to Korea and deployed them in Club S, has escaped with only having to pay compensation to the women. This Korean man has a notorious reputation and did in fact face criminal charges in 1999 for forced prostitution and forced confinement (dropped due to insufficient evidence). This man continues to operate a promotion agency and club in the township of Tongducheon.

Conclusion

Stopping the trafficking of women and girls for sexual exploitation involves a range of measures in the areas of prevention of trafficking, protection and return and reintegration of victims, and the complete elimination of traffickers from the system. This paper has sought to explore some of the major challenges to effective counter-trafficking measures in the last of these areas of counter-trafficking through issues and examples presented by the Korean context.

I have suggested that victim control mechanisms can negatively affect the prospect of women and girls providing testimonies and/or information to authorities which may then contribute to the prosecution of traffickers. Isolation and alienation tactics which rely on controlling and limiting the movement of trafficked women and girls comprise one such control mechanism utilised extensively by traffickers in Korea. These tactics have the effect of normalising victims to their situations. Use of family rhetoric is another mechanism by which women and girls can be controlled in Korea. Such rhetoric can engender a sense of loyalty by victims to traffickers as traffickers come to be addressed through paternal and maternal frames of reference. These terms of address will often be supplemented by other family-based activities, such as the provision of 'free' food and shared lunches and occasional group outings, such as sightseeing trips, outside the club.

Finally, when normalisation of duties and familialism fail, some traffickers utilise more extreme forms of victim control that include physical and psychological violence. Such violence can operate to keep victims at their place of employment and instil such fear as to make it extremely unlikely they will make complaints about their situations post-trafficking. Apart from these mechanisms, alternative avenues for receiving compensation and undertaking punitive action against traffickers, such as financial compensation, can negatively affect the likelihood of victims cooperating with authorities to eliminate traffickers.

In 2004, the number of trafficked women in Korea has again risen for the ninth consecutive year and the same (and new) clubs and agencies known to be involved in trafficking have emerged. Legal, immigration, policing and non-governmental organisation capacity to effectively address trafficking and support women remains inadequate and authorities are hampered by a lack of understanding of trafficked women's situations in Korea. Effective counter-trafficking efforts in this context, and elsewhere, will depend in part at least on the ability of these authorities to answer the question of why victims are so rarely willing to come forward to authorities and assist in punitive actions against traffickers. Through discussion in this paper I have attempted to make some ground towards answering this question drawing on the experiences of women and girls in trafficking situations in Korea.

Notes

1. Where clubs do become the object of unwanted media or police attention, normally as a result of complaints from female employees or their customers/boyfriends, or as a result of a substantial number of women running away, they sometimes close down for 'renovations' for between one and three months and then re-open, often under a different business name.

2. The amount of compensation depended on the category of compensation each woman's claim fell under, with the woman raped by the club owner receiving the largest amount, KRW7 million.

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Living in silence and shattering hope: Burmese women and children in trafficking

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Introduction

When it's time to eat, they unlocked the door and gave me rice. I was all alone by myself. I cannot escape. I don't speak a word of Thai at all. I thought selling body means to cut part of your body and sell them. I am most afraid of drunken men. Afraid or not I had to sleep with them all as I had been sold (Bruno 1997).

On her death, this teenage girl suffering AIDS recalled her memory of being trafficked and sold into the Thai sex industry at 12 years of age. She is one of the many thousands of silent, invisible and anonymous Burmese girls who have experienced the phenomenon of people trafficking. Being trafficked or sold in their childhood, succumbing to the AIDS virus and never realising their dreams of going home is a tragic experience shared by many Burmese girls.

In recent years, Burma has become one of the major source countries of trafficking victims in the region. Burmese women and children are especially vulnerable to trafficking as they are often recruited from refugee camps or similar circumstances. The Burmese situation highlights the interconnectedness of human rights, women's rights, migrants' rights, gender discrimination, refugees and people trafficking. In this paper I provide an overview of this important, but largely neglected trafficking context.

Burma's military rule

Gaining independence from the British in 1948, Burma's parliamentary democracy lasted only 14 years. A military coup in 1962 slammed the door on freedom, dignity, and the potential of the country and people. From 1962 to 1988, during the period known as the Burmese Road to Socialism, the military regime led the country's economy to bankruptcy and Burma was rated as a 'least developed country' by the United Nations in 1987.

In 1988, the repression of political dissent and a disastrous economic situation led to a nation-wide democracy uprising, which was brutally suppressed by the military. Thousands were killed and arrested, creating a massive influx of refugees into neighbouring countries, including Thailand. Under international pressure, an election was held in 1990. Nobel Peace Prize winner and people's leader Aung San Suu Kyi was arrested long before the election was held. Nevertheless, her leaderless party, National League for Democracy, won the election by 82 per cent. However, the result has never been recognised. Instead, the military regime strengthened its position, both nationally and internationally, exchanging the country's wealth — both its human and natural resources — for their own power.

Burma is primarily an agricultural country. Seventy-five per cent of the population and 64 per cent of its labour force live in the country with farming as their main occupation (Young et al. 1998). This rural sector suffers the direct consequences of widespread unemployment as newly relocated people move into farming areas. A spiral of poverty and food shortage in 'ten out of fourteen divisions in Burma' ensues (People's Tribunal 1999). With 40 to 50 per cent of Burma's GDP represented by agriculture, internal and external migration contributes to a reduction of the GDP. The declining health levels, poor education, landlessness and unemployment contribute to the creation of refugees and migrants.

Burma's decision to change its name to Myanmar ('quick and strong' in Burmese) in 1997 was perhaps taken to symbolise the country rebuilding itself strongly and quickly to become a 'modern and developed nation' under the State Peace and Development Council regime. Sadly, Burma/Myanmar is neither developed nor peaceful. Women began to suffer under the male-dominated regime (Ma Khin Mar Mar Kyi 2004). In order to stop further rebellion, the regime forcibly relocated two million Burmese throughout Burma (Smith 1996), which resulted in 1.5 to 2 million internally displaced persons (Norwegian Refugee Council 1999). These fundamental human rights abuses led many Burmese into unemployment, landlessness and poverty. Since then, many have fled Burma and nearly two million people are living in refugee camps in neighbouring countries. Each month, an estimated of 2000-3000 Burmese enter Thailand (Refugees International 2003).

In a country which is at war and involved in a conflict and where human rights violations occur, everybody suffers, but women and children suffer the most. Hundreds if not thousands of individual incidents of rape committed by government troops on ethnic women in particular have been recorded (Apple 1998; Refugees International 2003; SWAN/SHRF 2002; Karen Women's Organization 2004). According
to one record of 625 girls who were raped by Burmese military troops, 83 per cent of the rapes were committed by officers, 61 per cent were gang rape offences and 25 per cent of the rapes resulted in death (SWAN/SHRF 2002). Consequently women outnumber men as refugees in Thailand. In 1995 the figures show 80 per cent of Burmese refugees in Thailand were women (Mills 2000:282) and 75 per cent in 2003 (Refugees International 2003: 45).

**Burmese in Thailand: Further human rights violations**

When my husband came home (after the rape), I told him what happened. He was furious at me and beat me. The relationship between me and my husband suffered tremendously as a result of the rape. Every day, my husband and children would say 'Prostitute! If you want to sell sex, we will build you a small hut in the jungle. You can sell sex there.' I felt very hurt by these words. 'You didn't control yourself. You had sex with another man. You are no longer my wife. Leave our house right now.' Eventually I decided to come to Thailand (SWAN/SHRF 2000: 23)

If I beat you, it might hurt my hands. If I kill you, it will only cost me 35 bahts to have you buried (NCCGUB 2003).

Despite sharing the longest land border (2532 km) in Southeast Asia, Burma and Thailand have many political and economic differences, which have increased rapidly over the last two decades. In contrast to Burma, Thailand has experienced an economic boom since the 1980s, with high economic growth and an increasing demand for sex workers. The Thai sex tourism industry benefits by exporting their human resources to other countries for a high return and importing human commodities with cheaper prices from unfortunate neighbouring countries. Corruption on both sides of the border — and at the border itself — is both characterised and compounded by exploitation, humiliation and violence, particularly in relation to Burmese women. They have become part of the extensive sex trafficking industry in Thailand. Trafficked Burmese are forced to work in the cheapest brothels with the lowest class of men, the so-called 'down-market' sector, in which Burmese trafficked prostitutes are the most exploited women among many exploited Burmese women in Thailand. Gang rape of Burmese girls and women by Burmese soldiers, Thai border patrol police and Thai civilians is widespread.

Thailand is not a party to the 1951 United Nations Convention relating to the Status of Refugees (1954) or its 1967 protocol. The convention defines a refugee as a person who owing 'to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his [sic] nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country' (Art 1A(2)). However, Thai policy defines a refugee as a 'person fleeing conflict'. Thus, the Thai government concludes that as there is no conflict in Burma, so no refugees are fleeing from Burma.

This Thai policy for Burmese refugees results in many Burmese living as illegal immigrants in Thailand. For example, during 1996 and 1997, the entire population of the Shan state, which includes 1400 villages and 300,000 homes, was forced to relocate. It is estimated that 300,000 to 400,000 Shan crossed the border between 1998 and 2001. The rape of many Shan women and girls by government troops at relocation sites is well documented (SWAN/SHRF 2002). Nevertheless, no Shan has been recognised as a refugee in Thailand under Thai policy. Because of their vulnerability, and because they do not have the protection of migrant rights and human rights under either the Thai and Burmese governments, Burmese migrants in Thailand are vulnerable to financial and/or sexual exploitation. Bribery, arrest, torture, rape, and, in some cases, murder are common. For example, in March 2004, the bodies of 13 Burmese migrants were found, including four women and one child whose hands and feet had been bound before their throats were cut and thrown into the Moei river in Prachin Buri province. No one has been charged.

**Body politics: Sun, sand, swimming and sex slaves**

Thailand is a world full of extremes and the possibilities are limitless. Anything goes in this exotic country especially when it comes to girls (Heyzer 1986:53).

Southeast Asia is the world's number one destination for sex tourists, significantly contributing its demand for trafficked women and girls. Thailand is a key country in the trafficking and exploitation of Burmese and is also a main origin, transit and transport point of trafficking Asian women and children in and from the Southeast Asia region.

Masculinised traditional beliefs, as well as racial and sexual discrimination, are involved in prostitution and trafficking of young women. Demand factors are usually invisible. Demand for commercial sexual services are socially and culturally constructed and accepted. Poverty is not the main reason women are trafficked or prostituted. Traditionally, going to a brothel to be with a prostitute is accepted by Thai society on the assumption that it serves to protect 'good women in Thai society' and reduces 'sex crimes'. Sexual prowess is an important feature of the Thai view of masculinity (Keyes 1987) and indeed Thai men are expected to actively seek sexual encounters. In a study by Deemar Corporation, 80 per cent of Thai men and 75 per cent of Thai
women responded that 'it is natural' and 'appropriate' for 'a man to pursue sex at every opportunity' (Deemar Corporation 1990). This attitude allows using various sexual partners such as prostitutes, borrowing wives and buying little wives (mia noi). This so-called cultural masculinity with regard to a real man's 'high status' and 'real manhood' means many Thai men continue to demand prostitutes, even if they are happily married. Encouragement to use a prostitute as 'an important rite of passage' (Erlanger 1991) resulted in 73 per cent of Thai men having their first sexual experiences with prostitutes (Napolesorn et al. 1991).

Many Western men travel halfway around the globe in pursuit of sexual fantasies, to have a sexual experience with 'extraordinary' women and 'little slaves' and because they see 'love making as indoor sports' (Truong 1990). Western men may see themselves as 'a benevolent provider of employment for a needy girl and her family' (Jackson and Cook 1999). A greater number of Japanese and Chinese men also play their part in the exploitation of these girls. Virgins are in great demand among Chinese (including men from Taiwan, Singapore and Hong Kong) who believe if they 'deflower a virgin at least once a year (they can) gain the energy needed to be successful in their business enterprise and have a long life'. As a result, Burmese girls aged 12 to 18 years old are in high demand in Thailand's sex industry and 60 per cent of Burmese prostitutes are underage (Bangkok Post 24 November 1997).

Prostitution is closely associated with corruption. The involvement of Thai politicians, police and the military in prostitution has allowed the industry to flourish. To meet demand, the abduction and seduction of young girls from Burma/Myanmar is 'widespread across the region' (Image Asia 1997; Pyne 1992; Asia Watch 1993; Cauetette et al. 2000). A government official working on immigrant labour in 1995 estimates that 5 per cent of Burmese immigrants worked as prostitutes and that 21 per cent of prostitutes in Thailand were Burmese (Phongpaichit 1998:176). Based on this ratio, there would have been 50,000 Burmese women working or forced to work as prostitutes in Thailand in 1995 and that figure would have increased with the massive Shan migration of 1997. For example, the number of prostitutes who work in the Chiang Mai area had doubled in the last five years (Brown 2000).

Thailand has more than three million prostitutes, yet prostitution in Thailand is illegal. Brothels are owned by politicians, police and businessmen. Everyone (apart from the trafficked victim) gets a share of the profit in trafficking industry. Tourism in Thailand generates some US$4 billion annually and prostitution is one of its most valuable sub-sectors, worth 100 billion baht per year in 1993–1995 and the fourth largest sector of the economy, while human trafficking rates fifth and is worth 5–7 billion baht to the Thai economy (Phongpaichit 1998).

Health of Burmese trafficking victims

Crushed all Destructive Elements. Anyone who is riotous, destructive and unruly is our enemy (Burmese Government propaganda).

There is an increased demand for younger Burmese women in Thailand, which has a high prevalence of HIV/AIDS. Although paedophiles have always sought young children, AIDS has escalated the use of children by all consumers. Many children are marked and sold as virgins in order to meet the demand. To supply 'agents increasingly seeking dek nak (outside or foreign kids)' many children from Burma, Laos, China and Cambodia are particularly targeted and '60 per cent of Burmese prostitutes in Thailand are under age' (Bangkok Post, 24 Nov 1997). It is believed that at least 7500 children were in the sex trade in Thailand in 1995.

HIV/AIDS prevalence is also rising rapidly in Burma and a mobile population has fuelled it. Burma has become the 'epicentre of the epidemic in Asia' (Dwyer 1997). Burma has 440,000 people who are HIV positive, of whom 175,000 are returnees from Thailand (UNAID 1999). The current rate of HIV/AIDS infection is 2–3 per cent and 1.4 per cent of pregnant women in Myanmar were HIV-positive (UNDCP 2001). The number of infected women has increased in the last three to four years, particularly in the eastern state near the Thai–Burma border (International Crisis Group 2002).

Health issues for women trafficked for prostitution are worrisome. It is estimated that 50 to 80 per cent of Burmese prostitutes in Thailand are infected. Among deported girls from Burma in Thailand, 50 to 70 per cent were HIV/AIDS positive (Hughes et al. n.d.). In Burma, where carrying condoms was illegal until 1993 and abortion is still illegal, it is not surprising that up to 60 per cent of female mortality is directly attributed to abortion (Ministry of Health and UNFPA 1999; Ba-Thike 1997).

Elimination of trafficking in Burmese

Why should we stay in Burma to be raped by soldiers: if we come to Thailand we get raped as well, but here we get paid for sex — at least most of the time (Brown 2000:50).

When I was in my village, the Burmese soldiers came and forced me to have sex with them. It was as if I was a prostitute, except I received no payment. At least now, I receive some payment ... as long as I made my customer and my boss happy, I do not have to be afraid of being killed [whereas] in Burma, I might be killed after they use me (Pers. comm., Bangkok, February 2004).

Current methods or approaches to eliminating trafficking will not be successful unless we understand not only the nature of trafficking, but also the reasons for trafficking. Burmese women
are particularly vulnerable to trafficking. They are often poor, desperate and have previously suffered abuse. Women from minority groups may suffer from additional disadvantages. Burmese women have limited opportunities to advance their social or economic position. Family, community and authority offer little protection or support. The fact that such large numbers of Burmese women share this plight increases their vulnerability to trafficking.

Trafficking in and exploitation of Burmese women and children is hidden yet widespread. Burmese women have also been trafficked around the globe as Thai nationals. For example, in May 2003, a Burmese prostitute was arrested in Sydney as a Thai national. Later, she revealed that she was sold into Thai slavery as a young girl at the age of 12. In April 2004, police raided a brothel in Sydney and 39 people were arrested, among them three Burmese. When Burmese are arrested overseas, including Australia, they are unlikely to say they are Burmese for fear of deportation. Under Burmese law, if Burmese women are trafficked and then deported to Burma, they will be punished for ‘unlawfully leaving’ Burma. The majority of Asian women trafficked to Australia are thought to be mainly Thai or Filipino, but many women are in fact Burmese who have been trafficked as Thai nationals. Clearly, this is an issue that requires special attention.

Although the Thai Prostitution Act of 1928 expressly forbids imprisonment or fines of people who are trafficked, women and girls who are physically carried across the border against their will and forced to work as prostitutes are still considered as illegal immigrants and will be charged. Thus, if police find them in brothels, they will be simply arrested and transferred to a detention and deported if they have money to pay for deportation fees. In such circumstances, desperate Burmese women and children have little alternative and choose to ‘survive’ in Thailand.

The Thai regional sex industry is a key element of the Thai economy and is too firmly entrenched to be seriously challenged. Rescuing victims from brothels and educating them would not work in eliminating trafficking of Burmese. The experiences of a United States-funded anti-trafficking program to rescue Burmese trafficked victims illustrates the difficulties. Shan women who were being rescued under this program explained that they didn’t feel like they were being rescued because they lost their income and that they ‘being forced to work physically is one thing, but they were forced to work by their situation’. As one woman puts it, ‘the (brothel) owner does not have to lock us up. We do not and cannot escape’.

Conclusion

[It is the outstanding characteristic of Myanmar women that they abide by the two precepts of shame and fear to commit sins while preserving their traditions and enjoying their rights (New Light of Myanmar, 5 April 1998).

At present, trafficking in Burmese women to and through Thailand is rampant. Prostitution, migration and trafficking are linked to the direct and indirect involvement of police, immigration and other authorities on both sides of the Thai–Burma border. Inadequate law and legislation, discriminatory and unrealistic policy, personal benefits, masculinisation and militarisation play significant roles in the exploitation of Burmese in Thailand. Trafficking in women and children is clearly both a human rights and a development issue. The impact of decades of military repression is leading Burma to a humanitarian crisis in the near future. Trafficking of Burmese girls and women is made easier through racism, xenophobia and prejudice against ethnicity and race. In these circumstances, trafficked Burmese women are socially, politically and economically marginalised.

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Prevention, victim support and rehabilitation: The Philippine experience of rescue operations and protection

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Introduction
This paper gives an overview of the responses of Philippines government and non-government organisations to the problem of human trafficking. The paper begins with a series of case studies which illustrate the factors that underlie and cause trafficking, the methods used by recruiters, the different contexts in which trafficking occurs, and the psychological and economic impacts on victims.

Trafficking case studies
Anne, Bern and company
In July 2004, Anne and Bern, were recruited in the streets of Davao City, Mindanao, by a female trafficker. Both were known as 'sunshine girls', that is, girls who for fifty pesos or less than US$1 would give men a blow job. Both had been living away from home, came from poor families, and had been out of school for some years. The recruiter easily convinced the girls to go with her to Tacurong, a destination for many girls from various parts of Davao and other provinces in Mindanao. They were handed over to a man called Buboy. He rented a taxicab, and the girls found out that there were another four young girls joining them. In a police checkpoint set up by the local government — one several checkpoints established for anti-terrorism and anti-trafficking purposes — the cab was stopped. The police officer peered into the cab and asked them where they were going. The driver said that the children were going on a tourist excursion. They exited Davao City without any difficulty, after the police officer jestingly told Buboy to leave one girl for him. They were taken to two clubs, Sunshine 1 and Sunshine 2.

One of the girls in the group, Rose, managed to escape by telling Buboy that she had a very important appointment in Manila Harbor, the Coast Guard rescued the girls. They were taken to the Women's Desk of the Philippine National Police to report what happened. But by then the girls had been taken back to Davao City. Talikala argued that the case should be filed in Davao City since the girls were not able to travel to court hearings in Tacurong. The judge insisted on having the case heard in Tacurong. Further complicating matters, Anne and Bern did not want to press charges against Buboy because he had been kind to them. He had washed their clothes, looked after them and had even done their makeup. Anne and Bern are back on the streets, with Talikala trying its best to keep the girls out of harm. One of the six girls has been recruited by another trafficker and brought to Cebu City to work in prostitution (interviews by the author, July 2004, Davao City).

Island girls
Four Filipinas, three of them aged 16 and the other 20, were recruited from the small island municipality of Samal in Davao by a woman who is a distant relative of one of the girls. The parents of the four met the recruiter, who was able to get their permission for her to take the girls to Manila. Initially, the girls were told that all they had to do was sit and flirt with the customers. On board a ship bound for Manila, they were eventually told what was truly expected of them — they would have to go ‘all the way’, that is, service their customers wearing nothing. The 20-year-old woman, deemed by the recruiter to be a bit fat, was told that she would be taken to a place separate from the others. Fearing that she would be alone and frightened about the recruiter’s plans for her, she called a friend in Davao, who informed the Coast Guard about the plight of the four women. Upon docking at the Manila Harbor, the Coast Guard rescued the girls. They were interviewed by Visayan Forum in Davao, and their families in Samal island were informed of their rescue. The girls were interviewed by Visayan Forum’s social workers. The parents of the girls then came to the office and took the children back to their homes, after the NGO had apprised them of what happened and had given them a short educational session about trafficking (interviews by the author, July 2004, Davao City).

A Zamboongan episode
A girl escaped from a karaoke bar in Zamboanga City and went to the women’s desk of the Philippine National Police to report that other girls remained in the club and were being used for prostitution. The officers of the Women’s Desk planned a rescue by posing as male customers. Inside the dimly lit club they saw...
the girls with their customers. They commenced the raid — despite the fact that their only weapon was a baseball bat acquired as an exhibit for a criminal case in court — and took the girls to their office with the assistance of the local DSWD. The police officers told the judge they were filing the complaint on behalf of the children, but the girls did not want to press charges against their recruiters. The judge said that there was no case since the children were not interested in filing a case. The recruiter was released on the same day. The police officers were frustrated but unable to do anything (interview by the author, August 2004, Zamboanga City).

**At the harbour**

A group of male and female minors were recruited from the Visayas and brought to Manila to work as domestic helpers. Upon reaching Manila, personnel from the Philippine Port Authority with the assistance of an NGO and the police, rescued the children and took them to a halfway house to await repatriation. The local DSWD in the victims' home provinces contacted the parents. One of the girls, Sally, decided to press charges against the recruiters. She has been in the halfway house for more than three months while the case is being heard. She is very anxious that she will not be able to look for her sister, who was also recruited to work in Manila some months back. One of the reasons why Sally allowed herself to be recruited was because of her missing sister whom she hoped to locate. Sally is waiting for her case to be heard in court, bored to death, anxious that she does not have money and desperate to find her sister (interviews by the author, April 2004, Visayan Forum office, Manila Port Harbor, Pier 8).

**Trafficking in the Philippines**

The Philippines is primarily a source and transit country for trafficking in persons. Internal trafficking is also a problem. The Philippines relies heavily on the repatriated salaries of overseas workers, the majority of whom are women. The constant flow of workers out of the country leaves women vulnerable to traffickers. This is exacerbated by the fact that over 80 per cent of the women who travel to work in Japan go as entertainers, a primary channel of prostitution in Asia. Women who travel to work as domestics servants in the Middle East can also find themselves in exploitative situations.

The most serious trafficking problem appears to be the trafficking of Filipina women across international borders to destinations in Asia, Europe, the Middle East and North America. Many of these women are forced to work in the sex industry. A significant percentage of the victims of internal trafficking are from Mindanao, fleeing the severe poverty and violence of their homes. The sexual exploitation of children and youth in the Philippines through pornography, the internet, and sex tourism is a growing concern, and is currently being addressed both by government and NGOs.

The Philippines Government recognises that due to the clandestine nature of the crime of human trafficking, the great majority of human trafficking cases go unreported and culprits remain at large. There are reports that many human traffickers are associated with international criminal organisations and are therefore highly mobile and difficult to prosecute.

**Legislative efforts**

In the last decade, the Philippines have implemented a wide range of laws to both directly and indirectly combat trafficking. A key legislative initiative is the *Anti-Trafficking in Persons Act of 2003* (Republic Act No 9208). The Act makes illegal the 'recruitment, transportation, transfer or harboring, or receipt of a person, with or without the person's or victim's consent, within or across national borders for the purpose of exploitation such as sexual exploitation, forced labor services, slavery or practices similar to slavery, and removal or sale of organs or other similar act'. Also, it makes illegal the threatening of people or using force or other forms of coercion, abduction, fraud, deception, abuse of power or position. Interestingly, introducing for money or other consideration, any Filipina to a foreigner as a possible spouse or offering any Filipina to a foreigner as a prostitute is considered 'trafficking in persons'. In addition, the Act states that 'maintaining or hiring a person to engage in prostitution or pornography' is also considered trafficking in persons.

The *Anti-Trafficking in Persons Act* provides for the establishment of the Inter-Agency Council against Trafficking (IACAT), which is primarily tasked to coordinate, monitor and oversee the implementation of the Act. As its name suggests, the council is made up of a range of government and NGOs. Under the Act, the council has a wide range of responsibilities, including to formulate and oversee a comprehensive and integrated program to prevent and suppress trafficking in persons.

To strengthen the implementation of the anti-trafficking law, there is a raft of complementary legislation. These laws acknowledge the complexity of trafficking and are meant to address specific elements of trafficking, such as the use of the so-called 'mail-order bride' system. The *Mail-Order Bride Law of 1990* (Republic Act No 6955) bans marriage matching for a fee, as well as the export of domestic workers to certain countries which cannot ensure the protection of their rights. Fiancés of foreign nationals are required to attend guidance and counselling so as to minimise interracial marital problems.

As rape and other forms of violence against women and children have been documented as one of the forms of control over trafficked victims, the *Anti-Rape Law of 1997* (Republic Act No 8353), together with the *Rape Victim Assistance and
Protection Act of 1998 (Republic Act No 8505), have been passed. Despite the opposition of many women's groups and human rights organisations against the death penalty, there is the law called Death Penalty for Heinous Crimes (Republic Act No 7659), which includes rape as a heinous crime.

In May 2004, the Anti-Violence against Women and their Children Act (Republic Act No 9262), known as Anti-VAW/C law, was passed. Drafts of the law came from women's NGOs and the final review is being conducted by women's groups to ensure that the law will be responsive to the cases on the ground. A number of other specific laws on children have also been enacted.²

The Philippines Government and NGOs recognise the importance of international cooperation and, in particular, technical cooperation among countries and international law enforcement agencies. Such cooperation is essential in investigating the extent of trafficking and the different forms of trafficking and documenting the activities of international criminal organisations. Also important is the recognition that source, transit and destination countries should provide support mechanisms for trafficking victims involved in judicial activities.

The Philippines Center for Transnational Crime (PCTC) was created by Executive Order 62 to formulate and implement a concerted program of action for all law enforcement, intelligence and other government agencies for the prevention and control of transnational crimes such as trafficking in women and children. The centre's functions include the development and use of improved coordination, research and data-banking.

In November 2003, 24 government bodies, law enforcement agencies, religious and business groups, NGOs and the transport sector formed the Multi-Sectoral Alliance against Trafficking in Persons, as mandated by the anti-trafficking Act.² The alliance's goals include to provide effective, sensitive and systematic services in cases of trafficking, to address the root causes of trafficking in persons and to work towards the development of long-term solutions.

**Good practice in NGO and government collaboration**

NGOs have played a central role in the fight against human trafficking in the Philippines. They have exposed the growing seriousness of the trafficking problem and provided support to anti-trafficking efforts, well before there was adequate legislation or official policy on the matter. In the mid 1990s, NGOs were making concrete efforts, although these were limited in scope and reach. For example, a campaign against sex tourism and trafficking in Filipino women was organised by the Coalition against Trafficking in Women (CATW). A program supported by the government of Belgium provided resources to seven women's groups and an academic institution to undertake research, documentation, education and training on trafficking issues and to systematically organise existing direct legal, health and crisis intervention services to victims of local and international trafficking. These efforts gave birth to the Philippine Network against Trafficking in Women (PNAT), with the Women's Education, Development, Productivity Research and Advocacy Organization (WEDPRO) as its secretariat.

These initiatives were part of the first systematic effort by civil society to give focus to the issue of trafficking. As there was no specific law at the time that addressed trafficking, PNAT supported other ongoing initiatives by women's groups, such as the drafting of the anti-trafficking Bill, which eventually became law in 2003. Today, a wide range of preventive programs are carried out by NGOs, especially in communities. Organising and education at the community level have become powerful tools in raising public awareness and preventing more cases of trafficking. However, due to the low level of resources, a number of these efforts cannot be sustained.

There are ongoing efforts to link child rights organisations with women's groups and migration NGOs to systematically address trafficking of children, women and overseas Filipino workers. With the new anti-trafficking law in place, it is hoped that cooperation for the prevention, prosecution and rehabilitation (including support services for all trafficked victims) will be enhanced.

**Prevention, prosecution and reintegration programs**

Broadly speaking, 'rescue and rehabilitation' of trafficking victims consists mainly of collaborative efforts between the police authorities, social welfare agencies and some NGOs. The celebrated case of 'Lenny' — rescued from a violent Moonie marriage in South Korea, during which her husband beat her and 'sold' her to other men, and the failed attempts upon her return to the Philippines to achieve a successful prosecution — highlights the gaps and challenges faced by government and NGOs.³

There are efforts to combat trafficking at many levels by government, the private sector and NGOs all over the country. In Mindanao, community-based organisations either reoriented their existing programs or have recently been formed to address the issue of trafficking, especially because 'backdoor' trafficking has been on the rise, and the traffickers are getting bolder and more innovative in their recruitment of vulnerable women and children. Victims and communities are finding it harder to resist the false promises of good money and a good life.

The following are just a couple of examples of the huge number of collaborative programs in place in the Philippines. The Bantay Bugaw (Pimp Watch) program run by CATW-Philippines was launched a few years ago. With the help of local government units in selected areas, community-based
organisations and village-level government units have put together mechanisms to screen and monitor the presence of recruiters, and provide preventive education to vulnerable sections of local populations. This program is replicated in the area of operations by member organisations of CATW-Philippines. In another project, the pre-departure orientation seminars given to outgoing overseas migrant workers are being updated to utilise a gender and rights framework. This will ensure that the migrants are apprised of their rights as migrant workers and informed about how to access to services from Philippine embassies and other support organisations abroad.

The challenges ahead
Despite all the abovementioned efforts aimed at increasing coordination between government, NGOs and the general public, many cases do not go forward for various reasons, including the lack of interest of the victims and their families. Parents of the victims say that the legal process is too long and too costly for them. They would rather get their children back and hope that they can be kept from harm at the hands of other recruiters and traffickers. Other children have been sweet talked by their recruiters, some are simply afraid, and a number want to move on and find other employment opportunities.

Informants in studies on trafficking reported that many trafficking cases do not go beyond the usual reporting because, especially among trafficked adults, there is pressure to file a case of illegal recruitment, rather than trafficking, which has stricter penalties. One victim expressed the view that because the penalties for illegal recruitment were so lenient, it was not worthwhile to pursue a prosecution. Another factor against prosecutions is the long time it takes for cases to be resolved in court. Too often, the victims will prefer to put their bad experiences behind them.

There are indeed serious efforts at addressing trafficking at different levels by government, NGOs, community-based groups, and some sections of the general public. However, there are many complex problems that continue to surround all aspects of the issue—from data collection, investigation, prosecution, rehabilitation and support programs for the victims to finding ways for victims to regain normal lives and pursue justice.

In the end, trafficking is a development issue, its growth and expansion fed by the overwhelming poverty of many households and communities on the one hand, and the ability of traffickers to use communication technology and the modernisation of transportation and other infrastructure on the other. Recruiters ply their trade in far-flung villages, enticing families and their children and women with the material gains that will supposedly promote and advance their economic wellbeing. Child labour and women's bodies have become mere commodities that can be bargained and sold to the highest bidder—and, more often than not, the bid is for a paltry sum, adding insult to injury.

Conclusion
The stories of Anne, Bern, Rose, Sally, the women from Davao and many more, have lessons for all, but recruitment continues to be a lucrative business. The communities are turning a blind eye to these stories, while the government faces many problems, including the involvement of corrupt officials in trafficking, and insensitive police, judges and service providers. Most of all, poverty and injustice, including the abuse of women and children, continues to beset millions of Filipinos. For many, leaving their small poverty-stricken villages for the lights of the big cities and the temptations of greener pastures in foreign lands is their only hope. The official economic policy encouraging migration for work has made some lives better, but the problems it creates at the individual, household and community level are too great to be taken for granted or to be sacrificed for the sake of a few dollars and pesos remitted home by victims. In the words of a minor who was rescued from her traffickers:

I've seen my aunt improved her life when she went to Japan as an entertainer, and eventually married a Japanese man. Yes, the guy is not that good looking, or that rich, but he has more money that anyone I saw in my village. I don't know what he really does for a living. I really don't care. But I saw my aunt bought a house, furniture and home furnishings, television, washing machine, karaoke, a pedicab to transport her children to and from school, eat good food. I want to have the same for my own family. If she did it, why can't I? There's nothing wrong in aspiring for these things, is there? I simply wanted to work, I didn't want to be exploited.

Notes
1. Names of victims in this paper's case studies have been changed.
4. The memorandum of understanding establishing the Multi-Sectoral Alliance against Trafficking in Persons is available online at <http://www.humantrafficking.org/countries/exp/philippine/govt/action_plan.htm>.
5. For examples of victims experiences see Louie C Anilangga et al., Halfway through the Circle: The Lives of Eight Filipino Survivors of Prostitution and Sex Trafficking, WEDRO Inc., Quezon City, Philippines, 1998.
People trafficking: Discussion and key issues from the symposium round table

Context
A one-day round table comprising key speakers from the symposium, People Trafficking, Human Security and Development, Canberra, 1–2 September 2004, was held at the Australian Institute of Criminology, 3 September 2004. It sought to examine key issues pertaining to people trafficking and ways for effectively countering it. Participants included the speakers from the symposium, plus invited high-level policy experts from government and NGOs.

Overview of the issues
Scope
Human trafficking now vies for position on the global agenda with terrorism and corruption. It is highly politicised at all levels, not least because it is inherently bound up with a number of other sensitive issues such as national security and border control. While the issue has become more important because of political considerations, responses to it are often affected by other political considerations. It was accepted by all participants that whatever the precise figures, and despite reservations about the veracity of such figures, people trafficking is both global in nature and growing in aspect.

Definition
It proved difficult to accurately describe the nature of people trafficking and it was felt that to do so could lead to the creation of unsatisfactory outcomes. It was agreed that people trafficking is a high profit/low risk activity with no real correlation between arrests and subsequent convictions. Trafficking involves both legal and illegal activities, in that it comprises not one single act but rather a series of constitutive lawful and unlawful acts. Thus, for example, in the course of trafficking, victims may cross borders legally even though their eventual fate will often be illegal in nature.

Trafficking remains an issue that is not fully understood. In Thailand, for example, the government profits from trafficking as a result of the imposition of an official tax on massage parlours where trafficked people work. The Thai Government profits from an ostensibly legal activity whilst indirectly supporting the continuation of an illegal activity.

Impact on rights
Human rights abuses are inherent in trafficking since it involves the movement of people either against their will or with some degree of cooperation but into an area of work that they did not anticipate. Whether human rights should be the focus of trafficking was mooted and it was argued strongly that human rights ought to be part of the mainstream thinking behind all actions taken to mitigate the effects of trafficking. It was felt that human rights criteria could provide parameters for action in relation to trafficking, but it would be difficult to have clear criminal justice standards in relation to human rights across all jurisdictions. Standards of human rights vary considerably within and across the regions from which trafficking victims may be sourced and to which they may be trafficked.

Data
The dearth of reliable, consistent and universal data on trafficking was considered an important issue that impacts on policies and funding to combat it. The continued use of assumptions or extrapolations based on limited data does not assist in the process of advancing the issue of trafficking to the point where definitive political change may occur. It cannot be stated with any degree of certainty, for example, whether trafficking is in reality increasing or decreasing and in part, instinct rather than proof is guiding the trafficking policy debates. However, there is sufficient knowledge about the conditions that are conducive to trafficking to be able to assume a rise in the phenomenon. The difficulty with an instinctive approach is that it is unlikely to convince governments or courts about the true nature, scope and extent of the problem. Participants in the roundtable agreed that many criminal cases consist of little more than convincing circumstantial evidence.

Emerging issues
 Trafficking in men
To date most information about trafficking relates to trafficking in women and children for prostitution. There is a need to address the issue of male trafficking and this may lead to competing demands for the requisite funding currently focused upon women. It seems likely that as the populations of Australia and Europe age, the demand for cheap labour will increase and with it the propensity for organised crime involvement in meeting that demand.

Organised crime links
There was a strong perception of a link between organised crime and the growth of democracy and this bodes ill for attempts to mitigate the impact and extent of trafficking. As organised crime groups encroach upon the political and legal arenas through...
cotraption, their propensity to advance the level of trafficking and/or escape punishment is likely to result in an increase in the nature, scope and extent of trafficking.

**Source country causal factors**

Source countries are faced with often crippling difficulties in providing the infrastructure necessary for effectively dealing with trafficking. Equally, it is essential to focus upon programs that recognise the social issues and trends that might exacerbate the trafficking process such as increased poverty, family breakdown and violence. These also include major demographic changes in countries such as China where domestic child policies have led to a significant shortage of women, which in turn has led to an increase in bride stealing. Women have been abducted from North Korea into China in an attempt to meet the demand.

Critical questions included whether the differences in the age of consent between societies (especially source as opposed to destination countries) affect the nature and/or level of trafficking and the reasons why victims of trafficking often elect not to testify. There are a number of intuitive suggestions such as the propensity for direct or indirect intimidation but, as noted above, intuition is no substitute for evidence.

**Demand factors**

It should be recognised that trafficking is about violence, domination and control and not simply about the demand for sexual services. Other emerging issues include the relationship between trafficking and HIV; trafficking for young military conscripts and the need to examine and understand the demand cycle for trafficking. Questions were posed in relation to whether, for example, the demand was the same across regions and/or across age and gender categories.

**Impact of technologies**

Changes in technology, such as the development of the internet, need to be examined in terms of how the process of trafficking might be facilitated and/or how the proceeds of trafficking might be manipulated and disguised.

**Data and evidence**

In terms of evidence, it was felt by all participants that a full and proper analysis of data needs to be undertaken. For example, existing data on criminal cases that might involve migration or exploitation should be examined as should the demographic profile of victims. There are unfortunately no benchmarks as yet because trafficking definitions in general, and their dissemination in particular, are relatively recent. Current data needs to be triangulated to avoid constant and expensive replication of isolated studies and to encourage more systematic and worthwhile conclusions to be drawn in relation to trafficking trends. NGOs remain ideally placed to obtain relevant data but data without objective analysis is of little value.

**Victim support**

In terms of victim support and reintegration back into society or their communities, the NGO AFESIP (Agir Pour les Femmes en Situation Précaire) presented its model for effective NGO operations. It contended that any NGO must adopt a victim-centred approach, which may include the collation and provision of information to police so that they are able to arrest perpetrators. AFESIP emphasised the importance of carrying out appropriate long-term follow-up support for victims. The need for money led to many victims moving back into prostitution or being re-trafficked for the same purpose. The lack of viable alternatives which might assist financially exacerbated the issue.

**Data on victims**

Data analysis does not always meet the standard objective requirements laid down by the UN because, for example, of language barriers. In principle, NGOs are contracted for specific aspects of the study at hand, but outside agents may oversee their research.

Where the output is likely to be significant, finance for data retrieval should be provided as a matter of course. Pre-existing data may simply require re-examination and more detailed analysis. Such analysis is unlikely however to be of any great utility until the data from different sources, for example, NGOs, government and law enforcement agencies can be rationalised and standardised in terms of one governing format.

Until this is achieved, the danger of double-counting the same victim in a number of separate surveys can only serve to falsely inflate the numbers involved in trafficking and the net effect of this unreliability will be increased distrust of any figures that are put to governments and to a lack of political will to utilise such data to effect change.

**Data on perpetrators**

Aside from data on victims of trafficking, there is a pressing need for quantitative and qualitative data on criminal syndicates. The first move towards any degree of standardisation is to operate (within an NGO context in particular) with a standard questionnaire format, such as that used in the Philippines.

The apparent mistrust of government agencies by NGOs needs to be overcome so that data may be more effectively shared and utilised. In order for this to begin to be achieved, NGOs' fears of confidentiality breaches and law enforcement agencies' oft-cited reluctance to share their data will need to be overcome.

Naturally, the potential profit margins of trafficking will ensure that any decisive anti-trafficking policy undertaken by or on behalf of governments will lead to an equally decisive
reaction by the organised crime networks currently involved in
the process. Traffickers are reputed to observe and respond to
changes or potential in the legislation.

**Ways forward**

**Policy development**

It is important to recognise that in the globalised economy there
are limitations on what can be done to halt people trafficking.
However, round table participants identified changes in policy
or the underlying emphases of policy development that could
assist in preventing trafficking and assisting victims:

- The focus on victims of trafficking needs to be
  balanced by an equivalent focus upon the
criminals who are involved in creating the victims
in the first instance.
- The exploitation issues of trafficking, rather than
  the process of movement that many governments
currently focus upon, need to be given greater
attention.
- Responsibility for the perpetration of illegal
  activity in relation to trafficking needs to become a
focal point in terms of prosecution policy and
subsequent sentencing. For example, clients who
visit sex workers should be educated in
trafficking issues so that they can participate in
reporting suspected instances to authorities.
- The conflation of trafficking with other forms of
  criminal activity is suspected, but not yet proven.
  This issue of cross-fertilisation of crime needs to
be examined.

**Regional cooperation**

The Bali Process may prove very useful for the Asia–Pacific
region, as similar processes in Latin America and the Middle
East have been effective. The Bali Process focuses upon law
enforcement agencies and achieving practical change. There are
already a number of transnational crime centres in the region
(including Indonesia and Suva) through which such a process
in relation to trafficking might be achieved. Naturally, a key
factor in the success of the Bali Process is that countries are not
required to join so there is in that sense no Australian agenda.

**Using data to improve responses**

The ASEAN method of collaboration could be applied to the
trafficking process. The ability to prove beyond all doubt that
there were, for example, 1000 victims of trafficking in one
particular country would increase the possibility of long-term
funding being made available and the mitigation of the process
that created those 1000 victims. Arguably, governments are
concerned with obtaining prosecutions of traffickers rather than
with dealing with the complexities of the overall issue of
trafficking. Thus, failure to define the problem may lead to a
difficulty in tackling that problem.

It is also important also to examine what has been described
as 'soft' trafficking, whereby people come over borders
themselves and are then exploited, and to distinguish that from
the usual 'hard' trafficking where the trafficker goes into a village
and 'persuades' people to leave with him or through his
assistance.

**Reintegration**

Questions were put concerning the ability of NGOs to
reintegrate the victims they encountered. A key issue is the
vulnerability of some victims to re-trafficking. Other issues for
consideration include the nature of the environment to which
victims may be returned.

A further issue is that many trafficked women are not
interested in reintegration. Understanding why needs to be
investigated. In this context, reintegration programs should
appeal to young women who have been in the sex industry and
need to exist outside it. Reintegration programs need to include
building self-esteem and empowerment.

**Issues for the Australian sex industry**

The issue of whether visas could or should be issued to sex
workers from other jurisdictions to be able to work within
Australia was raised. It was strongly argued that the sex industry
already employs sex workers from Japan, England, and Europe,
with many on working holiday type visas. The sex industry felt
that it suffered from a lack of effective information on trafficking
and that were it privy to such information it might be able to
assist in educating users of sexual services as to the warning
signs of trafficked victims.
The United Nations Office on Drugs and Crime (UNODC), through its Global Programme against Trafficking in Human Beings (GPAT) is developing a ‘toolkit’ aimed at making the struggle against trafficking in persons easier. The toolkit is intended to assist law enforcement agencies, policy makers, and social support agencies to develop their responses to this expanding international crime. It contains conceptual, organisational, and investigative tools, which are being tested around the world. These tools may serve as a guide to action, or generate further new ideas about the best ways to combat trafficking in persons. It is hoped that use of the toolkit will reduce duplication of effort.

The toolkit is intended to be used to help stem the flow of trafficking, to foster the care and protection of victims, and to apprehend and punish the criminals that traffic in people. More specifically, the toolkit aims to share knowledge that has been rapidly building up around the world. Some of this information is general and global in nature; other information is given in examples drawn from particular places and programs.

The structure of the toolkit is by thematic chapters, which include all the issues around the prevention and combating of trafficking, the protection and assistance of victims and the promotion of cooperation. It also includes the text of the United Nations Convention on Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, model legislation, a directory of key anti-trafficking contacts by country, and a set of ‘guide questions’ that can be used to develop research into trafficking in persons.

Each chapter enlarges upon specific points and tools, and includes examples of strategies, mechanisms, techniques and so forth that have been effective. An effort was made to ensure that appropriate examples are given, taking into account the resources available, the different needs of origin, transit and destination countries, and the geographical context.

The toolkit, which will be accessed on the Internet through the UNODC site, is not necessarily designed to be read straight through. It should not be seen as a definitive instruction manual that should be followed to the letter — it is a collection of viewpoints, experiences, and strategies gathered from around the world that can guide the response to trafficking. Interested parties may read of these examples, find out more about them, and perhaps incorporate some of the features of the project in their own work. Feedback provided will assist in the evolutionary nature of the toolkit.

The toolkit will never be a finished or definitive document. As our knowledge base expands and becomes more sophisticated, it is hoped that the toolkit will keep pace. New examples of good practice, further development of key themes and suggestions for new areas to be covered will be welcomed by the editors and contributors. As the toolkit develops it can become a useful interactive method for communication and sharing of experiences, ideas and successes in the battle against the crime of trafficking in persons.

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Aid in the Pacific: What works and why?

Vijay Naidu, Victoria University of Wellington

Introduction
This paper situates aid in the Pacific in the context of the changing paradigms of overseas development assistance (ODA). Besides the underlying theme of enlightened self-interest, it perceives a change in the rationale of international aid from that based on an extension of the social compact in Europe in the 1950s to the self-serving conditional aid of the contemporary period. It sees ODA as legitimating a highly unequal global system within which the world’s rich and powerful countries spend an extremely small proportion of funds relative to their national incomes and expenditure on instruments of warfare to ‘assist’ developing countries. Assessing aid effectiveness in this context is likened to opening a can of worms! However, the paper boldly examines four cases studies of aid in the Pacific, namely the University of the South Pacific, conflict resolution and peace building in Bougainville and the Solomon Islands, the Fiji Women’s Crisis Centre, and the Citizens Constitutional Forum in Fiji, to identify the reasons for their success. These reasons are then highlighted as lessons for more effective aid. The trend towards going beyond government-to-government ODA to support for NGOs is seen as positive in this regard.

Development is a complex process and international development aid and its consequences share this complexity. There has been considerable publicity in the recent past of how aid has failed in the Pacific and even how ‘Aid has failed the Pacific’, the title of Professor Helen Hughes’ polemical paper (2003; Slatter 2003). Such interventions tend to promote an air of ‘doom and gloom’, as well as longer term pessimism on ODA. The ‘success stories’ explored in this paper are in the important developmental areas of higher education, conflict resolution and peace building and support for NGO delivery of services pertaining to human rights goals. Through these four case studies of how ODA has met the objectives of both recipients and donor agencies, factors that have contributed to positive outcomes, as well as those factors that may have constrained such outcomes, are identified.

The paper begins with a brief discussion of the global context of development including ‘aid paradigms’. This is followed by an outline of the Pacific regional context of aid, which sets the scene for the discussion of the four case studies, namely the University of the South Pacific, an autonomous inter-government institution; conflict resolution and peace building in Bougainville and the Solomon Islands; the Fiji Women’s Crisis Centre (FWCC) and the Citizens Constitutional Forum (CCF), two Fiji-based non government organisations that I have worked with closely. These case studies are of disparate organisations and processes, rather than country studies, and therefore reflect on a somewhat different terrain than deliberations pertaining to aid effectiveness in a country or on a Pacific regional basis. Nonetheless, the lessons learned do have wider application.

The approach here is contradictory, as it perceives ODA as neo-colonial, legitimating the highly unequal and unjust global politico-economic system, but, at the same time it is accepted that international aid does contribute to positive engagement between North and South countries and to alleviating the situation of some people in the global South.
The global aid context and aid paradigms

In the South countries, the failure of development, defined narrowly as economic growth, has been the basis of numerous criticisms of international aid and the aid industry. The thesis that aid has been ineffective and that it has failed is based on an assessment of aid flows and the impact these have had or have not had on Third World countries (Bauer and Yamey 1981; Mosley 1987; Bauer 1991; Hughes 2003) is based on fundamentally flawed premises. There is an economistic preoccupation with 'economic growth', with little consideration of its political dimensions, yet critical to government-to-government transfer of resources has been the use of aid as a foreign policy instrument.

There are a number of basic questions that have been around for as long as ODA itself. These include why is aid given; what amount of aid is provided; what form aid takes; how aid is delivered; how aid is used; and who benefits from aid. These questions reveal a rather complex picture of the motivations behind ODA and the gap between the rhetoric of aid for economic growth and poverty reduction and aid as a lubricant for the continuation of an unequal global system. Corrupt and oppressive regimes such as those led by Suharto in Indonesia, Marcos in the Philippines, Zia Ul Haq in Pakistan and Mubuto in Zaire were recipients of Western aid before the post-Cold War preoccupation with 'governance'. The Taliban in Afghanistan owed their rise to generous multi-billion dollar aid as proxies of the United States war against the Soviet Bloc. Were these measures aid effective?

Self-interest, enlightened or not, and the mixing of economic, political, strategic, humanitarian and developmental dimensions make the assessment of overseas aid 'a can of worms'. For more purely economic aid toward infrastructural development, be this for a road, dam, irrigation, or electrification, one would assume that the provision of funds and technical assistance would be predicated on rigorous feasibility studies including cost–benefit analyses. The failure of such a project to meet 'development' expectations should then be assessed in the light of such studies and the 'blame' shared by both the donors and recipients. The tendency, however, has been to blame aid recipients — a typical case of the 'blame the victim' syndrome.

From the South perspective, aid has been an instrument of neo-colonialism, legitimating the reproduction of the highly unequal and unjust global system (Byres 1972). Fair trade would have gone a long way to obviate the need for ODA as we know it.

For development practitioners, aid delivery and usage have been a learning process and, over time, the tools of aid assessment, monitoring and evaluation have been refined to identify more effective modes of development aid.

There have been several shifts and changes in the North's overarching conceptual paradigm of aid. These changes have been determined with minimum regard to South countries' perspectives, and, indeed, with little regard to the North's own commissions on ODA. Thus, for example, on the release of the 1980 Independent Commission on International Development Issues Brandt Report, both the United States and the United Kingdom substantially reduced ODA, contrary to the report's core recommendations. Without immediate tangible returns to the donor country, international aid did not fit into the monetarist and market-centred policies of Reagagonomics and Thatcherite economics (Gounder 1995). OECD countries and the multilateral aid organisations that are largely their instruments have determined the modalities and ebb and flow of aid. A powerful rationale in their efforts to justify (a) the level and quality of aid and (b) the restructure of recipient countries' economy and society has been the issue of the 'effectiveness of aid'.

From aid as ODA for the purpose of addressing many of the 'gaps' left behind following the colonial experience of most South countries (thereby ensuring ongoing influence of the former imperial power), aid has become a significant instrument for compelling structural adjustments in the era of conditional aid. The quantum of aid and the mode of delivery have never been adequate in bringing about systemic 'people-centred' changes in recipient countries. More broadly, after colonialism established patterns of raw material production in the Third World, the Bretton Wood Institutions have pushed post-colonial states the world over to produce the same export commodities thereby triggering oversupply, reducing foreign exchange earnings and creating dependence. A good example of this is coffee. The 1980s debt crisis and the imposition of stabilisation and accompanying conditionalities have further aggravated the situation for coffee growers (Ould-Mey 1994; Reality of Aid 2004).

In the last two decades, the ability of a post-colonial state to act in fostering its 'national economy' has been seriously undermined. This is the bigger picture within which the effectiveness of aid ought to be measured.

When one considers that the world's countries spend more than billion in ODA (Wolfensohn cited in UNANZ 2004), the huge gulf between rhetoric and reality is striking. The total aid figure is significantly reduced when tied aid and the 'boomerang effect' of aid is considered. The actual amount of aid funds transferred offshore is laughable. Very few OECD countries have achieved the United Nations target of 0.7 GNI ODA. Holland, Denmark, Luxembourg and Norway and Sweden are the exceptions (Reality of Aid 2004). During the Marshall Plan period, the United States provided up to 2 per cent of its GDP in aid for the reconstruction of Europe, this volume of ODA from one country is unprecedented. Despite the adoption of the Millennium Development Goals (MDGs) and the global consensus to increased ODA at the Financing for Development Conference in Monterrey, significant increases to development aid are yet to be seen. In the current period, the following excerpt provides a succinct picture of the context of ODA:

North-South resource transfers are declining and Northern-dominated global institutions are consolidating a system of highly unequal relations between countries.
NGOs have been increasingly angered by the cynical exercise of power by Northern governments promoting 'good governance' and 'aid effectiveness', while defending narrow political and economic self-interests. Industrialised countries devoted US$353 billion (seven times total ODA spending) to protecting agriculture in 1998, according to UNDP. At the same time, the policy choices available to poorer countries are narrowed by conditionalities imposed by international finance institutions and bilateral donors. As reports from NGOs in Asia illustrate, southern governments are forced to privatise and liberalise, while OECD restrictive practices, tariff and non-tariff barriers cost developing countries US$160 billion a year. This translates into real human suffering which the World Bank recently quantified as welfare losses of US$19.8 billion (Reality of Aid 2002:2, emphasis in original).

The Pacific context of aid

ODA in the South Pacific has undergone a number of changes, reflecting the shifting fashions in aid worldwide. Former colonial rulers in the region, such as Britain and the United States, have shifted their interests to areas where their current strategic and economic interests are better served. Japan, China and Taiwan have begun to play an increasingly important role as bilateral donor countries. For these countries and the ANZUS nations (Australia, New Zealand and the United States), aid to island countries has been and continues to be an important foreign policy instrument (Tarte 1998; Teaiwa et al. 2002). In the Cold War era, aid was one of the ways in which white Pacific influenced and controlled the black Pacific. Regional organisations both wittingly and unwittingly learned how to play the aid game, becoming conduits of such influence. On the economic front, aid has ensured the consolidation of the linkages forged during colonial rule and the patterns of economic subordination remain. Politically, room for manoeuvre existed insofar as some island countries could threaten that they would go to the Soviets if certain of their requests were not met. However, any real attempts to establish such relationships were strongly opposed by ANZUS, with the Australasian media going into bouts of hysterical frenzy. Kiribati's fishing agreement with the USSR is a case in point (Neemia 1988). Similarly, Vanuatu's ties with Libya received strong condemnation.

In the current period, aid in the South Pacific ranges from the competitive chequebook diplomacy practised by China and Taiwan and the marine resource-related ODA by Japan, to the more conditional aid of Australia and New Zealand. International finance institutions (IFIs), namely the World Bank, the International Monetary Fund and the Asian Development Bank, likewise continue to push for 'reform' entailing structural adjustment conducive to market-centred 'development' (Teaiwa et al. 2002; Slatter 2004). These bilateral and multilateral agencies have now shifted to a common rhetoric of poverty reduction requiring a continuation of vigorous 'reforms' and there is a concern that efforts to harmonise ODA in the region will lead to the homogenisation of aid in line with the agenda of IFIs. Numerous contradictions abound. One-size-fits-all structural adjustment programs in complex multi-ethnic states have contributed to political instability. A 'blame the victim' syndrome is manifested in terms such as 'failed states' and 'arc of instability' (Fry 1999).

As in the global context, the Pacific criticisms of aid from the perspective of 'aid effectiveness' abound (Hughes 2003; Huerter 2003). To assess the effectiveness of aid in the Pacific one needs to take a holistic view and also to disentangle donor and recipient motivations. Poirine (1998) has written about 'atomic rent' and 'military rent' with respect to American and French interests in Hawaii, Guam and French Polynesia. He has identified the importance of military rent or 'geo-politics' in ODA and aid as 'geo-political rent'. ANZUS interest in much of the Pacific can be regarded in a broadly similar way. Aid for economic development needs to be disaggregated and repackaged in different ways with the outcomes made explicit, but the success of such projected aid will of necessity require the participation of aid recipients from the very outset.

The case studies

When aid is linked to specific objectives shared by the donor agency and the recipient, and, if the latter has the requisite capacity, the possibility of success and therefore aid being effective increases significantly. The following case studies are regarded as examples of successful cooperation with respect to ODA.

University of the South Pacific

Established by a royal charter in 1968, the University of the South Pacific (USP) is one of two of the world's successful regional higher learning institutions, the University of the West Indies being the other. USP is the product of regional cooperation and the support of a number of donor countries. It is in many ways a creation of aid and its success in providing qualified public servants, teachers, accountants, agriculturists, lawyers and other professionals and in meeting the twin objectives of high quality teaching and research owe much to aid. Its beginnings on Laucala Campus were the outcome of a post-World War II peace dividend, with the former Royal New Zealand Air Force base becoming available for the regional institution's first campus.

From humble beginnings in the 'dilapidated flying boat base' (Aikman 1993) with 154 full time students, it is now a modest-sized institution with three campuses located in Suva, (Fiji), Alafua (Samoa) and Vila (Vanuatu) and 14 university centres operating throughout the 12 member countries. Its current budget at over F$50 million is far cry from the less than a million dollar operating fund more than 34 years ago. USP has responded to changing demands for human resources in the region. Full-time equivalent student numbers now stand at around 10,000, with some 40 per cent of enrolments by distance mode. In addition, USP now operates a modest graduate program.

Donor support has been critical to the university's development. Almost all the major buildings on the three campuses have been financed by developed country partners. These include Australia,
Britain, Canada, China, New Zealand and Japan. Aid has also come from France, Taiwan and the United States. Australia and New Zealand have been the largest, longest standing and most consistent supporters of USP. Aggregate external aid to USP in 1985 stood at F$4,640,000. In 1990 it increased to F$15,004,000 and in 2000 it dipped down to F$6,370,927. The total aid figures for 2003 and 2004 are F$15,242,654 and F$19,232,650. The commitment of regional governments and their provision of 90 per cent of the university's funding has been vital for the growth of the institution. On average, Fiji provides 75 per cent of this funding, Western Samoa 6 per cent, Solomon Islands 5 per cent, Tonga 4 per cent, Kiribati 3 per cent and Vanuatu 3 per cent, with the remainder being shared by the other six member countries. Australia and New Zealand contribute around F$6 million towards the recurrent budget. National support has extended to member countries' willingness to prioritise USP initiatives in their bilateral aid negotiations. So, for example, the Vanuatu Government utilised Chinese aid to extend the Emalus Campus to house law school facilities and, through its bilateral program to Fiji, the Japanese Government funded the excellent Marine Studies Complex on the foreshore area of the Laucala Campus in Suva. In a similar vein, the Solomon Islands Government used European Union aid to fund the facilities for the Institute of Marine Studies.

Of particular importance to USP has been the consensus amongst donor countries, especially Australia and New Zealand, that the regional institution should be the place where Pacific Island students obtain their tertiary education. For most fields of study at the pre-degree and undergraduate levels, donor countries and Pacific Island states provide scholarship support for students to attend USP. The institution has succeeded in providing quality education at lower costs than in Pacific Rim countries. Its undergraduate degrees are recognised as being of equivalent standard to British, Australasian and other Commonwealth universities. A system of external professorial advisers by discipline is in place to ensure that there is a rigorous monitoring of courses and programs of study to maintain high academic standards. Staff recruitment is amongst the most open in the world1 and the system of promotion is based on the standard academic criteria giving weight to research and publication.

To ensure that education is both accessible and affordable, multi-modal education, especially distance education, is integral to the USP strategy. Donor countries have been fully supportive of recent initiatives in the better provision of services to distance mode students. The USPNet is a major innovation in this regard. Supported jointly by Japan, Australia and New Zealand, USPNet is a satellite-communications network connecting all 12 member-countries of the University of the South Pacific. It provides intranet, voice and video conferencing and electronic data transfer capabilities via satellite linkages to all campuses and centres of the university. The teaching of courses, communication between students and staff, faculty and management meetings, and data sharing over the more than 30 million square kilometres of ocean are facilitated by this network.

There is little doubt about the usefulness of USP in meeting the human resource needs of Pacific Island member countries. The university's graduates and diploma holders are found in many fields in the islands. They fill the ranks of the public service and the professions, serving as educators, accountants, agriculturalists, and, increasingly, as lawyers. Graduates have held important leadership positions, including as prime minister and president in some member countries. USP's alumni are to be found in regional and international organisations and in a range of professions in Australia, New Zealand, Canada and the United States.

Over the last 34 years, USP has met several difficult challenges. These have included: maintaining tight financial controls while at the same time meeting the highest academic standards; the tensions between member countries over resourcing issues and the differential benefits accruing to them, including the location of facilities; the military coups in Fiji and threats to student and staff security; rapid turnover of staff; episodes of conflict between students of different nationalities, including the mid 1990s crisis when Melanesian students were repatriated from the Laucala Campus; the establishment of national institutions of higher learning and universities in member states; the post-1998 conflicts and the 2000 coup in Solomon Islands; and the financial insolvency of Nauru and Solomon Islands. Currently, the university is strategising to meet the ongoing demands for decentralisation and the challenges posed by the impending regime of free trade in educational services.

However, with the commitment of the 12 member countries and the support of donor countries, USP will continue to be successful in meeting its remit of providing suitably qualified people to meet the human resource demands of regional countries and to engage in research in a range of areas pertinent to member countries.

**Conflict resolution and peace building in Bougainville and Solomon Islands**

The focus of this case study is on the utilisation of international aid in support of processes to resolve violent conflict, rather than to support an institution or a government.

It is apparent that mediation and intervention by concerned 'independent third parties', especially Australia and New Zealand, have contributed to ameliorating and even ending conflicts in Bougainville in Papua New Guinea, and Guadalcanal in Solomon Islands. In both situations, besides negotiations leading to peace, there has been direct intervention by a Pacific multi-country force. Funding for the dialogue between representatives of the groups in conflict, as well as peacekeeping and interventionist forces, came from Australia and New Zealand.
Bougainville experienced armed conflict from November 1988 and, over the ensuing 10 years of bloody conflict and naval blockade by Papua New Guinea, an estimated 20,000 deaths occurred in a population of 200,000 (Kabutaulaka 1994; Dinnen 2001). Efforts at bringing the conflict to an end during this time were not successful. The Lincoln Agreement on Peace, Security and Development signed in Christchurch, New Zealand, in January 1998 and the Bougainville Peace Agreement of 2001 have been the outcome of the mediation by Australia and New Zealand. Over the last three years, there has been relative peace on Bougainville, which has provided the environment for rebuilding physical infrastructure and the lives of the people.

Currently, the Australian-led multinational Regional Assistance Mission to Solomon Islands (RAMSI) is consolidating law and order and peace (Field 2003). RAMSI has effectively neutralised the armed gangs affiliated to the Isatabu Freedom Movement and the Malaita Eagle Force, which contributed to the post-1998 debacle in the country. Although a number of church and women's groups worked at building peace, it took armed intervention to put an end to 'war-lordism' and its negative consequences. These included rape and killings, destruction of property, displacement of 20,000 people and the disruption of everyday activities such as gardening, going to school and working.

It is estimated that RAMSI will cost between A$200–300 million in the first year of its operation. It is also maintained that Australia is committed to establishing long-term peace and stability and will be committed to the process for the long haul. Huetter (2003) raises a number of issues relating to the effectiveness of aid in Solomon Islands and more generally in the region as a whole. He maintains that Australian involvement in Solomon Islands will be very costly, but purely economic considerations will need to be weighed against geopolitical issues.

In terms of aid effectiveness in both Bougainville and in Solomon Islands, the crucial immediate objectives of ending the overt armed conflict and putting in place the process of peace building have been achieved. Several dimensions of aid effectiveness, including foreign policy objectives, strategic interests, humanitarian and developmental aid, have been attained. Now ordinary Solomon Islanders, especially on Guadalcanal, can go about their daily lives and rebuild their once vibrant communities.

**Fiji Women's Crisis Centre**

Violence of another kind has been the focus of this case study, which is illustrative of how aid can be effective in the achievement of social goals in the context of gender and in support of a non-government organisation.

The Fiji Women's Crisis Centre (FWCC) began as a small women's refuge in Suva in the early 1980s. At that time, the idea of a shelter for women and children who were victims of domestic violence triggered considerable interest from a handful of expatriate and local women. It began as a voluntary organisation and struggled on a shoestring budget for a number of years, surviving largely through the efforts of a handful of dedicated women. Over the last 15 years, the centre has expanded its role from the provision of shelter and counselling, to advocacy and public education about domestic and sexual violence. It has also begun to undertake research on domestic violence and related matters. The centre has extended its network in Fiji and in the region, with branch centres in Ba and Nadi on Viti Levu and in Labasa in Vanua Levu. Beyond Fiji, FWCC has worked with women from Vanuatu, Solomon Islands, Papua New Guinea and Bougainville. It is a lead organisation in the Pacific Women's Network Against Violence Against Women, producing a region-wide newsletter. Network members also include the Cook Islands, Samoa and Tonga.

AusAID has been the primary funding agency for FWCC, with some support coming from NZAID. Since 1990 there have been three phases of funding as follows:

- **First phase, 1990–1994**: approximately F$500,000 to F$600,000.
- **Second phase, July 1995 to June 1999**: A$1.2 million.
- **Third phase, July 1999 to June 2004**: A$2.2 million.

The third phase of funding is to support all national and regional services. NZAID is currently providing funding of around F$30,000 to F$50,000 each year to the Fiji branches. The FWCC provides services in about nine countries in the Pacific, coordinating the regional network and training and support for country-based organisations. Local or Fiji programs include extensive outreach activities in rural areas and outlying islands to create awareness and to provide counselling services. Practical support and training is provided to other service providers, such as nurses, the police and community groups.

By any measure, the funds allocated to the FWCC have been used most effectively in the provision of refuge for battered women and children; in advocacy for provision of adequate legal protection of women and children; in sensitising the police and the courts about women's issues; in advocacy of women's rights; and in training programs for Fiji and Pacific women and men.

**Citizens Constitutional Forum (Fiji)**

This fourth recipient of overseas aid is also involved in education and advocacy about human rights, but its focus has been on constitutional matters.

The Citizens Constitutional Forum emerged from discussion amongst concerned individuals about Fiji's situation in the post-1987 coup period. Some had been active in the 'Back to Early May Movement', in the immediate aftermath of the 1987 coup. The movement had sought to return Fiji to the 1970 Constitution and to bestow full authority on the governor-general. Its efforts and the possibility of a compromise amongst all political factions in the Deuba Accord were torpedoed by the second coup of...
The coup resulted in the abrogation of Fiji's independence constitution and the declaration of a 'republic' by a coterie of coup conspirators led by Lieutenant Sitiveni Rabuka. A combination of arrogance and ignorance from Fiji's 'strong man' and his advisers provided little scope for dialogue amongst political leaders. Fiji's economy took a nosedive from which it has never fully recovered.

To break the impasse and to open channels of communication, a national consultation on constitutional matters was organised to bring political leaders of all persuasions to dialogue. The idea of promoting such a dialogue came from the late Martin Ennals of International Alert. Since 1993, a small multi-ethnic group of dedicated individuals organised a number of consultations, bringing together international experts and local people to discuss such issues as electoral systems in multi-ethnic societies, power sharing, indigenous rights, human rights, affirmative action policies, a leadership code and the accountability of public office holders.

Consultations and workshops were held in Suva, Nadi, Ba, Labasa and Navua. From being an entity that facilitated dialogue and discussion on constitutional matters, the CCF became an organisation that took up the role of defending the 1997 Constitution following the putsch and the coup of 2000. CCF played a lead role in compiling documents and providing advice to the legal team in the critical Chandrika Prasad case, which contested the military commander's attempt to abrogate the Constitution. For its efforts, CCF was deregistered by the interim government in 2001.

International Alert and, subsequently, Conciliation Resources of London have been CCF's civil society counterpart in Europe. They have provided support in a range of areas, especially in assisting with project proposals, auditing accounts, training staff and searching for international expertise in specific areas of constitution-making. In terms of external funding support between 1999 and 2000, the Methodist Relief and Development Fund (MRDF) in the United Kingdom provided F$78,000 and the New Zealand High Commission F$130,000. The European Union has become the major source of funding of CCF since 2001. CCF's project, Promoting Sustainable Democratisation in Fiji: The Civil Challenge, received 565,091 euro, which constituted 65 per cent of the total project fund. CCF's current project, Support for Democratisation, Good Governance and the Rule of Law, for the period 2003–2006 has received 813,476 euro, which is 80 per cent of the total project funding. Other donors include AusAID (F$50,983 in 2003) and the United States (F$83,040 in 2004). Civil society organisations, including church-based organisations in Europe, have also contributed resources over the years. Besides its defence of constitutionality and the rule of law, CCF has been engaged in educating Fijian citizens about the provisions of the 1997 Constitution through its publications and by running workshops in rural villages and settlements. In terms of its objectives of promoting dialogue about constitution making in post-coup Fiji and subsequently defending the 1997 Constitution and educating the people of Fiji about their constitutional rights and responsibilities, the CCF has been effective. Its participation in the pivotal Chandrika Prasad constitutional case contributed to the confirmation of the ongoing validity of the 1997 Constitution.

CCF is the coordinating NGO for the Fiji Coalition of NGOs on Human Rights comprising 14 leading civil society organisations. It works closely with Fiji's Human Rights Commission. It has played a significant role in seeking dialogue over the issue of agricultural leaseholds and has become a significant watchdog organisation. The aid received from various donor agencies has been used in specific projects and is fully accounted for. In the current period, CCF is coordinating a Pacific Human Rights and Armed Conflict Prevention Network to link civil society organisations in other Pacific Island states to promote human rights and to pre-empt armed conflict.

**Factors that have contributed to effectiveness**

**Felt need**

In the four rather different case studies, development assistance has been provided in the context of a critically felt need. USP's establishment took place at a time when there was an increased demand for more highly educated Pacific Islanders to fill the 'localisation' programs in the decolonising island states' public service and professions such as teaching. Conflict resolution and peace building efforts had been needed in Bougainville and Solomon Islands from the outset, but the approaches of the parties concerned were not amenable to easy resolution. However, once all significant parties to the conflict recognised that the fighting had to stop and as communities agitated for an end to hostilities, the mediation and intervention of outsiders became more effective. Both the Fiji Women's Crisis Centre and the Citizens Constitutional Forum responded to specific needs in Fiji society for the protection of women and children against violence and for a constitutional settlement broadly acceptable to all communities. Like USP, they have subsequently responded to changing circumstances, justifying continued support from donor agencies.

**Leadership and commitment**

The case studies also reveal that groups of individuals dedicated to an idea or a cause can make a huge difference. This is especially pertinent to the development of USP and the survival of FWCC and CCF. USP was known as the 'university in the hanger' and was perceived as having almost insurmountable challenges, but
the dedicated leadership of its vice-chancellors, supported by the university council and bilateral donors, contributed to its success. Critical to this success was the capacity of the university administration and staff to intertwine the objective of maintaining international academic standards with the demands of the 12 member states for context-specific education.

In both the FWCC and CCF cases, good leadership with a strong commitment to the respective NGO goals has been vital. Continuity in leadership and the efforts to recruit persons of ability into the organisations have led to strengthening their capacity to actively pursue their work plans and campaigns.

The longer term success of the peace building efforts in Bougainville and Solomon Islands will depend on local people's commitments to peace. The building of local capacity in terms of leadership and values pertaining to nationhood will be pivotal.

**Capacity**

The human resource dimension is crucial to the achievement of organisational goals and to make aid effective. The organisations in these case studies have been led by well-educated and informed people with a range of useful skills. The organisational leaders continue to be exposed to ideas emanating from the wider local community, but also have exposure to innovative ideas from abroad. They have international networks. They have been able to communicate their ideas and mobilise very committed and capable people around these ideas. They have the capacity to write project proposals, including the detailed financial requirements, keep the accounts and make financial reports that can be fully audited. They have the ability to engage in deliberation to set priorities for their organisations and to rationally allocate resources.

**Negotiating skills**

The leadership of the three case study organisations are not only well educated, but are able to confidently articulate their ideas and how they would go about achieving particular outcomes in discussions with government and donor agency representatives. They have the ability to make a case for what it is that they want done. They have the communication skills to convince potential donors with respect to their project proposals. They have the capacity to make their case to the donors. Because of their standing in their own communities (based on proven track records) and the high regard that donors have of them, the relationship is one of mutual respect and even equality.

**Partnership**

The notion of partnership basically moves the unequal relationship between the 'giver' and the 'taker' towards one of relative equality between them in meeting a common challenge together. In this relationship there is openness and sometimes even tensions between equals because of the honest sharing between representatives. The top-down or bottom-up approach is transformed into a horizontal relationship between near equals. Participation is central to the partnership. There is no question of 'ownership' in this context, as each of the three case study organisations prepare their own program of activities before finding a donor. Aid, in this sense maybe tied to a broad area, such as tertiary education, gender relations or human rights, but the actual project or program is arrived at by the local organisation.

Partnership of the organisations also occurs with local communities. For USP, there is ongoing engagement with government officers (ministries of education and public services), secondary schools and tertiary institutions, local communities and parents on student recruitment, scholarships, assessments and completions. The FWCC has a significant network of contacts and supporters in the wider community, which extends well beyond the 'clients' that are assisted. They include senior police and military officers, members of the judiciary, rural women's groups and other NGOs, as well as the media. Similarly, the CCF has local partners in other NGOs, religious leaders, village chiefs and politicians.

**Donor support**

It is evident that donors themselves have their own agenda and inclinations. Certain issues gain support more quickly than others. Thus, gender has become (and rightly so) an issue that has drawn donor interest. A cost-saving regional institution of higher learning in the late 1960s brought together regional governments and donor agencies in a common endeavour. The efforts of FWCC to provide a women's shelter and counselling facility drew donor interest. Its subsequent campaign against violence against women and its various training programs have maintained donor support. CCF's bid to promote dialogue in the context of a gulf amongst political leaders generated the initial interest among its supporting donor agencies. Its subsequent advocacy of the rule of law, constitutionality and human rights, together with public education on the provisions of the constitution have sustained such support.

**Relationships**

For aid to be effective it has to be based on long-term relationships between the recipient entity and the donor agency. In the case studies, USP stands out as having a relationship of more than a generation with its main bilateral partners, Australia and New Zealand. This relationship has not always been smooth, but it has been predictable and sustained over time. Periodic reviews have ensured that areas of weakness and concern do get aired and dealt with. FWCC's relationship with AusAID is now more than a decade old and has gone from strength to strength. There have been ups and downs over the years, but the relationship has been reinforced by an extension of mutual trust. CCF has had a shorter life than the other two organisations, but it appears to be well on the road to a sustained relationship with the EU.
Conclusion
The question of aid effectiveness is complex. It requires a multi-dimensional assessment that accounts for the agendas of donor countries and agencies, as well as the agenda of the recipient country or organisation. Arguments about the failure of aid tend to be narrowly economistic and one-dimensional. However, it has been argued that aid in the South Pacific context has been designed to meet geopolitical ends, rather than to promote economic development per se. In any case, economic development is a complex process in which aid is an extremely minute component.

Not all aid has failed in the Pacific. The four case studies have shown that both from the donor and recipient points of view, aid has been effective in achieving the goals for which funding support was received. It could be said that none of the case studies is about government-to-government funding. As such, they make a case for the use of more aid for inter-government agencies and non-government organisations.

Notes
1. I am a founding member and former Chair of the CCF Secretariat, with continuing links with the organisation. I have had the privilege to be an adviser on research to the FWCC.
2. International Financial Institutions (IFis) have both a powerful invasive role where a country has fallen into the debt trap, as well as a missionary role in determining macroeconomic policies.
3. A recent OECD news release (14 May 2004) stated that aid volume has risen by a total of 11 per cent in the last two years, after a decade of decline, see <http://www.oecd.org/document/51/0,2340,en2649>.  
4. A new chemistry laboratory building and the commercial centre on Laucala Campus were financed by loans from a private bank.
5. French aid has been crucial to the thriving journalism program.
6. These figures were provided by Timoci Ravarava of the Planning Office of USP.
7. The former Sunderland 'flying boat' hanger is an impressive building and was known as the largest structure of its kind in the southern hemisphere until the late 1970s.
8. The symposium on the Internationalisation of Education in Asia Pacific, Melbourne 1997, was informed by a team of independent assessors who examined academic staff recruitment in the universities in the region and found that USP came second to the University of Singapore in its system of open recruitment. Australia, Canada, New Zealand and United States had national immigration policies that inhibited open recruitment.
9. The financial and environmental consequences of the Bougainville Copper (BCL) Panguna mine, a subsidiary of the Anglo-Australian company Rio Tinto and the largest open-cut mine in the southern hemisphere, were significant causal factors in the conflict. Ironically, Australian military aid to Papua New Guinea, which included helicopters and patrol boats, were used in the conflict.
10. I am grateful to Edwina Kotoisuva and Shamima Ali of the Fiji Women's Crisis Centre for sharing this information with me.
11. Fiji's membership of the Commonwealth 'lapsed' as a result of these actions.
12. CCF was deregistered for being 'mislabeled' registered under the narrow provisions of an obsolete 1940s Charities Trust legislation, amended in the mid 1960s. It is now a legally registered company.
13. MRDF aid was to support the appointment of CCF's first full-time Executive Director, Reverend Akuila Yabaki.
14. Jone Dakuvula, CCF's Director of Research kindly provided these figures of external aid to CCF.

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Market mechanisms in development assistance

Pierre Huetter

Introduction
Mark McGillivray and Simon Feeny (2004) contributed a
thought-provoking paper to the recent Development Studies
Network conference, International Perspectives on Improving
Aid Effectiveness, June 2004, at the National Museum in
Canberra. In context, McGillivray and Feeny were discussing
the issue of aid effectiveness (from a broad macroeconomic
perspective). As most readers will know, much research is done
on the link between aid and growth. Current thinking suggests
that aid promotes growth, which in turn alleviates poverty
(McGillivray and Feeny 2004). There is also evidence to suggest
that aid that goes to good governments promotes more growth
than does aid that goes to bad governments.

One of the dilemmas in this debate is what to do when a
recipient government is so bad that aid does very little. Recipients
in these countries are obviously the ones most in need of aid,
yet most aid that goes to these countries is likely to be wasted.
McGillivray and Feeny suggest one way out of this bind is to
give the money to organisations other than the recipient
government. Donors would do this in the hope that these
alternative institutions might use the aid more effectively, to
the benefit of the recipient population. McGillivray and Feeny
refer to these alternative bodies as independent service authorities
(ISAs).

This is a sensible point and is commonly practised in
development. If the recipient government is in terrible shape, money can and has been funnelled to NGOs to do similar work.
This approach has a range of benefits and problems, like all
approaches. The question which came to mind when reading
this, however, is why should donor money always go to
organisations — government, NGO or ISA? Why can’t aid
money go to directly to individuals in recipient countries? This
prompts a further question. Why has aid remained largely a
state–state activity? In a world where the pivotal role of the
private sector in development is accepted, where economic
freedom is a large measure of absolute freedom and successful
development is generally built on markets and trade, why is so
little economic freedom allowed into the processes which
determine allocations of aid?

Natural limits to bureaucracies
Before I try and answer these questions, I would like to make a
second observation. Flicking through some of the abstracts for
the same conference and other related literature, I am
consistently struck by the bureaucratic nature of all efforts to
assess aid effectiveness. Aid effectiveness seems to be all about
donor bureaucracies and their contractors, trying to find the
magic ingredients for effective government, economic growth
and therefore poverty alleviation, etc.

In developed countries we rely on market mechanisms to
deliver goods and services to the population as much as possible.
This is especially so when innovation or flexibility is sought.
Only when market mechanisms fail or threaten to fail do
governments tend to intervene. In development assistance, we
tend to do the reverse. We seem to ignore the power of market
mechanisms and rely heavily on bureaucratic power in the hope
that good bureaucratic structures will prompt markets and
development.

This would probably be fine if donor bureaucracies delivered
development, or, more specifically, if donor bureaucracies
understood the intricacies of a recipient culture and economy
and were able to nurture them. But they cannot. Only recipients
understand their needs and have strong incentives to improve
their own economic and social situation. Former Eastern Bloc
planners faced this very dilemma. They sought to deliver
development by bureaucratic means. Plans, consultations and
targets were their tools. I’m sure their intentions were good but
ultimately they failed — economically and socially — because,
among other things, they could not easily accommodate free
will in all its forms.

Of course, in liberal democracies governments typically
aspire only to provide a framework within which all individuals
could contribute to development through pursuing their own
ends. Markets tend to dominate and governments aspire only
to guide or influence naturally occurring markets. In
contemporary Australian political parlance, governments are
now ‘steerers’ rather than ‘rowers’.

So why do donors largely eschew market mechanisms in
the delivery of their aid? Some pundits, such as AID/WATCH,
will quickly point out that the market mechanisms are employed
in aid delivery. AusAID, for example, contracts out much of its
aid delivery. This is true. AusAID puts its service provision out
to market. But this is a market individual aid recipients are
excluded from. ISAs contract with AusAID and account to it.
All allocation decisions are made by the donor. Individual
recipients cannot influence aid allocation decisions on an open
market. Regardless of good intentions, aid provided in this way is can only be indirectly linked to the needs and desires of individual recipients.

I am not sure why market mechanisms are not utilised more often in aid delivery. If I were to speculate, I would guess that donors are apprehensive about 'freeing' aid because it removes or diminishes donor's control of that aid. Direct accountability to donors would be diminished. Being accountable to taxpayers for billions of dollars is an understandable concern of donors. But if the lack of direct accountability to recipients undermines aid effectiveness, the taxpayers will be losers anyway (not to mention the intended beneficiaries, the recipients).

One final point on bureaucratic control of aid allocations. As with trade protection, interventions in the aid economy create certain perverse incentives. Keeping all allocation decisions in the hands of bureaucracies creates a range of rent-seekers. Just as unfree trade creates a set of winners and losers in Australia and overseas on grounds often unrelated to the utility of what they produce, so too 'unfree' aid based solely on bureaucratic decisions creates a set of winners and losers on grounds often unrelated to the utility of what they produce or service they provide.

As with 'frecr trade', introducing 'freer' aid through market mechanisms would allow the success or failure of goods and service providers to be based more on what they deliver, rather than how well they lobby or court the bureaucracy that pays them. And I would guess that just as freer trade contributes to economic growth (Winters, McCulloch and McKay 2004), freer aid may do the same.

Individual aid recipients and market mechanisms

Imagine if aid for a certain sector in a recipient country was distributed as an aid voucher to those in most need. ISAs interested in receiving aid money would have to attract and service a range of individual aid recipients to make money.

This would contrast to the current situation where ISAs would talk to donors for aid money, and account to them afterwards. I think this would be a fundamental shift in aid delivery. Through a voucher system which employed market mechanisms, individuals recipients could be included in aid allocation decisions in a direct way, not an indirect way - a subtle though important distinction. Further, the ever-present accountability challenge in modern development assistance could be partly addressed by the use of market mechanisms in aid. As alluded to above, when a donor bureaucracy provides money to another bureaucracy, some form of committee must conduct information between the two. Hence the prevalence of the word 'consultation' in development assistance.

Clearly, the bureaucracy holding the dollars has an advantage in terms of power. The donor also has a primary obligation to its taxpayers to account for that money. Thus all direct accountability for donor aid provided to a recipient is back to the donor. All accountability to recipients is therefore through some form of committee and is only ever going to be indirect. This indirect accountability challenge - what I might call the accountability gap - is the challenge which occupies the minds of so many practitioners. How do you make aid accountable to recipients when really it is implicitly accountable directly to donors?

Market mechanisms in aid delivery could have a role to play here. By giving aid directly to individual recipients and allowing them to determine aid allocations through a market mechanism, donors would be making aid at least partly accountable to the recipients in a direct way. This is in contrast to the current situation where accountability to recipients is at best indirect and at worst token.

Similarity to microfinance

Without being an expert in microfinance, I would cite one key similarity between microfinance and what I am proposing. Both microfinance and market-based aid (vouchers), distribute aid through market mechanisms. Once the aid is received - as finance or aid voucher respectively - recipients make the decisions on how to spend the aid. There is a degree of real choice or freedom that is absent from other forms of development assistance.

The flow-on from this similarity is accountability. With microfinance, recipients are accountable to their customers or clients initially and their microfinance institution ultimately. With a voucher system, service providers are accountable to recipients through a market. Those ISAs that provide poor service will be overlooked by voucher recipients. ISAs that provide quality or affordable services will be rewarded with more custom.

Microfinance works at least partly because it is inherently economically liberal, in that it allows microfinance recipients to pursue ends they perceive to be worthy and/or fruitful. This, after all, is the basis of all development in liberal democracies. People pursue their own ends according to mediated rules and in so doing contribute to the greater good.

The importance of choice and freedom in development

The point about the importance of liberalism in microfinance and the voucher system I have raised is both practically and theoretically appealing. There is some evidence in the development literature that supports the thesis that economic liberalism supports economic growth (Mbaku 2003; Cole 2003; Vega-Gordillo and Alvarez-Arce 2003). Similarly, there is
evidence that democracy supports economic growth (Griswold 2004 and see UNDP 2002:56). Again, these things have not implicitly been integrated into the delivery mechanisms of aid. Lip-service has always and will always be paid to these notions. But, structurally, aid remains reasonably authoritarian in its nature by virtue of the fact that it excludes free choice for individual recipients.

The former Eastern Bloc failed economically and socially partly because it could not accommodate the human need for individual liberties. All economic activity was centralised. And centralised economic power inevitably leads to centralised political power. The two are not easily separated. A similar claim could be made about development assistance. Its control has been largely maintained by donors. Accordingly it has been implicitly illiberal, leaving little real room for the individual needs and desires of those whom the aid is intended to help.

Amartya Sen (1999) made these points succinctly in his book Development as Freedom. He sees development not in terms of GDP growth or health indicators, but in terms of how much an individual's choices are enhanced. He also argues strongly that economic freedom is one of the most basic of freedoms:

The freedom to enter markets can itself be a significant contribution to development, quite aside from whatever the market mechanism may or may not do to promote economic growth or industrialisation... The contribution of the market mechanism to economic growth is, of course, important, but this comes only after the direct significance of the freedom to interchange - words, goods, gifts - has been acknowledged (Sen 1999:7).

Again, this basic freedom is broadly denied to those who receive aid. Accordingly, to enhance the economic and social choices of individual aid recipients, I believe donors should incorporate market mechanisms in their development assistance programs.

What role for donors?
Former World Bank economist William Easterly (2002) appears to have pioneered this notion in his Cartel of Good Intentions. From the title you might guess that he is metaphorically implying that donors inadvertently form a well-intentioned group who have some negative effect. In fact, Easterly argues that donors literally behave as cartels do - colluding on prices, avoiding competition, delivering unobservable outputs and so on. The study includes a review of bureaucracy theory and concludes that 'bureaucracies dispense foreign aid under conditions in which bureaucracy does not work well' (Easterly 2002:1).

Easterly argues the tragedy of development assistance is that 'bureaucracy captured foreign aid' in an environment in which bureaucracies do not work well (Easterly 2002:7).

Sector-wide approaches (SWAps) to development assistance are a measure intended to avoid some of the traditional problems associated with aid, such as administrative burdens on recipients, overlap, petty donor rivalries and conflicting development priorities. Through having donors sit down and coordinate which areas they will provide assistance to, it is hoped these traditional problems could be avoided and recipient governments could be put in the driver's seat.

'Coordination' is a key word in that approach. But, again, bureaucracies sit down and decide by bureaucratic means who should assist who. The intended recipients of the assistance can, at best, hope their own government can put the aid it receives from these different donors to good use. As usual, all accountability is bureaucratic and back to those who provide the assistance - the donors. Again, individual recipients have no direct influence on how the aid is allocated.

If, however, a SWAp involved several donors pooling funds for a sector in a country and distributing those funds to individuals as, for example, a health service entitlement (a voucher), the result could be dramatically different. If service providers had to earn their income by attracting individual aid recipients in a well-managed market, many of aid's current problems could be better addressed. Some of the advantages of a well-managed market-based aid allocation system could include:

- allocations could be more efficiently distributed since good providers would be rewarded and bad ones punished, as judged by a range of individual recipients;
- administrative burdens would be borne by donors and service providers, rather than recipient government institutions with limited capacity;
- overlap between donors could be minimised through donors pooling their assistance for a particular sector and leaving the specific decisions on service providers and choice of services to individual recipients;
- donors would be more restrained in their ability to influence allocations once granted to individuals, while still being able to 'badge' the assistance they are providing; and
- more efficacious economic behaviour would be encouraged within the 'aid economy' through the promotion of a service ethos rather than a 'cargo' ethos.

Conclusion: The challenges
Of course, contributing to another country's development through development assistance will never be easy or assured. We can only ever hope to provide catalysts which nurture in a small way the existing pro-development inclinations in developing countries. 'Freeing' aid from the bureaucratic constraints could be an important step towards improving aid effectiveness.
Easterly argues that aid has basically remained fundamentally unchanged over the last 50 years; only some of the nomenclature has changed (Easterly 2002:7). Using market mechanisms where possible would be a substantial break from traditional aid. The potential benefits are substantial and warrant consideration. Just as Australia has boldly changed its whole approach to Pacific development assistance, I believe utilising market mechanisms in the provision of aid could prove to be a bold step towards improving its effectiveness.

Notes
1. I am referring to development assistance, rather than relief aid delivered as a result of some natural disaster or conflict.
2. Ravi Kanbur (2003) suggests that the main aim of aid through the Cold War period was essentially geo-strategic and aimed at keeping developing countries from going over to ‘the other side’. Perhaps these old imperatives linger in current aid structures.
3. I found two versions of the paper: the full research paper (Griswold 2002) from the Center for Global Development and a shorter version published in *Foreign Policy* magazine, July/August 2002.
4. Kanbur, Sandler and Morrison (1999) developed the idea of pooling development funds. What I am proposing builds on this idea by suggesting that funding be distributed using market mechanisms.

References

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Negotiating competing claims and managing security in multi-ethnic states: Federalism as a way forward

Edward Vrkic*

Introduction

There is a tendency in both developed and developing societies to ignore the existence of various ethnic groups and their contribution to 'national' (more often state) identity and economic development. Such denials have fostered a mutual disdain of the 'official' national identity on the part of non-dominant ethnic groups and led to a heightened sense of ethnic consciousness where there is a failure to address claims and grievances. Members of an ethnic group may opt to sever bonds with their community and assimilate into the wider society, seeking protection under laws guaranteeing non-discrimination, equality and individual rights. However, if discrimination is sufficiently entrenched against an ethnic group, individual members may have no choice but to defend their interests as part of their ethnic community.

The post-Cold War era has seen a growing recognition of the relationship between security and development. This has been accompanied by an evolving definition of security that seeks to place humans at the centre of security paradigms, while concurrently acknowledging non-traditional phenomena as a source of threat. The heterogenous, multi-ethnic character of many of the world's states, viewed against the growing prominence of intrastate conflict in which ethnicity is a salient factor, demands that policy makers search for flexible and innovative solutions to manage the competing claims for separate identity, access to resources and political representation evident in many of the world's states. Failure to manage these claims poses serious threats for security in many of the world's states where ethnicity and the competing claims made by ethnic groups central to intrastate conflict. One way forward is federalism. The mechanisms, institutions and structures that characterise federal systems allow for a greater degree of self-government and provide constitutional guarantees to protect the autonomy of groups within the federation.

Principal security referent: The state or the people?

Concepts such as security and threat have undergone considerable redefinition in the post-Cold War era. Once considered purely in terms of access to or protection from the exercise of power, and, more specifically, military force, concepts such as threat and security have evolved into more inclusive definitions, identifying non-state, trans-territorial, and, ultimately, non-traditional actors as deserving of security or constituting threat. With this redefinition has come a growing realisation of the need to address security concerns. Traditionally, security paradigms identify the state as the primary referent or focus of security analysis, however, a failure to place people at the centre of security concerns forces us to view threat in unrealistically narrow terms. Such an approach does not account for the very real threats to security and to development efforts posed by phenomena such as intrastate conflict. This becomes all the more complicated when a state poses a definite threat to people within its own borders. By neglecting competing claims, the executive and legislative arms of government can pursue policies for national
Where grievances are not addressed and security is an ongoing concern, disenfranchised groups will seek redress through campaigns of resistance. Such resistance can take varying forms. In the case of South Africa, this resistance was evolutionary, beginning with peaceful demonstrations led by the African National Congress (ANC). As successive National Party governments pursued apartheid more vigorously, the resistance took the form of armed struggle led by a number of different and at times competing groups, the most famous of these being the ANC's military wing, Umkhonto we Sizwe. Such resistance raises doubts over a government's legitimacy. As these questions grow, so too does the potential for conflict, internal displacement and repressive state policies. In the most severe cases, this culminates in the failure of states and the possible destabilisation of neighbouring countries and entire regions.

Ethnicity: A complicating factor
The dimensions of ethnic consciousness are not easily reconciled by dominant political paradigms that place individual rights above the common good. The discourse of individualism, on which international law and international state practice are founded, discourages granting group rights, particularly where collective associations are not entered into through the rational exercise of an individual's free will. The dominant Western political discourse allows little room to question the possibility or the right of the individual to exist outside or independent of their ethnic identity. Ethnic identity is often, however, a principal cause of discrimination, oppression and even genocide.

Amongst the greatest concerns of many states is not how they balance the power of other competing states in the international system, but how they manage competing claims within their own territorial borders. Efforts to accommodate the competing claims of ethnic groups are often perceived as the surest way of accelerating the fragmentation of distinctly multi-ethnic states. Such fears are particularly acute in newly formed and developing states, where central authority and legitimacy is weak. While ethnic identity is often fluid, it fosters a sense of collective self-consciousness not necessarily found in other associations. This consciousness is particularly salient when a group experiences oppression or persecution. Clashes over ethnic identity and the preservation of these identities are inevitable where one group seeks to impose its values, identity or interests on another. These clashes may become particularly acute when the state or its mainstream population actively pursues policies discriminating against its ethnic minorities. For example, in Sri Lanka from the 1960s through to the mid-1980s, successive governments actively pursued a pro-Sinhalese platform that restricted education and employment opportunities for the country's Tamil population.1

Failing to manage the competing claims of ethnic groups can have disastrous consequences for security and state functionality. Where grievances are not addressed and security is an ongoing concern, disenfranchised groups will seek redress through campaigns of resistance. Such resistance will take varying forms. In the case of South Africa, this resistance was evolutionary, beginning with peaceful demonstrations led by the African National Congress (ANC). As successive National Party governments pursued apartheid more vigorously, the resistance took the form of armed

The obsolescence of the state?
Institutions such as the state gain their legitimacy by fulfilling the safety, identity and welfare needs of their people. The successful provision of these functions is intimately tied to ensuring security. In both developed and developing nations, however, states are often unable to adequately fulfill these functions. If we accept that security is ultimately about people, then the failure to provide these functions poses serious questions of whether the state should still be considered a valid form of political organisation. The relevance of the state as an institution has and continues to be questioned. While the failure of states raises cause for further speculation, does it raise the need to search for alternatives?

The rise of intrastate conflict does not signal the obsolescence of the state as the basis of political community. Conflicts evolving from competing claims are symptomatic of weak states, but not of states per se. While oppressed ethnic groups may seek secession from one particular state, the goal of many secessionist movements is not to move away from the state as the basis of political organisation, but rather to create states where the fit between ethnic character and state identity is closer. Often missed by political elites seeking secession, is whether self-determination may be better expressed through greater self-government. While the nineteenth century ideal of 'one nation, one people' has fuelled the aspirations of many, few can avoid questions of sovereignty's sustainability in situations where groups seeking secession must build state apparatus in the face of persistent and endemic poverty. The question is not whether the state is obsolete, but rather how to maintain the benefits of statehood, ensure security and accommodate the competing claims of ethnic groups in a sustainable manner.

Federalism as a way forward
Federalism offers a set of legislative, executive and judicial mechanisms that allow for the successful management of competing claims, while maintaining the benefits of voluntary association. Federal arrangements offer a practical way of managing diversity while maintaining unity.2 The source of executive and legislative authority of each level of government is enshrined in a written constitution and not derived from another government in the federation. This creates spheres of political and economic autonomy. Respective governments within the federation can enact...
lacks and raise revenue. Regional governments are able to deal directly with their citizenry and to exercise jurisdiction in relative freedom under both constitutional provisions and the use of residual powers. Changes to a federation's constitution often require general consensus, which prevents unilateral efforts to amend constitutional provisions.

Fundamental to all federations is a mechanism entrusted with the responsibility of arbitrating in disputes arising among a federation's governments or between its different levels of government and their citizens. While varying across federal models, such responsibilities are usually entrusted to its judicial system. The majority of federations continue to be remarkably effective, in part because of federalism's systemic flexibility and tolerance of difference. Many of the longest standing constitutional systems in the world are multi-ethnic federations operating basically under their original constitutions.

The success of federal models in managing competing ethnic claims has, however, been mixed. Despite the success of multi-ethnic federations such as Canada, Switzerland, India, Malaysia, Spain and Belgium, federations can and do fail. This has been particularly evident in the post-World War II era, during which the disintegration of federations has occurred in varying contexts and political climates.

The expression of ethnic difference can prove an ongoing source of tension. Differences in language, culture, and religion can be difficult to accommodate. An individual's self identity is often traversed by ethnic, social, political or other influences. Efforts to entrench ethnic diversity in federal arrangements have often politicised ethnic identity and seen historical narrative manipulated for political ends. Efforts by the communist regime of the former Yugoslavia to organise the country using narod, or nationality, as a way of accommodating nationalist demands allowed both reformers and conservatives to mobilise ethnic sentiment. While the 1974 constitution provided for substantial regional autonomy, it also allowed ethnic identity a political currency. Ethnic identity became a convenient justification to abuse human rights and actively pursue policies of ethnic cleansing by both liberals and conservatives.

Federations are adopted not to eliminate conflict but to manage it. Where wealth, political representation or population have been asymmetrically or unevenly distributed throughout the federation, tensions will be exacerbated. This has been typical of a number of failed federations, as the case of Nigeria suggests. The dangers posed by asymmetrical arrangements are heightened when federal-level political parties disengage with the sphere of federal politics and federal issues. With no federal-level parties serving to address inter-regional issues or concerns, such enduring asymmetry can be symptomatic of inter-communal tensions and lead to pressures for secession from the federation, as was evident in Pakistan prior to its split in 1971.

In situations where provincial and ethnic boundaries correspond, the phenomenon of nationalism is rarely removed from the arena of federal politics. Such nationalism can and does encourage the pursuit of grievances that in one form or another have the potential to mobilise individuals behind perceived ethnic injustices. Federal models provide institutional capacity and political levers that make group mobilisation more likely. While often put in place as a means of accommodation and cooption, federal institutions can quickly be turned to new agendas when political structures are coopted by national elites or constitutional guarantees are circumvented.

**Prerequisites for effective federal solutions**

The experience of multi-ethnic federations suggests that there exist a number of prerequisites for the successful application of federalism to manage competing claims, and, ultimately, provide security in distinctly multi-ethnic states. Federal models need to provide structures that will facilitate flexibility, intergovernmental cooperation and a mechanism to adjudicate on disputes between federal and state governments and between these governments and their citizens. Such structures will need to ensure devolution of power and equitable access to resources and opportunities.

A political culture must exist that supports the value of diversity and tolerance. The rule of law and a constitution seen as supreme and protected from unilateral amendment is of paramount importance. Federal models must recognise and accommodate multiple identities and loyalties within an overarching sense of shared purpose and the maintenance of an individual rights regime. Attempts to neglect, deny or suppress the expression of multiple identities within a diverse society have almost invariably led to contention, strain and conflict. As an option in accommodating the claims of ethnic communities for greater political autonomy and the preservation of their ethnic identity through self-government, the failure to create the sociopolitical space for the expression of these identities will invariably lead to continuing conflict amongst ethnic communities. In any federation where the body politic is diverse and there exists the possibility of multiple loyalties being expressed by its members, it is important that the constituent units of government allow for genuine self-rule and for the expression of distinct and often competing claims and identities.

Finally, fostering a culture of democracy and encouraging democratic participation is important. Using a federal solution to manage the competing claims of ethnic groups is unlikely to succeed if citizens themselves are not involved in developing, influencing or adopting a federal option. Federal models of political organisation provide for majority rule within different constituent units and encourage participation. The consent of distinct communities in federal decision-making is fundamental to the system's success.
is no coincidence that the federations that have successfully managed the tensions and conflicts caused by competing ethnic identities and claims are amongst the world's oldest modern democracies.

Conclusion
The growing prominence of ethnicity as a factor in conflicts around the world demands that policy makers search for flexible and innovative solutions. Ethnic conflicts, like other conflicts, involve disputes over access to power, resources and opportunities. Such disputes alone, however, are unable to explain the intensity and inhumanity that have become synonymous with what we now refer to as 'ethnic' conflicts. In some instances, ethnic communities have been able to peacefully coexist and even flourish. This has been particularly evident where states have accommodated demands for greater cultural and even political autonomy. This has, however, not always been the case, with a great number of ethnic communities still experiencing discrimination, repression and persecution.

Federalism is not a panacea for the issues and problems raised by the demands of ethnic communities for greater accommodation and protection and may serve to further exacerbate tensions between ethnic groups. However, federal models present a set of mechanisms, institutions and structures that allow for the better management of ethnic conflicts, and, ultimately, group security. As a system of political organisation, federalism offers the political space for a greater degree of self-government, and endeavours to protect the autonomy of groups within the federation through constitutional guarantees. The devolution of legislative and executive power among these groups allows for access to greater degrees of self-government and ultimately greater self-determination over the evolution of communities. However, perhaps more importantly, federalism fosters the conceptual space that allows for the possibility of unity to exist through diversity. As a starting point, it is this conceptual space that offers a way forward in allowing for the successful negotiation of competing claims and maintenance of security in multi-ethnic states.

Notes
* The views expressed in this article are those of the author and not necessarily those of the Australian Agency for International Development.
2. I am using regional units as a blanket term to describe those units that exist within a federal system. These regional units may include, but are not necessarily limited to, states, provinces, cantons, capital territories, federated autonomies, regions or administered autonomies. It should be noted that different states will label different regional units in different ways to reflect the relationship of units to each other within the federal political structure.
Rural women and informal credit: Experience from Calais and Julesburg, South Africa

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Introduction

About 80 per cent of women live in rural areas in Africa, where they constitute almost 64 per cent of farmers and provide almost 70 per cent of labour. The work of women farmers, then, is essential for food security. The majority are unpaid family workers, working at least 14 hours a day and spending at least 50 per cent of their time on agricultural activities and 25 per cent on domestic activities. Women's access to credit, subsidies and improved inputs is limited. They are also unlikely to be recipients of government grants and are rarely reached by most extension services. The lack of access to credit by women must be seen in the light of serious obstacles to agricultural and rural development related activities in most rural areas, where small and medium disadvantaged women farmers have limited land holdings and possibilities (Friedman and McIntosh 1989). Women in rural areas are often poor, denied access to capital, uneducated and unskilled, and bear the most family responsibilities. Yet, rural women produce almost half of food consumed and sold in most rural areas of Africa (Hunger Project 1999).

Informal credit is vital in the process of job creation in rural areas of South Africa (Thomas 1992). A mixture of informal finance and deposit arrangements has increasingly attracted rural and urban women who combine agricultural and non-agricultural activities with urban occupations (Adams 1992). Experience has shown that conventional banks are reluctant to provide loans to individual women or groups of women without proof of collateral. Any small loans the banks are prepared to provide will by virtue of their small size be expensive to appraise, administer and supervise (Mosley and Dahal 1985). However, most lending banks have recently been reassessing their attitudes toward the role of women in development (Cook and Kirkpatrick 1988). This paper's focus on rural women's involvement in self-help finance is the result of research undertaken in many parts of Limpompo Province, South Africa, into the more successful informal credit strategies. The marginality and limited range of activities undertaken by most rural women needs to be understood in the context of land shortage, the relatively developed nature of the South African economy and the difficulties in competing with other commodities produced (McIntosh and Friedman 1989). This paper examines the impact of informal credit and saving associations on rural women's households in Limpompo Province. The main purpose of the paper is to document the nature, advantages and disadvantages of various forms of informal credit used by rural women's households in rural and semi-rural areas of Limpompo Province.

Types of informal credit

Historically, disadvantaged people in South Africa rarely had proof of collateral. Until recently, they were excluded from legally owning the most common and acceptable forms of fixed collateral, such as buildings and land. It has been estimated that these people receive less than 2 per cent of the total credit from the formal financial sector in South
Africa (Van de Berg 1993). As a result, informal credit has become a common practice in many rural and semi-rural areas of South Africa, and it often involves the payment of interest. There are a variety of well-articulated informal credit associations that operate in the area studied:

(i) Rotating saving: Credit associations comprising a small number of people (mostly women) in a group aiming to save money for future use. This practice is common in many parts of Africa and Asia. Mills (1993) estimates that there were more than 24,000 saving associations in major rural and urban areas of South Africa, with an estimated monthly buying power of R80.

(ii) Instalment buying: An easy way to acquire goods sold from house-to-house by itinerant peddlers and products sold in shops. The amount to be contributed monthly by the members is often agreed upon before joining the association (Thomas 1991).

(iii) Fixed fund: Accumulated sums of money are distributed every six to 12 months amongst the participants in the scheme. The money is often saved in the association bank account and the interest is distributed equally among the members in December of each year to coincide with end-of-year festivities.

(iv) Lending club: Includes local credit arrangements. The researcher was particularly interested in learning the ways in which it operates and the approaches used in lending money at interest to the members on the one hand, and the management and the contributions made by the participants on the other.

Membership of the associations
All associations were different in various aspects, from the composition of their members to their contributions, income and age. It became evident from the survey that limitations on membership were primarily intended to keep the associations manageable. Rotating savings schemes were predominantly used by married women and instalment buying was undertaken by single and married women, while the membership of fixed funds tended to consist of married men. Wilsworth (1979) argues that informal saving and credit associations are established for the purpose of poverty alleviation and job creation for disadvantaged rural women. The management of these associations included three responsible members, namely, a chairperson, a secretary and a treasurer elected for a period of one year. Lukhele (1990) states that the non-permanent nature of informal saving and credit associations must allow for flexibility and adaptability to changing economic and social conditions of the beneficiaries.

Operations and administration of the associations
Operations of all the associations were based on formal constitutions drawn up by the members and supported by codes of conduct. Rules were set, discussed and implemented in open forums after they were agreed upon by all the participants. One of the most important rules was for regular attendance at meetings where important decisions, as well as the collection of monthly contributions, were made. Participants of the various associations met on different dates and times as approved by the management. This enabled them to discuss loan issues before the grants were approved for each member. During the end-of-month meetings, the treasurers collected members’ contributions. This helped the management team to monitor progress made during that particular month (World Bank 1989).

Research methodology
This study is the result of a process of visiting and interviewing groups of women involved in informal credit associations. Respondents were first interviewed individually and subsequently in a group. This was mainly to see if their answers differed according to whether they answered individually or as part of a group. However, it did not make a difference.

Description of the study area
The study was conducted in two rural settlements of Calais and Julesburg in Limpompo Province. Rural women’s households in these two settlements were interviewed along with those living in the other two rural sub-settlements of Solani and Bordox in the same area. These two rural sub-settlements were taken as separate villages for the purposes of this study, giving a total number of four villages investigated. The area studied has an established community property association (CPA), a project initiated with the financial assistance from the Department of Land Affairs. A large number of households in this area depend mainly on income from agriculture and related activities. However, households in Calais and Julesburg earn both agricultural and non-agricultural income. Besides their income from agricultural and non-agricultural activities, most households have close family members and relatives working in urban areas of the province, who may provide additional assistance.

Limpompo Province is one of the least developed and most densely populated areas in the country, with an estimated population of 10.9 per cent of the total population of South Africa. The province includes the three former homelands of Gazankulu, Lebowa and Venda. There is a highly skewed population distribution with almost 97 per cent of the total population being black and living in rural areas. In comparison with other provinces, Limpompo Province has the highest population growth rate at 3.8 per cent (Statistics South Africa 1996), coupled with the lowest per capita income level (De Villiers 1999) and the lowest human development index in South Africa (Development Bank of Southern Africa 1994). It is mainly rural, with only 13 per cent of its total area being urbanised, and has no capacity to provide an adequate economic base for its inhabitants. An estimated 40 per cent of its labour force is fully employed, 13...
per cent is involved in formal business activities, while 47 per cent of the population is classified as being in the marginal sector, which includes subsistence farming and non-market-related activities (De Villiers 1999). During October–December 2003, the researcher interviewed a total of 123 rural women’s households in this area. He also randomly interviewed 17 female small traders in and around the study area. This gave a total number of 140 households interviewed, of which 85 were also members of the CPA.

Results and discussion

The World Bank (1989) terms these informal credit associations as ‘self-help rotating saving or credit associations’. Similar schemes are found under different names in countries such as Sri Lanka, Ethiopia, Indonesia, Jamaica, Cameroon, Japan, India, and Zimbabwe (Bouman 1984; Timberg and Aiyar 1984; Moore and Schoombee 1995). These associations are formed by a core of women members who agree to make regular contributions to a fund which is given in part or in whole to each member and contributor in rotation (Moodley 1995). The majority of respondents used informal saving and credit associations regularly. Every household interviewed expressed a desire to join any type of informal credit scheme, saying that they would like assistance in accumulating a sum of money for their families (Besley et al. 1993). Table 1 gives the composition of members by association, the minimum amount contributed and the year of establishment.

The contributions in all associations were determined by agreement of a fixed amount per member known as a minimum amount. An interesting feature of Table 1 is that, in all associations, the number of female members is much greater than the number of male members. It was also observed that women were more committed to these associations than men and more organised. Women participated in rotating savings and instalment buying, which were the most popular forms of informal credit. About 50 per cent of women interviewed had joined an informal credit association, of which 30 per cent had gained financial services (Table 2).

An increase in the number of the members participating in these associations may be the result of a lack of a steady flow in household incomes (Besley et al. 1993). In Table 2, the total number of active members is given with the total percentage of the participants by category of informal finance. Rotating savings was the most popular form of informal finance investigated, with 29.3 per cent of respondents being members of such schemes (Figure 1). Of the total of 140 respondents interviewed, 29.3 per cent were members of rotating savings, 22.7 per cent participated in instalment buying, 24 per cent were members of fixed funds, 20 per cent were members of lending clubs and 4 per cent used forms of formal finance. Important socio-economic aspects of informal finance for disadvantaged rural people include its openness and willingness to provide assistance to most rural people to acquire needed goods and services and to save. The study found a positive and direct relationship between the rate of savings and the levels of income of the members of informal credit associations.

Respondents were requested to provide reasons for why they were participating in informal credit and saving associations. In Solani, 17 per cent indicated that they would like to save money (even if they had no specific motive or project in mind); 23 per cent of those interviewed in Bordox expressed their intention to save money in order to purchase goods such as a small business, roofing materials or even a car. Over 29 per cent were interviewed in Calais, 12 per cent of whom answered that they would like to save money in order to meet Christmas and New Year festivities expenses, while 17 per cent responded that savings play an important role for the future. Thirty-one per cent of respondents

<table>
<thead>
<tr>
<th>Options</th>
<th>Rotating saving club</th>
<th>Instalment buying</th>
<th>Fixed fund</th>
<th>Lending club</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year established</td>
<td>1990</td>
<td>1992</td>
<td>1993</td>
<td>1995</td>
</tr>
<tr>
<td>No of members</td>
<td>22</td>
<td>20</td>
<td>17</td>
<td>14</td>
</tr>
<tr>
<td>Monthly contributions</td>
<td>R100 (Fixed)</td>
<td>R100 (Fixed)</td>
<td>R80 (Minimum)</td>
<td>R50 (Minimum)</td>
</tr>
<tr>
<td>Gender</td>
<td>Female (Only)</td>
<td>Female (Only)</td>
<td>Male (Only)</td>
<td>Mixed</td>
</tr>
<tr>
<td>Average age</td>
<td>28 Years</td>
<td>29 Years</td>
<td>33 Years</td>
<td>30 Years</td>
</tr>
<tr>
<td>Estimated income/month</td>
<td>R1150</td>
<td>R 750</td>
<td>R 1200</td>
<td>R1500</td>
</tr>
<tr>
<td>Average STD passed</td>
<td>STD 9</td>
<td>STD 7</td>
<td>STD 10</td>
<td>STD 10</td>
</tr>
<tr>
<td>Average dependents</td>
<td>5</td>
<td>4</td>
<td>5</td>
<td>5</td>
</tr>
</tbody>
</table>

December 2004
were interviewed in Julesburg, 22 per cent of whom considered informal credit and saving associations as vital for their survival. Informal credit represents a source of income which helps them to realise their dreams. A total of 15 per cent considered informal credit and saving associations as a means to meet their needs. Almost all the participants (89 per cent), including the organisers of informal finance, said that they had not encountered any major problems with informal credit and saving associations. Of all the participants, only 11 per cent reported that they were unable to make their contributions during the scheduled dates.

Other reasons given by the participants were based on their financial constraints and the fact that they have greater difficulty in securing loans from the formal finance sector than in the informal finance sector. The inability of households to access formal finance forced some households to pawn their possessions during times of financial difficulty.

**Conclusion**

The informal finance sector plays an important role in the development of rural areas in South Africa. Although they are excluded from the formal credit system, informal credit actively assists rural women in the process of capacity building, upliftment and improvement in living standards. The informal credit schemes investigated in this paper included instalment buying, rotating savings and credit associations. The results suggest that informal credits have had a positive impact on the lives of the majority of rural women in the study area. The relevance of the informal finance sector in developing rural areas of Africa should not be underestimated. Most disadvantaged rural people see informal credit as a means to help them meet their financial obligations, improve their wellbeing and to further their development.

**References**


De Villiers, A 1995, *Agricultural reform policies for the Northern Province: Land management and rural development*, *Policy Report 1*, University of the North, South Africa.


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**Table 2: Participation of members in various forms of informal credit associations**

<table>
<thead>
<tr>
<th>Associations</th>
<th>Never been members</th>
<th>Have taken part</th>
<th>Active * members</th>
<th>Total members</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rotating savings</td>
<td>7</td>
<td>8</td>
<td>22 (29.3)</td>
<td>37</td>
<td>25.3</td>
</tr>
<tr>
<td>Instalment buying</td>
<td>6</td>
<td>9</td>
<td>17 (22.7)</td>
<td>32</td>
<td>21.9</td>
</tr>
<tr>
<td>Fixed funds</td>
<td>4</td>
<td>6</td>
<td>18 (24)</td>
<td>28</td>
<td>19.2</td>
</tr>
<tr>
<td>Lending club</td>
<td>5</td>
<td>7</td>
<td>15 (20)</td>
<td>27</td>
<td>18.5</td>
</tr>
<tr>
<td>Formal loans</td>
<td>15</td>
<td>4</td>
<td>3 (4)</td>
<td>22</td>
<td>15.1</td>
</tr>
<tr>
<td>Total</td>
<td>37</td>
<td>34</td>
<td>75 (100)</td>
<td>146</td>
<td>100</td>
</tr>
</tbody>
</table>

Note: The numbers in parentheses are percentage of the active members.
New Books

Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work and Human Rights


Trafficking and prostitution are widely believed to be synonymous, and to be leading international crimes. This collection argues against such sensationalism and advances carefully considered and grounded alternatives for understanding transnational migrations, forced labour, sex work, and livelihood strategies under new forms of globalisation. From their long-term engagements as anti-trafficking advocates, the authors unpack the contemporary international debate on trafficking. They maintain that rather than a new 'white slave trade,' we are witnessing today, more broadly, an increase in the violation of the rights of freedom of movement, decent employment, and social and economic security. Critical examinations of state anti-trafficking interventions, including the US-led War on Trafficking, also reveal links to a broader attack on undocumented migrants; tribal and aboriginal peoples; poor women, men, and children; and sex workers. The book sheds new light on everyday circumstances, popular discourses, and strategies for survival under twenty-first century economic and political conditions, with a focus on Asia, but with lessons globally. Contributors: Natasha Ahmad, Vachararutai Boontinand, Lin Chew, Melissa Ditmore, John Frederick, Matthew S Friedman, Josephine Ho, Jagori, Ratna Kapur, Phil Marshall, Jyoti Sanghera, Susu Thatun.

Trafficking in Persons: Prosecution from a European Perspective

Conny Rijken, 2003. ISBN: 906704167X, hb 345 pp, GBP 56.00/US$199.00. Cambridge University Press, The Edinburgh Building, Shaftesbury Road, Cambridge, CB2 2RU, UK. Tel: 44 (0)1223 312393; Fax:44 (0)1223 315052; Email: directcustserv@cambridge.org; Web: http://uk.cambridge.org/. In Australia: Private Bag 31, Port Melbourne, VIC 3207, Tel: +61 3 8671 1400; Fax: +61 3 9676 9966; Email: customerservice@cambridge.edu.au; Web: http://www.cambridge.org/au/

The crime of trafficking in persons is being increasingly committed in an international context and many of the problems in prosecuting this crime are aggravated by the fact that more than one state is involved. National criminal laws are not sufficient to prosecute and to combat it adequately. As a transnational crime, solutions for an effective prosecution should be sought beyond national borders. This publication will provide an initial impetus for an approach at the EU level to prosecute trafficking in persons more effectively, based on the concept of regional jurisdiction. Recently developed instruments and initiatives within the EU, such as the European Arrest Warrant, Eurojust and a European Public Prosecutor, are also covered in this book. The final conclusion that can be drawn is that, for the moment, a dual track should be followed in order to prosecute the trafficking in persons more effectively.
Combating Human Trafficking in Asia: A Resource Guide to International and Regional Legal Instruments, Political Commitments and Recommended Practices

United Nations Publications, 2 United Nations Plaza, Room DC2-853, New York, NY 10017, USA. Tel: 1 (212) 963 8302; Fax: 1 (212) 963 3489; Email: publications@un.org; Web: http:// unp.un.org/default.aspx

This document provides an overview of some of the inconsistencies in the existing human trafficking paradigm. It is the outcome of the efforts of the 30 representatives from various embassies, development partners, ministries, NGOs, research organisations, and civil society, who made up the 'Bangladesh Counter-Trafficking Thematic Group'. It offers an analysis of the present trafficking framework as it relates to trafficking of adults in the Bangladesh context.

Migration, Work and Trafficking in Asia

Kevin Hewison and Ken Young (eds), 2005. ISBN: 0415368898 pb 256 pp, GBP65.00. Routledge-Curzon (Taylor and Francis Group), 2 Park Square, Milton Park, Abingdon, Oxford OX14 4RN, UK. Tel: 44 (0) 20 7017 6000; Fax: 44 (0) 20 7017 6699; Web: http:// search.tandf.co.uk/default.asp

The International Labour Organization estimates that there are roughly sixty-nine million migrant workers, immigrants, and members of immigrant families worldwide, with a conservative estimate of seven million of these being in South and East Asia. Focusing on the issues associated with migrating for work both in and from the Asian region, this unique text sheds new light on the debate over migration and trafficking - increasing our understanding and awareness of this major twenty-first century concern. The first of its kind to look at the non-professionals who make up the vast majority of migrant workers in the Asian region, this book provides a broad perspective, firmly rooted in modern reality, by including case studies on Thailand, Indonesia, Hong Kong, Nepal and China and the US.

With contributions from an international team of well-known scholars, Migration, Work and Human Trafficking in Asia sets labour migration firmly within the context of globalisation, providing a focused, contemporary discussion of what is a most significant issue in today's world.

Female Sex Trafficking

Routledge (Taylor and Francis Group), 2 Park Square, Milton Park, Abingdon, Oxford OX14 4RN, UK. Tel: 44 (0) 20 7017 6699; Fax: 44 (0) 20 7017 6699; Web: http://search.tandf.co.uk/default.asp

Based on a careful analysis of sex trafficking in Nepal, Cambodia and the Philippines, this book demonstrates that the 'supply' and 'demand' structures of sex trafficking are not universal, but are a result of different socio-economic and political structures of both the receiving countries and the sending countries. The book argues that the strategies of prevention of female sex trafficking should not be universalised, but should be conceptualised on the basis of country-specific ground situations.

Combating Human Trafficking in Asia: A Resource Guide to International and Regional Legal Instruments, Political Commitments and Recommended Practices


The publication provides a comprehensive framework for using legal and
other instruments to combat trafficking in persons, especially women and children. The Resource Guide calls for a multifaceted response to trafficking utilising the complete range of legal and other instruments relevant to all dimensions of trafficking involving human rights, slavery and slavery-like practices, trafficking, migration, labour, gender and children.

The Geography of Trafficking and Human Smuggling

Khalid Koser and John Salt, 2005. ISBN: 0415263425, hb, 224 pp GBP55.00. Routledge (Taylor and Francis Group), 2 Park Square, Milton Park, Abingdon, Oxford OX14 4RN, UK. Tel: 44 (0) 20 7017 6000; Fax: 44 (0) 20 7017 6699; Web: http://search.tandf.co.uk/default.asp

Trafficking and human smuggling are subjects which have the capacity to excite attention and polarise opinion. There is a very real ambivalence as to whether those involved are illegal economic migrants, or victims of human rights abuse. As these issues have risen on the political agenda, the enormous complexities inherent in them have become more apparent. The rhetoric, however, has run ahead of the research, and there is a fundamental lack of hard evidence relating to most aspects of the problem. This book addresses this by providing systematic and thorough information. The authors present an analysis which demonstrates the need to combine the spatial approach with those of other disciplines, including economics, criminology, political science, anthropology and sociology.

Trafficking and Transnational Organized Crime

Dimitri Vlassis and Phil Williams (eds), 2005. ISBN: 0415355362 hb 256 pp, GBP 60.00. Routledge (Taylor and Francis Group), 2 Park Square, Milton Park, Abingdon, Oxford OX14 4RN, UK. Tel: 44 (0) 20 7017 6000; Fax: 44 (0) 20 7017 6699; Web: http://search.tandf.co.uk/default.asp

This book is a significant contribution to the area of transnational crime. An international range of contributors address the following issues: the networks and logistics of transnational organised crime and terrorism; the logistics of trafficking; trafficking in firearms, small arms and light weapons; trafficking in stolen natural resources, cultural objects, works of arts and endangered fauna and flora; trafficking in human beings and smuggling of migrants; the networks and logistics of trafficking — emerging threats and new challenges.

With a concluding chapter on the role of governments in combating trafficking, this book provides insights into the fight against transnational organised crime and terrorism. The book was previously published as a special issue of the journal Transnational Organized Crime.
Book Review

The Charity of Nations: Humanitarian Action in a Calculating World
Ian Smillie and Larry Minnear, Kumarian Press, Bloomfield, USA, 2004. Available in Australia through Bush Books, PO Box 1958 Gosford NSW 2250. Tel: +61 (0)2 4232 3274; Fax: +61 (0)2 4323 3223; Email: bushbook@ozemail.com

The Charity of Nations is a book with a clear message — the international humanitarian system is broken and needs fixing urgently. It argues that if a humanitarian imperative exists, it must apply consistently in all emergency situations. Yet Smillie and Minnear demonstrate through a range of frank case studies that the political economy of aid shapes responses far more than does need. They argue for a new rights-based approach to be applied to situations demanding a humanitarian intervention; for far stronger multilateralism and coordination; for greater certainty and more funding; for proper recognition of the work of NGOs in emergency contexts and for new arrangements to enable them to operate more effectively and efficiently; and for more research on the cost-effectiveness of different delivery approaches.

The authors make their case through solidly documented case studies of humanitarian action in places as diverse as Sierra Leone, Afghanistan and East Timor, with the latter as an example of successful action. A further chapter picks up specific issues raised by the experiences of Sudan, Haiti, Bosnia and southern Africa. Subsequent chapters demonstrate how foreign and domestic policies are brought to bear in when and how different nations respond to specific emergencies, demonstrating that there is no ‘imperative’ — it all depends on politics.

The book has a lively style, is current in its critique of ‘military humanitarianism’, and damning in its criticism of the competitive and self-interested behaviours of many donors, with their short-term and narrow approaches to funding and accountability. In a nice analogy, the authors compare the humanitarian enterprise with ‘a hospital with distant financiers paying for those parts they favour, but only on a selective basis, often late, and rarely with enough resources to solve a problem, much less prevent future problems’.

How true. In my experience, if East Timor is an example of a successful emergency, then Smillie and Minnear’s case is without challenge. There are many locals in East Timor who see it differently. Goodness knows what they would say about Sierra Leone and Afghanistan!

My only disappointments with the book are lack of sources at times and one factual error that I am aware of — the wrong year for the election of East Timor’s president (it was April 2002, not 2001). However, these do not detract from the main argument, which is well presented and hard to disagree with. I hope the policy makers will act.

Janet Hunt, Senior Lecturer, International Development, RMIT University, Melbourne
International Migration

Elzbieta M Gozdziak and Charles B Keely (editors). Published for the International Organization for Migration (IOM). ISSN: 0020 7985 (print)/ISSN: 1468 2435 (online), five issues per year. Institutional rate (print and online): GBP150.00; Personal rate (print and online): GBP 43.00. Published by Blackwell Publishing, 108 Cowley Road, Oxford, OX4 1JF, UK. Tel: 44 (0) 1865 191100; Fax: 44 (0) 1865 791347; Web: http://www.blackwellpublishing.com/journal.asp?ref=0020-7985&site=1

International Migration is a refereed, policy oriented journal on migration issues as analysed by demographers, economists, sociologists, political scientists and other social scientists from all parts of the world. It covers the entire field of policy relevance in international migration, giving attention not only to a breadth of topics reflective of policy concerns, but also attention to coverage of all regions of the world and to comparative policy.

The journal is published for the International Organization for Migration which was established in 1951. IOM is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental body, IOM acts with its partners in the international community to: assist in meeting the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through migration; and work towards effective respect of the human dignity and well-being of migrants.

The International Journal of Education and Development using Information and Communication Technology (IJEDICT)

Stewart Marshall and Wal Taylor (chief editors). Open online access. Web: http://ijedict.dec.uwi.edu/index.php; Email: stewart.marshall@uwicbll.edu.bf

IJEDICT aims to strengthen links between research and practice in ICT in education and development in hitherto less developed parts of the world, eg, developing countries (especially small states), and rural and remote regions of developed countries. The emphasis is on providing a space for researchers, practitioners and theoreticians to jointly explore ideas using an eclectic mix of research methods and disciplines. It brings together research, action research and case studies in order to assist in the transfer of best practice, the development of policy and the creation of theory. Thus, IJEDICT is of interest to a wide-ranging audience of researchers, policy-makers, practitioners, government officers and other professionals involved in education or development in communities throughout the world.

Development Policy Review

David Booth and the Overseas Development Institute (editors). ISSN: 0950 6764 (print)/ISSN: 1467 7679 (online), twice per year. Institutional rate (print and online): GBP260.00; Personal rate (print and online): GBP 37.00. Published by Blackwell Publishing, 108 Cowley Road, Oxford, OX4 1JF, UK. Tel: 44 (0) 1865 191100; Fax: 44 (0) 1865 791347; Web: http://www.blackwellpublishing.com/journal.asp?ref=0950-6764&site=1

Development Policy Review (DPR) is the refereed journal that makes the crucial links between research and policy in international development. Edited by staff of the Overseas Development Institute, the London-based think-tank on international development and humanitarian issues, it publishes single articles and theme issues on topics at the forefront of current development policy debate.

Coverage includes the latest thinking and research on poverty-reduction strategies, inequality and social exclusion, property rights and sustainable livelihoods, globalisation in trade and finance, and the reform of global governance. Informed, rigorous, multi-disciplinary and up-to-the-minute, DPR is an indispensable tool for development researchers and practitioners alike.
The Internet offers unprecedented advantages, which traffickers have been quick to exploit. The Internet and other types of telecommunication provide the sex industry and individual users with new ways of finding, marketing and delivering women and children into appalling conditions of sexual exploitation and modern-day slavery.

As part of this policy, the Council of Europe set up a Group of Specialists (EG-S-NT) to study the impact of new technologies on trafficking in human beings for the purpose of sexual exploitation. The group operated under the auspices of the Steering Committee for Equality between Women and Men (CDEG) and its work on this new aspect of trafficking in human beings for the purpose of sexual exploitation was a follow-up to the activities that have been pursued by the CDEG in this area since the early 1990s.

The Council of Europe Summit of Heads of State and Government acknowledged the scale of the problem in 1997. Affirming its determination to combat violence against women and all forms of sexual exploitation of women, it called on the Council of Europe to develop a European policy for the application of new information technologies, with a view to ensuring respect for human rights and cultural diversity, fostering freedom of expression and information and maximising the educational and cultural potential of these technologies.

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Trafficking in Persons Report 2004

The State Department is required by law to submit a report each year to the Congress on foreign government efforts to eliminate severe forms of trafficking in persons. This June 2004 report is the fourth annual Trafficking in Persons Report. Although country actions to end human trafficking are its focus, the report also tells the painful stories of the victims of human trafficking — 21st century slaves. This report uses the term 'trafficking in persons' which is used in US law and around the world, and that term encompasses slave-trading and modern-day slavery in all its forms.

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The report looks at information from 53 African countries and provides an analysis of the patterns, root causes, and existing national and regional policy responses and effective practices. Trafficking occurs when a child's protective environment collapses from such things as conflict, economic hardship, and discrimination. Traditional attitudes and practices, early marriage, and lack of birth registration further increase the vulnerability of children and women exploitation.
Organisations and Programs

United Nations Office on Drugs and Crime (UNODC): Global Programme against Trafficking in Human Beings

Vienna International Centre, PO Box 500, A-1400 Vienna, Austria. Tel: +43 1 26060 0; Fax: +43 1 26060 5866; Email: unode@unodc.org; Web: http://www.unodc.org/unodc/en/trafficking_human_beings.html

The Global Programme against Trafficking in Human Beings (GPAT) was designed by the UN Office on Drugs and Crime (UNODC) in collaboration with the United Nations Interregional Crime and Justice Research Institute (UNICRI) and launched in March 1999. GPAT assists Member States in their efforts to combat trafficking in human beings. It highlights the involvement of organised criminal groups in human trafficking and promotes the development of effective ways of cracking down on perpetrators.

The GPAT’s overarching objective is to bring to the foreground the involvement of organised criminal groups in human trafficking and to promote the development of effective criminal justice-related responses. As the only entity focusing on the criminal justice element, the GPAT, working through UNODC’s Crime Programme, brings special advantages to the fight against trafficking.

Office of the United Nations High Commissioner for Human Rights (OHCHR)

Commission/Sub-Commission Team (1503 Procedure), Support Services Branch, Office of the High Commissioner for Human Rights, United Nations Office at Geneva, 1211 Geneva 10, Switzerland. Fax: +41 22 917 9011; Email: 1503@ohchr.org; Web: http://www.ohchr.ch/what_we_do/trafficking.html

The OHCHR Trafficking Programme was established in March 1999. Its objective is to work towards the integration of a human rights perspective into international, regional and national anti-trafficking initiatives. The emphasis is on legal and policy development. The Programme does not aim to undertake large projects or to duplicate initiatives that are being undertaken elsewhere. Instead, as far as possible, OHCHR tries to act as a catalyst and a support for the work of others.

International Labour Organization (ILO)

Headquarters: International Labour Office, 4 route des Morillons, CH-1211 Geneva 22, Switzerland. Tel: +41 22 799 6111; Fax: +41 22 798 8685; Email: ilo@ilo.org; Web: http://www.ilo.org/public/english/extend/programme/trafficking/index.htm

The ILO views with serious concern the increasing volume and complexity of trafficking in persons worldwide, especially migrant women and children. It recognises the imperative need to address it at national, regional and global levels by promoting bilateral, regional and multilateral cooperation to combat it.

The ILO considers trafficking as a form of forced and compulsory labour, one of the worst forms of child labour, among the worst forms of exploitation of migrant workers and lastly, as an issue involving a significant number of women workers. It recognises that trafficking in women and children (boys and girls) exists not only in the commercial sex industry, but also in other sectors such as domestic service, work in plantations, construction sites, sweatshops and begging and soliciting.

It also considers it essential to improve the role of the labour market in increasing employment opportunities and improving
working conditions for affected families in source countries, and in particular for female members. Providing everyone with full, productive and freely chosen decent work can attack the root causes of trafficking. In addition, it considers the promotion of gender equality as one of the most important means to reduce trafficking since there is a strong link between women's employment status, child labour and trafficking. Indeed, gender discrimination in society and in the labour market is one of the root causes of trafficking.

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**United Nations Educational, Scientific and Economic Organization (UNESCO) Project to Fight Human Trafficking in Africa**

7 Place de Fontenoy, 75352 Paris 07 SP France. Tel: +33 (0)1 45 68 10 00; Fax: +33 (0)1 45 67 16 90; Email: bpiweb@unesco.org; Web: www.unesco.org/sho/humantrafficking

The project aims to inspire more effective and culturally appropriate policy-making to fight the trafficking of women and children in Western and Southern Africa. It carries out policy-oriented research on factors related to the trafficking in pilot countries, collects best practices in fighting trafficking at its roots, and organises training workshops for policymakers, NGOs, community leaders and the media.

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**International Organization for Migration (IOM)**

17 Route des Morillons, CH-1211 Geneva 19, Switzerland. Tel: +41 22 717 9111; Fax: +41 22 798 6150; E-mail: info@iom.int; Web: http://www.iom.int/en/what/counter_human Trafficking.shtml

IOM’s counter-trafficking activities are geared toward the prevention of trafficking in persons, particularly women and children, and the protection of migrant’s rights. They include: carrying out information campaigns; providing counselling services; conducting research on migrant trafficking; providing safe and dignified return and reintegration assistance to victims of trafficking; and helping governments to improve their legal systems and technical capacities to counter trafficking.

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**Polaris Project**

PO Box 77892, Washington DC, 20013. Tel: 1 (202) 547 7909; Fax: 1 (202) 547 6654; Email: info@polarisproject.org; Web: http://www.polarisproject.org/

Polaris Project is a multicultural grassroots non-profit agency, based in the US and Japan, formed to combat sex trafficking and modern-day slavery. It works with women in the sex industry who have endured violence from their traffickers, including psychological abuse, beatings, death threats, and sexual assault. Polaris Project works with survivors and community members to identify victims, provide services, conduct advocacy and technical training, and raise awareness.

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**Coalition against Trafficking in Women-Australia (CATWA)**

PO Box 1273, North Fitzroy, Victoria 3068. Fax: +61 3 8344 7906; Tel: +61 3 8344 7162; Email: s.jeffrey@politics.unimelb.edu.au; Web: http:// mc2.vicnet.net.au/home/cafawust/files/index.htm

CATWA is the Australian branch of Coalition Against Trafficking in Women (CATW) International, a non-governmental organisation having Category II consultative status with the United Nations Economic and Social Council. It works locally and internationally to end all forms of sexual violence and exploitation of women, especially the violence of prostitution, trafficking and pornography.

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**Global Alliance against Traffic in Women (GAATW)**

PO Box 36, Bangkok Noi Post Office, Bangkok 10700, Thailand. Tel: +66 2 864 1427/8; Fax: +66 2 864 1637; Email: gaatw@gaatw.org; Web: http://www.gaatw.org/

GAATW is a non-governmental human rights network comprising individuals and organisations worldwide. Since its formation in 1994, GAATW has coordinated, organised and facilitated work on issues related to trafficking in women and women’s labour migration in virtually every region of the world.

GAATW works at all levels to promote the application of human rights principles and the use of appropriate instruments and mechanisms in addressing specific issues in the context of migration, labour and trafficking in women.

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**AFESIP (Agir Pour les Femmes en Situation Précaire)**

PO Box 2089, Phnom Penh 3, Cambodia. Email: info@afesip.org; Web: http://www.afesip.org/index.php.

AFESIP is a non-governmental, non-partisan, and non-religious grass-roots organisation established in Cambodia in 1996. The dire situations of thousands of victims forced into sex slavery are the reasons why AFESIP exists today. It is devoted to ‘humanly correct development’ to fight against the trafficking of women and children for sex slavery. AFESIP cares for victims of trafficking and sex slavery. The success criteria have been, first and foremost, securing victims’ rights by providing holistic care through a victim-centred approach with long-term goals of successful, permanent rehabilitation and reintegration.

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Web Resources

Humantrafficking.com
http://www.humantrafficking.com/
Maintained by the Polaris Project
[Organisations and Programs' section, this issue, humantrafficking.com provides an excellent set of online resources on human trafficking. The site provides useful toolkits for law enforcement officers, service providers, community members, academics and elected officials. The site also hosts a comprehensive database of articles, reports and websites on human trafficking.

The Coalition against Trafficking in Women (CATW) Factbook on Global Sexual Exploitation
http://www.catwinternational.org/fb/index.html#eu
The Factbook on Global Sexual Exploitation was compiled from media, non-governmental organisation and government reports. It is an initial effort to collect facts, statistics and known cases on global sexual exploitation. Information is organised into four categories: trafficking; prostitution; pornography; and organised and institutionalised sexual exploitation and violence.

UNICEF Innocenti Research Centre
http://childtrafficking.org/eng/
Hosted by the UNICEF Innocenti Research Centre, the site is dedicated to data collection, knowledge transfer and the development of methodologies related to research on child trafficking. The Hub is intended for international researchers, policy-makers and operational personnel involved in counter child trafficking activities. It provides information about current research activities, effective research tools and emerging areas of concern.

The Hub Database contains: selected news on child trafficking; selected documents on child trafficking; contact information for organisations active against child trafficking; and a directory of experts on issues related to child trafficking.

Home Office Crime Reduction Centre (UK)
http://www.crimereduction.gov.uk/toolkits/tp00.htm
The site features a toolkit which has the primary aim of helping those who deal with illegal immigrants and trafficking victims to distinguish victims in genuine need and to deal with them appropriately. It also seems important, however, to suggest ways in which enforcement officers may be helped to identify traffickers, obtain better evidence and bring successful prosecutions against the traffickers. Similarly it aims to help those with child protection responsibilities to understand the particular requirements of trafficked children. Throughout the toolkit, efforts are made to highlight the considerations and issues that need to be dealt with, and to provide appropriate references to material and organisations which may help.
Author Guidelines

Manuscripts and Copyright
Manuscripts are normally accepted on the understanding that they are unpublished and not on offer to another publication. Once published by the Development Studies Network (the Network), however, manuscripts, articles and reports may subsequently be published elsewhere. Acknowledgement of the Network as the source would be appreciated. No acknowledgement is needed for conference reports, other notices or lists of publications.

The Network cannot assume responsibility for any loss of or damage to manuscripts. Contributors are therefore encouraged to retain a complete copy of their work.

Word length
Submitted papers are to be short and concise, with a minimum of 1000–1500 words and a maximum of 2,500–3,000 words. The word limit includes subheadings and footnotes and excludes references. Conference reports: 800–1000 words.

Presentation and Style
Manuscripts should be double spaced with at least 2.5cm (1”) margins. Subheadings, footnotes and references need to be clearly indicated in the text. Quotation marks should be single, double within single. Spelling is English (OED with ‘-ise’ endings).

Documents can be sent as email attachments, on disk or in hard copy. Documents sent electronically should be saved as Microsoft Word files, or in .rtf format. Email attachments are preferred in Word or .rtf format. A virus check is requested prior to any material being electronically sent. No .pdf files please as these cannot be edited or corrected prior to printing.

Referencing
A minimum of references and/or footnotes is requested due to space constraints. All references referred to or cited in the text are to be included in the reference list. Book titles and journal names should be italicised or underlined; titles of journal articles and book chapters are in single inverted commas.

The Harvard style of referencing is preferred: author’s surname, forename and/or initials, date of publication, title of publication, publisher and place of publication. Journal references should include volume and issue number, date and page numbers.

Detailed guidelines on the Harvard style of referencing are available online at: http://www.uwe.ac.uk/library/resources/general/info_study_skills/harvard2.htm#book

Examples:
