

The situation in Australia

Trends: 1980s to the present

Comprehensive research on trafficking in women for sexual exploitation to, or within, Australia is lacking, but a rough picture has been drawn over the last decade by various non-government organisations (NGOs) and academics. A 1994 study indicated that significant numbers of Asian women (mostly Thai) started entering the Sydney sex industry in the mid-1980s (Brockett and Murray 1994). The same research estimated that over 90 per cent of these women were trafficked, arriving debt-bonded, with “debts” having increased greatly over the previous few years. A Thai woman, Jane, described how, in 1989, her “debt” had been for \$12,000, but that just three years later she knew other Thai women being forced to have sex with “clients” to pay back “debts” of \$25,000–\$30,000 (Brockett and Murray 1994: 191-2). In 1995, the head of the Australian Federal Police (AFP) investigation into sex trafficking, Chris Payne, estimated that there were up to 500 trafficked women in debt-bonded prostitution in Sydney at any one time (Sullivan and Jeffreys 2002: 1145). Anti-trafficking NGO Project Respect’s more recent research indicates that this figure is now far higher, and that the “debt” continues to increase, with women currently arriving in Australia with “debts” of up to \$50,000 (Project Respect 2004).

Up until the late 1990s there was very little research to indicate the scale of trafficking in Australia, apart for the Immigration Compliance records of the Department of Immigration, Multicultural and Indigenous Affairs (DIMIA). In 1998-1999, 243 people (237 women) were deported having been located in brothels; this is up from 56 in 1996-1997 (Maltzahn 2002a, cited in DIMIA 2000, Ch 4). Immigration officials were not, at that stage, required to question the women to ascertain if they had been trafficked before deporting them. While these figures suggest an increase in the number of women being trafficked into prostitution in the late nineties, they cannot be said to represent exact numbers of women being trafficked, for two reasons. The first is that it cannot be assumed, according to sex industry representatives, that all foreigners without visas located in brothels had originally been trafficked (Scarlet Alliance 2003). Secondly, international research indicates that approximately 90 per cent of trafficked women go undetected by immigration authorities (Maltzahn 2002a, cited in Dillon 2000).

One source of information on how trafficking was operating in Australia in the late 1990s was the trial of Melbourne trafficker Gary Glazner. Glazner was tried for, and found guilty of, violations of the Victorian Prostitution Control Act for the period 1997-1998 (the federal slavery and sexual servitude legislation had not been introduced at that stage). Glazner had bought Thai women from agents in Thailand for between \$15,000 and \$18,000, and they had knowingly come to Australia to work as prostitutes (McKinney 2001). Evidence was presented at an initial committal hearing showing that the women feared Glazner and that he withheld their passports, restricted their movements, and kept them in debt bondage (Police vs. Gary Galzner and Paul Donato Marino 1999). One of the women, “Michelle” told the committal hearing the conditions of the debt-bondage “contract” presented to her:

“First condition was 500 jobs, after I finish 500 jobs I would receive \$40 or \$50, and that within a year. Second condition 700 or 800 jobs. After that I could do whatever I want. Third condition I need to pay ... \$36,000 or \$37,000. He [Mr Chang, Michelle's 'owner' in Thailand] told me when I met the boss [Glazner] the boss would tell me which option” (Police vs. Gary Galzner and Paul Donato Marino 1999: 31-33).

Detective Senior Sergeant Ivan McKinney outlined the evidence presented (at the committal hearing and trial) at a public forum in 2001. He said Glazner chose to enforce the “contract” under the first condition of 500 “free jobs”, each job being a half hour of sex for which the buyers paid \$100-\$110. This equalled approximately \$32,000 in profit for Glazner from each woman, after deduction of their “purchase costs” (McKinney 2001). At least 40 women were proven to be connected to Glazner through DIMIA records, meaning Glazner made at least \$1.2 million from these women alone. Investigators suspected four to five times this many women were involved. The women were generally prostituted for 12-hour shifts, seven days a week¹², using a “work book” to keep track of the number of jobs they had done. Glazner prostituted the women first out of the Clifton Hotel in Kew, then, when he ran out of space, out of a rented house in South Melbourne, then out of two legal brothels in South Melbourne (McKinney 2001).

That the women were kept in conditions of sexual slavery, through debt-bondage, was evidenced by testimonies at the trial, which illustrated Glazner's “ownership” of them:

Crown: *“Who was it that owned you in Thailand?”*

Michelle: *“Chang ... He sent me to Bart [Glazner], then I belonged to Bart ...”*

Crown: *“What was he [Chang] getting out of it?”*

Michelle: *“So he would get some money from Bart because he sold me to him.”*

Crown: *“Did you think if you didn't perform your contract you would be in trouble?”*

Michelle: *“I would, I would be in trouble.”*

(Queen vs. Gary Glazner 2000, Vol. 1: 227-228).

McKinney detailed the conditions of sexual servitude under which the women were kept upon arrival in Australia. Their living conditions at the Kew hotel where they were housed were extremely cramped and they were locked in. Glazner had installed a large locked iron gate and bars on the stairwells, and sealed the windows. Glazner or an associate drove them to and picked them up from the brothel where they were prostituted (McKinney 2001). Journalist Mark Forbes, reporting on the trial for the *Age* newspaper, wrote that Glazner had verbally abused and intimidated the women, and kept a loaded gun in clear view of the women at the hotel (Forbes 1999).

The women feared for their lives and of reprisals against themselves or their families back in Thailand. As “Michelle's” translator stated for her at the trial: “She said if she is here, maybe she will die. If she goes back to Thailand, she will die” (Police vs. Gary Galzner and Paul Donato Marino 1999: 48). Another trafficked woman, “Honey” testified that her Thai “owner”, Chang, had a pornographic picture of her which she feared he would use to “take my child away” (Police vs. Gary Galzner and Paul Donato Marino 1999: 65). The jury found Glazner guilty, of all seven charges for which he was tried, within two hours. In her case study of the Glazner trial, Victoria University researcher Marnie Ford noted that “although the offences carried maximum sentences of four and five years, Glazner only received a penalty of 18 months imprisonment (fully suspended for two years) and a \$31,000 fine” (Ford 2001: 24).¹³

Until this time there was also very little in Australian legislation or policy directly addressing the issue of trafficking in women for sexual exploitation. In 1999, federal legislation was introduced in the form of the Criminal Code Amendment (Slavery and Sexual Servitude) Act, which repealed old Imperial Acts relating to slavery and introduced the new offences of slavery and sexual servitude. The Act defines “slavery” 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” (Criminal Code section 270(1)); and “sexual servitude” 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 is not free to leave the place or area where the person provides sexual services”, (Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999, adding to the offences set out in Division 270 of the Code). The situation of the women in the Glazner case would appear to fall into both categories. As stated earlier in this paper, under this Act, “original consent is irrelevant to whether or not an offence of sexual servitude has been committed” (Carrington and Hearn 2003: 1). However, Ford notes that even if Glazner had been prosecuted under the new Act, he may not have received a heavier sentence, because:

“Deception and consent are leading elements within the legislation, therefore trafficked women such as “Honey” and “Michelle” will fall outside the provision unless they can prove a situation of slavery. If the onus of proof cannot be met, such cases will not be covered by the [Criminal Code Amendment (Slavery and Sexual Servitude) Act]” (Ford 2001: 25-6).

There were no prosecutions under these new laws for the five years following their introduction. This was because, until 2003, there existed no provision for treating victims of trafficking as anything other than illegal immigrants, or to offer them any support or protections (Carrington & Hearn 2003). Victims going to the police were likely to face immediate deportation. As Carrington and Hearn note “the successful prosecution of traffickers relies on the cooperation of victims of traffickers, who, without mandated support, protection, or means of redress are unlikely to cooperate with law enforcement agencies” (2003: 1).

In 2003, following media reports of the Glazner case and lobbying by NGOs, various policy and legislative initiatives were developed at a federal level. In May 2003, a Parliamentary *Current Issues Brief* examined the lack of any prosecutions of traffickers under existing Commonwealth laws and came to the conclusion that “Australia’s emphasis on border control is working against the prosecution of traffickers and the human rights of trafficking victims” (Carrington & Hearn 2003). In June 2003 a Parliamentary Joint Committee (PJC) to examine the Australian Crime Commission’s response to trafficking in women for sexual servitude was established. It received 39 submissions from individuals, NGOs, police and the health sector on the adequacy of the current legislative framework, and held public hearings in Sydney, Melbourne and Canberra. In July the Australasian Police Ministers’ Council meeting called for the development of a National Action Plan on trafficking, and agreed to undertake a review of legislation, operational arrangements with DIMIA, and to work towards greater cooperation of law enforcement agencies on the issue. Subsequently, in October 2003 the Australian Government announced a package of \$20 million over four years to combat people trafficking. Details of these, and later, initiatives can be found in the accompanying table.

Major Developments in Australian Responses to Trafficking



- 1999 Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999 passed, the purpose of which is to create offences of slavery and sexual servitude, provide for penalties and repeal a number of old Imperial Acts currently in force in Australia relating to slavery.
- 26 Sept 2001 Puongtong Simaplee, aged 27, dies in Villawood Immigration Detention Centre. A mandatory “death in custody” inquest was told that she had been trafficked from Thailand to Malaysia, into prostitution, in 1986 at the age of twelve, and later to Australia. In 2001, immigration officers found her during a raid on a (legal) brothel, following which she was taken to Villawood as an illegal immigrant. A few days later she died from heroin withdrawal, weighing only 38 kilograms. The findings from the coronial inquiry were reported widely in the media, and the case was cited as one reason for the opening of the Parliamentary Joint Committee’s Inquiry into Trafficking in Women for Sexual Servitude (see below).
- Feb 2002 Australia co-hosts (with Indonesia) the first *Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime* in Bali (initiating what became known as the “Bali Process”). Ministers from 36 countries “pledged their commitment to enhancing regional cooperation to combat people smuggling and trafficking in persons”, and established two *Ad Hoc Experts’ Working Group I*, coordinated by New Zealand, was established to “promote regional and international cooperation”. Group II, coordinated by Thailand, was established to “strengthen legislative arrangements and law enforcement practices” (Department of Foreign Affairs and Trade 2005).
- 11 Dec 2002 Australia signs the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (the Trafficking Protocol), and later agrees to ratify it “once all domestic requirements for ratification have been met” (Commonwealth Attorney-General’s Department 2004b: 86)
- April 2003 Second *Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime*, at which ministers from 32 countries in the Asia-Pacific region endorsed the work of the two *Ad Hoc Experts’ Groups* focusing on regional and international cooperation, and on legislation, law enforcement cooperation and document fraud (Department of Foreign Affairs and Trade 2005).
- 13 May 2003 A Parliamentary *Current Issues Brief* examines the lack of any prosecutions of traffickers under existing Commonwealth laws and comes to the conclusion that “Australia’s emphasis on border control is working against the prosecution of traffickers and the human rights of trafficking victims” (Carrington & Hearn 2003). It explains how existing Australian policy and law will need to change to meet the UN Trafficking Protocol standards.
- 27 June 2003 Establishment of Parliamentary Joint Committee (PJC) to examine the Australian Crime Commission’s response to trafficking in women for sexual servitude. The Committee’s terms of reference for the inquiry placed on the Committee’s website (http://www.aph.gov.au/senate_acc), and submissions were invited to respond to the following terms of reference.



- (1) the Australian Crime Commission's work in establishing the extent of people trafficking in Australia for the purposes of sexual servitude;
- (2) the Australian Crime Commission's relationship with the relevant State and other Commonwealth agencies; and
- (3) the adequacy of the current legislative framework.

Thirty nine submissions were received (also available on the above website). During the course of the Committee's enquiry, the government announced several major initiatives (detailed below).

2 July 2003 Australasian Police Ministers' Council meeting agrees that all law enforcement agencies should cooperate in the development of a National Action Plan to combat trafficking in women for sexual servitude, and to undertake a review of legislation, operational arrangements with DIMIA, and intelligence and information sharing practices across all jurisdictions.

13 Oct 2003 Australian Government announces package to combat people trafficking of \$20 million over four years. A media release outlined the following measures:

- "The Australian Federal Police Transnational Sexual Exploitation and Trafficking Team, a mobile strike force to strengthen the capacity to actively target and investigate trafficking syndicates and make a substantial impact on combating sexual servitude in Australia. The Team will have 23 members and will be located within the Transnational Crime Coordination Centre for national coverage and flexibility.
- A new Senior Migration Officer (Compliance) in Thailand, focused on trafficking in persons. This position will be responsible for implementing Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) initiatives to combat trafficking in persons across the Asian region, including working closely with local authorities and the Australian Federal Police (AFP) in the identification of possible trafficking organisers and organisations.
- Closer links between AFP and DIMIA officers in the detection and investigation of trafficking and enhanced training on trafficking issues, ensuring that the existing close cooperation is further enhanced;
- New visa arrangements for potentially trafficked persons;
- Comprehensive victim support measures provided through a contracted case manager, including appropriate accommodation and living expenses and access for victims to a wide range of social support, legal, medical and counselling services.
- Enhancement of arrangements, including access to additional support, for the small number of potential victims who may be required to remain in immigration detention;
- Development of a reintegration assistance project for trafficking victims who are returned to key source countries in South East Asia;
- Improvements to legislation to comprehensively criminalise trafficking activity;



- Legislative amendments to make telecommunications interception available for *Criminal Code* offences of slavery, sexual servitude, deceptive recruiting and people smuggling with exploitation, and
- Ratification, once all domestic requirements are in place, of the *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.*" (Commonwealth Attorney General's Department 2003a)

17 Dec 2003 Bilateral Memorandum of Understanding (MOU) between Australia and Thailand is signed, covering the Asia Regional Cooperation to Prevent People Trafficking (ARCPPT), Project which is designed to support regional collaboration and strengthen "national capacities to apprehend and prosecute traffickers" (Commonwealth Attorney-General's Department 2003b)

18 Dec 2003 Special intelligence operation into the trafficking of people for sexual exploitation announced as one of the priorities for the Australian Crime Commission (ACC). This new Determination by the ACC Board "allows the ACC to use its special 'coercive powers' to gather further intelligence on this nationally significant crime . . . The ACC special intelligence operation will complement the investigations being carried out by the Australian Federal Police strike team. The AFP is working closely with the Department of Immigration on a number of people trafficking investigations and the work conducted by the ACC will provide assistance and input into these investigations" (Commonwealth Attorney-General's Department 2003c).

18 Dec 2003 Agreement signed between Australia and Cambodia as part of the ARCPPT Project enabling "substantial Australian assistance to Cambodia to fight people trafficking". It completes a round of agreements reached with Thailand, Cambodia, Lao PDR and Myanmar (Commonwealth Attorney-General's Department 2003d).

1 Jan 2004 Legislation change (to immigration law) establishes two new visa subclasses for "witnesses" in trafficking cases: the Witness Protection (Trafficking) visas:

- Temporary (Class UM, Subclass 787) – must "make a significant contribution to, and cooperate closely with, the prosecution or investigation of a person who has trafficked others" not be the subject of any related prosecutions; and in danger if returned to home country;
- Permanent (Class DH, Subclass 852) – offered to person who has held temporary visa for two years, and continues to meet criteria. (Department of Immigration, Multicultural and Indigenous Affairs 2005);

2003-2004 Public Hearings in Sydney, Melbourne and Canberra to examine Australian Crime Commission's response to trafficking in women for sexual servitude, as part of the Parliamentary Joint Committee's inquiry.



March 2004 Introduction of the Surveillance Devices Bill 2004, “which, among other things, would enable surveillance devices to be used as part of the investigation into people trafficking and child sex tourism offences” (Parliamentary Joint Committee on the Australian Crime Commission 2004: 3)

April 2004 Trafficking victim support contract awarded to Southern Edge Training, as part of *Support for Victims of People Trafficking Program* (VSP) coordinated by the then Office for the Status of Women, funded by \$20 million package to combat people trafficking (see above, Oct 2003)

June 2004 US State Department releases 2004 *Trafficking in Persons Report*, listing Australia as a country of destination “for a significant number of victims of severe forms of trafficking” (100 or more victims) for the first time (United States State Department 2004: 25)

Parliamentary Joint Committee on the Australian Crime Commission releases their *Inquiry into the Trafficking in Women for Sexual Servitude* report (Parliamentary Joint Committee on the Australian Crime Commission 2004).

Australian Government launches *Action Plan to Eradicate Trafficking in Persons*, outlining “Australia’s efforts in the four key areas of prevention, detection and investigation, criminal prosecution and victim support” (Commonwealth Attorney-General’s Department 2004a). The Plan elaborates past measures announced with the \$20 million package (see Oct 2003), such as the AFP “strike force” victim support program and the new visas for victims able to give evidence leading to prosecution (see 1 Jan 2004). One new measure is the development (in process) of an “Australian Policing Strategy to Combat Trafficking in Women for Sexual Servitude” by Commonwealth State and Territory police services.

Sept 2004 An “exposure draft” of an amendment to the Criminal Code is publicly released for comment on the Attorney-General’s department website. The purpose of the *Criminal Code Amendment (Trafficking in Persons Offences) Bill 2004* “is to comprehensively criminalise every aspect of trafficking in persons and to fulfil Australia’s obligations under the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. The Bill would amend the existing Division 270 of the Criminal Code, which criminalises slavery, sexual servitude and deceptive recruiting for sexual services. The Bill would also insert new Division 271, into the Criminal Code, which will specifically cover trafficking persons into and within Australia and debt bondage. The principal features of the Bill are as follows:

- “a significant extension to the existing deceptive recruiting for sexual services offence in section 270.7 of the Criminal Code;
- an amendment to the penalty for the aggravated sexual servitude offence in section 270.6 of the Criminal Code (raising the penalty from 19 years to 20 years imprisonment);



- new offences targeting the trafficking of persons into Australia;
- a separate offence of trafficking children into Australia;
- a new offence of debt bondage (three possible options for this offence are included in the Bill); and
- new domestic trafficking in persons offences (which apply where trafficking in persons activity takes place wholly within Australia)" (Commonwealth Attorney General's Department 2004c)

24 Jan 2005 *The Australian* reports that a 27-year-old Thai woman trafficked into prostitution in Australia, who "co-operated with police by naming the traffickers responsible for bringing her to Australia, has been locked up in Sydney's Villawood immigration detention centre" (Wynhausen and O'Brien 2005). The journalists reported that, in line with the Government's trafficking package, the woman was granted a criminal justice visa and given housing and other assistance. One month after giving her statement to police, she was evicted and told she had to leave the country, because her information was not expected to lead to a prosecution.

How trafficking works in Australia

In early 2004, in response to growing national interest in the issue and to the lack of information on the numbers of trafficked women and their experiences, Project Respect undertook a case-based research project. The definition of trafficking used by the researchers was that of the UN 2000 Trafficking Protocol¹⁴, and therefore covered trafficking for forced labour and other slavery-like practices as well as trafficking for sexual exploitation, though the latter made up the majority of cases. Researchers spoke directly to trafficked women and men and checked interview data against official documents such as DIMIA files. Over a period of six weeks, approximately 300 cases of victims of trafficking were uncovered and documented, between 272 and 274 of which were women trafficked for sexual exploitation^{xv}. The criminal nature of trafficking means that there are certain methodological difficulties to carrying out such research, and the researchers noted three main obstacles:

"First, victims were fearful of both immigration authorities and traffickers and are therefore often reluctant to tell their stories. Second, we received little information from official sources and relied instead on our contacts in the sex industry and legal profession and our research of publicly available reported legal decisions involving trafficked women. Third, cultural and language barriers and difficulties accessing brothels made it difficult to access places where we suspect trafficked women to be" (Project Respect 2004: 3).

Despite these obstacles, Project Respect had little difficulty in uncovering an average of 50 trafficking victims in each week of their research, which helps to indicate the extent to which trafficking exists in Australia. Extrapolating from these figures, they estimate approximately 1,000 women are trafficked to Australia for prostitution each year. As such, Project Respect's work in the area

is particularly useful. However, their research remains the most extensive, evidence-based primary research on the subject at a national level, and there is an urgent need for further and better-resourced studies in order to fully understand and respond to trafficking in Australia.

The Project Respect report indicated that most victims of trafficking for sexual exploitation entered the country on a Thai passport, though many may have been previously trafficked to Thailand from Burma (Myanmar). There were also victims from China, Indonesia, Malaysia, and Vietnam, as well as from Colombia and the former Soviet Republic. The following trends were noted:

“Women trafficked to Australia for prostitution are deceived to believe that they will be working in hospitality or as air-hostesses or they are deceived about the nature of the prostitution they will do and the conditions they will be working and living under. These women are usually accompanied on the plane by a trafficking courier, who may or may not sit next to the victim on the plane. The women are usually recruited by, or via, someone they know. Victims trafficked to Australia experience a range of abuse and coercion, ranging from threats to inform Immigration, to deprivation of food, to physical and sexual assault and rape. The women are prostituted for long hours, seven days a week, and often regardless of their health or menstrual cycle. Women trafficked for prostitution usually wish to earn enough money to send home to family in their country of origin; instead, they earn little or no money in Australia. Only a small proportion of trafficked women contact the authorities for help” (Project Respect 2004: 4)

Over these next few pages, we draw heavily on the case-based research documented by Project Respect in detailing the experiences of the women who spoke to them about their experiences of being trafficked and the pathways through which they were hijacked into sexual servitude.

According to Project Respect¹⁶, the women they spoke to tended to describe five main “stages” to the trafficking process in Australia. These include:

- 1) Recruitment
- 2) Transport
- 3) “Breaking in”
- 4) Debt-bonded prostitution
- 5) Post-“contract”

1. Recruitment stage

The “recruitment stage”, as described by Project Respect, largely relies on the trafficker gaining the victim’s trust, often through contacts such as families or “friends of friends”. Women are often used as “recruiters” as they may seem more trustworthy (and some traffickers are in fact women). They convince the victim that they can earn money in Australia, and will organise visas and passports for them. Some victims have children to support and few employment prospects in their home countries, and some, as Project Respect’s 2004 report showed, may be victims of domestic violence or ongoing sexual assault from members of their families and use the “contract” as an opportunity to escape. Some are told they will be doing different “work” in Australia, such as waitressing, some believe they will be “working” in the sex industry as, for example, table-top dancers. Some know they will be doing prostitution, but are deceived as to the nature and conditions of the work. They might believe, for

example, that they will be working in a bar and will be able to pick and choose who they have sex with and how often. Most women will be told that they will have a “debt” to pay off to the traffickers, but will be deceived as to the size of the “debt” and how long it will take to pay it off. If a woman tries to “pull out” of the “deal” at any stage during the “recruitment”, she is made to feel guilty by the trafficker, in being, for example, led to believe that the trafficker has gone to a great deal of trouble or spent a lot of money on her behalf. While some women trafficked to Australia are actually abducted, most are victims of the kind of coercion and deception described above, by people they know and have placed their trust in. This has implications for how the victims may later relate to service providers or officials: they have had their trust abused to such a degree that they may find it difficult to let down their guard with anyone afterwards.

2. *Transport stage*

The “transport stage” involves the trafficker arranging passports and visas (sometimes forged). Some women have reported having their bankbooks or other documents retained by traffickers from this stage onwards. The victims are often accompanied by “mules”: traffickers or their assistants posing as boyfriends or family members, or who survey the victim but sit separately to her on the plane and don’t speak to her until they are through immigration. This may or may not be the same person who initially “recruited” her (women are frequently “sold” or otherwise “transferred” from person to person throughout the five stages of the trafficking process, so the “trafficker” of the “transport” stage might not be the same person as the “trafficker” of the “breaking-in” or “debt-bonded” stage). The victim may believe she is travelling to Australia legally, or may be “primed” to tell stories when passing through immigration. In the latter case, she will be very reluctant to go to the authorities later, and threats to report her to immigration authorities can be used by her traffickers.

3. *“Breaking-in” stage*

The “breaking-in stage” starts when the women arrive in Australia and realise they have been deceived. That is, they realise or are told that they will not be doing the “work” they thought they would be doing (waitressing, air-hostess training, etc), or, if they knew they would be involved in prostitution, that they will not be doing it under the conditions they thought they would be. Their passports are taken off them and they are usually locked in the brothel where they will be “working” (often a legally-operating brothel), or a house with other trafficked women. This is often the period where the women experience the most violence: the traffickers need to “break their resistance”, show them that they are essentially the “property” of the trafficker, in no position to make choices or decisions about their lives. Victims have described how they were often raped and beaten for this purpose, as well as to “prepare” them for prostitution sex. The sexual violence teaches them that they are there simply to satisfy “customers” and cannot refuse types of “customers” or any sexual act (including sex without condoms). Some victims report being shown pornographic images or videos and told that this is what they will be required to do. Rape, physical violence, starvation, and threats of harm to the women’s families are all used to instil fear and punish those who resist or try to escape.

At this stage, the women are introduced to their “contracts”. Project Respect describes how South-East Asian women are typically told that they owe a “debt” to their trafficker of between \$30,000 to \$50,000, to pay for their visa applications, airfares and other “costs”. Of course, this in no way represents the

trafficker's real "costs", which would be at most a few thousand dollars. The trafficker makes an absolute profit from this difference, and from the disproportionate rate at which the "debt" is to be paid off (the "debt" is calculated at a lower rate per half hour than that charged by the trafficker to "clients"). The victim is told that she must provide a certain number of "free services", typically between 500 and 1,000. They cannot refuse customers, sex acts, or sex without a condom. In order to maximise profits for traffickers, the victims must "work" long hours, doing 18 to 20 "jobs" a day, frequently seven days a week, including when they are sick or menstruating.

Some women report being woken and taken back to the brothel if customers arrive. Seeing no way out of their situation, many women resign themselves to paying off the "debt" as quickly as possible. Many hope that if they can "get through it", they will be able to go home, or might be able to make their own money to send home (especially if they have children or family depending on their income). But their traffickers can change the "debt" they owe at any time, and victims find themselves "charged" for "extra costs" such as "migration advice" or "fined" for any signs of resistance. Under domestic and international law, such a "contract" is in no way legally binding, and, regardless of the woman's "consent" or knowledge of the existence of a "debt", she is in a situation of debt-bondage and slavery (Criminal Code section 270(1)).

4. Debt-bonded prostitution stage

The "debt-bonded prostitution stage" is likely to go on for months, depending on the size of the "debt" and the number of "jobs" the victim is forced to do each day (often the "contract" extends beyond the "pay-back" period, with women forced to continue "working" at a rate of pay decided by the trafficker). To date, most trafficking-related prosecutions have been for cases in legal brothels, but trafficked women are also prostituted in illegal brothels, escort agencies and street prostitution, as well as informally "bought/sold" or "rented" between groups of men. Kathleen Maltzahn of Project Respect points out that:

"Violence continues during this period and is an important method of control. Seemingly arbitrary violence can be paralysing, and traffickers use both the violence of customers and their own strategic violence to control women. Women report being sent back to violent customers if they leave the room ... Women are hunted down and beaten and locked up if they run away. Women are also subjected to arbitrary and unpredictable violence from traffickers, simply because the trafficker is angry, tired, loses at gambling – this serves to increase the sense of the trafficker's power" (Maltzahn 2004).

Psychological violence is also used: in addition to taking women's passports, traffickers withhold information about where they are (women frequently don't know the address of where they are held, or even the suburb), how to get around and where to go to buy basic essentials. Traffickers control the women's money, food and medicine. They often tell women that they have paid off Immigration and that the police are corrupt and won't help them. They blackmail women with pornographic images taken of them, which they threaten to send to the women's families or children. They encourage gambling and drug dependency, and in the latter case maintain the women's dependency on them as the sole suppliers of the drug. But one of the traffickers' most effective tactics, as Project Respect found in their interviews with victims of trafficking, is:

“Kindness, that old strategy from perpetrators of domestic violence. In between the violence [traffickers] are at times kind and considerate, and when the violence decreases, women begin to hope that it was all just a terrible nightmare that will now go away. Lower level violence may continue, but in contrast to what has gone before, this may feel bearable. This is coupled with giving women a greater sense of being able to move around” (Maltzahn 2004).

Ironically, it may also be the case that the traffickers represent the only people the women know on a personal level in Australia, and may be the only people who speak the women’s language. This means women’s dependency on their traffickers, combined with the above, imposed isolation, is incredibly intense.

Project Respect spoke of three “sub-stages” of the debt-bonded period that was particularly obvious in one brothel the organisation knew of, where three different buildings were being used for this end. The first “sub-stage” is when women have only just realised the conditions of their “contract” and are subjected to intense violence, rape and threats to break resistance and establish the trafficker’s control. The women are not allowed to leave the brothel or house where they are kept. The second “sub-stage” is when the trafficker’s control has been established and the women live in such fear that psychological violence is enough. Physical and sexual violence decreases and traffickers may show “kindness” to the woman to make her feel that things are getting better. The women may be allowed out on escorted trips to the shops or the cinema. The final “sub stage” looks, from the outside, like “freedom”:

“By the end of the contract, many women will have no physical constraints on them at all. There are a number of reasons for this. Firstly, women have learnt that they will be punished if they run away, and are scared that traffickers will hunt them down even if they return home. Secondly, women hope to pay off their “debt” and then be able to make some money for themselves and their families. Thirdly, women have learnt that there is little support for women who run away and are told that they will be deported if they contact the Australian authorities. Finally, women at the end of their contracts are less “valuable” to traffickers, as profit has been extracted from them and they are no longer “new faces” (Maltzahn 2004).

Common ideas of sexual servitude relate most to the first sub-stage, where the victim cannot leave and is subjected to physical and sexual violence. Nevertheless, women at this last sub-stage continue to live in fear of violence, and the traffickers may have also made threats to the woman’s children and family: their enslavement has become psychological. This will be obvious to those who work with victim/survivors of intimate partner violence and sexual assault, who will be aware of the similarities in how control is exercised, with women seeing no way out of their situation and even believing the violence is somehow “their fault”. However, if this cycle of self-blame and its resultant fear of disclosure is not well understood by legislators, magistrates and judges, the new “sexual servitude” definition could risk being conservatively interpreted¹⁷. Some of those theorising “sex work” as legitimate or freely-chosen work also tend to minimise the impact of past violence, threats and other controlling behaviours, and may view a woman at this stage, not as a trafficked woman who has been beaten and threatened into submission, but as simply a “migrant sex worker” (see, for example, Agustin 2002, Fawkes 2003). Project Respect notes how it is important for traffickers to give the appearance of trafficked women being “free”, in order to avoid possible prosecution now that the victim has become less valuable to them and can be “let go”.

5. "Post-contract" stage

Some women do not reach the "post-contract" stage as they may be "detected" by DIMIA and deported before they have "paid off" their "debts" (the introduction of new visas, explained below, has stopped some, but not all, deportations of trafficked women). When deported women are back in their country of origin, they are usually in no better situation than when they left, and are often worse-off, particularly if their families or communities learn they have been prostituted. They are also likely to be traumatised by their experience and unlikely to have access to any support services. They are extremely vulnerable to being re-trafficked. In the past, traffickers have reported women approaching the end of their "contract" to DIMIA themselves, to avoid the risk of the woman going to the police, and, if they think the woman will continue in prostitution, to eliminate competition. Some women manage to escape the "contract", but their options are likely to remain limited:

"At times [escape] is achieved by establishing a relationship with an Australian citizen who will either provide refuge to the woman or attempt to pay off the "contract". Sometimes, trafficked women marry Australian citizens. A woman who escapes traffickers is unlikely to understand her migration rights and other legal rights. At times, a women's migration status is made worse by traffickers who have applied for protection visas for women and then cancelled the application when the woman ran away. This means that the woman cannot make another on-shore application for a visa (for example a spouse visa) and so is vulnerable to removal" (Maltzahn 2004).

For women who make it to the end of their "contract", some simply want to leave Australia and do so of their own accord. Some women attempt to make some of their own money by doing further prostitution.

The Action Plan to Eradicate Trafficking in Persons

The Australian Government launched its *Action Plan to Eradicate Trafficking in Persons* in June 2004. It incorporated certain measures announced earlier, as part of a \$20 million package to combat trafficking. It also introduced new measures, such as new visas for victims of trafficking: the "Bridging F" and "Witness Protection (Trafficking) Visas". The introduction of the visas is a requirement of the UN Trafficking Protocol, and is positive in that it recognises trafficked women as victims of a crime rather than simply illegal immigrants who must be deported. The "Bridging F" visa is a 30-day visa that allows trafficked women "to reflect on whether they wish to further assist the AFP [Australian Federal Police], State or Territory police" (DIMIA 2005). Some trafficked women may decide not to do so, often out of fear for their own safety, or that of their families, following threats from their traffickers (Project Respect 2004). In this case they can apply for other visas, and their eligibility is assessed on a case-by-case basis. Trafficked women who are willing to assist police, and who police believe can assist in prosecution may be eligible for Criminal Justice Stay Visas (CJSVs) "for as long as they are required for law enforcement purposes" (2005). Since January 2004, women on CJSVs who "have significantly contributed to the prosecution or investigation of people trafficking matters, and who may be in danger if they return to their home country as a result of the assistance they have provided, may be invited to apply for a Witness Protection (Trafficking) Visa" (2005). This visa is initially for two years, and, if the woman continues "to meet the criteria" (2005), can be upgraded to a permanent visa.

The introduction of the visas has entailed certain procedural changes for DIMIA officers: trafficking victims “detected” by DIMIA would now be referred on to the Australian Federal Police (AFP) instead of deported. Following referral from DIMIA, the AFP’s Transnational Sexual Exploitation and Trafficking Team, a 23-person unit dedicated to investigating trafficking cases, is now charged with determining whether a person is a trafficking victim. The AFP or other agencies might also locate trafficked women themselves through anti-trafficking operations initiated under the new package to combat people trafficking.

Trafficking victims on these visas are eligible for the Victim Support Program (VSP), which is managed through the Australian Government Office for Women (OfW) and case-managed since 2004 by Southern Edge Training (SET). Between January 2004 and January 2005, 30 women entered the program, and 22 were still receiving support at the time of writing. The support services offered include access to Medicare, accommodation assistance, social support (such as counselling), training, and (if eligibility requirements are met) Special Benefit and Rent Assistance. Legal assistance to women in the Victim Support Program is to a maximum of three funded appointments with independent advisors, in which context they can seek immigration advice from a registered migration agent or lawyer. Outside these three sessions, the Director for Public Prosecutions provides all other information about court procedures and legal rights, and advice about migration status is provided by DIMIA. Individual SET case managers are responsible for ensuring the appropriate delivery of these support services for their clients¹⁸.

The recent changes outlined above have led to an increase in prosecutions¹³, and enabled some trafficked women to be provided with the support they need to re-gain independence. The Government’s commitment to better address the prevalence and human costs of trafficking through the allocation of significant funding and the design and intent of the Action Plan has been thoroughly welcomed. There remain, however, two areas that anti-trafficking organisations such as Project Respect and the Coalition Against Trafficking in Women Australia (CATWA)¹⁹ are keen to have reviewed. The first relates to service provision for victims, where the view of Project Respect and CATWA is that services should be provided by an organisation with specialist experience in responding to women who have been victims of violence. Project Respect and CATWA argue that an in-depth knowledge of the impact of violence on women would allow for more effective support and advocacy for victims of trafficking.

A further concern is that a balance between a prosecution-based criminal justice response to trafficking and one that takes greater account of the needs of the victims has not yet adequately been struck. Representatives from several NGOs have noted that there are still no protections for victims who are no longer contributing to a police investigation as they are either too afraid of their traffickers, or do not have enough information to assist police with a prosecution (Mazzone 2004; Maltzahn 2004; Costello 2004). Victims must “make a significant contribution to, and cooperate closely with, the prosecution or investigation of a person who has trafficked others” (DIMIA 2005). As trafficking is not, in itself, considered a form of persecution under refugee laws, women who do not have adequate information, or who cannot cooperate for fear for their own or their family’s safety, face deportation unless they can prove they are at risk of violence or other forms of persecution in their countries of origin. Following deportation, women may face the danger of being re-trafficked, or retributions from traffickers if they are even perceived as having cooperated with police.

The UN Working Group on Contemporary Forms of Slavery “calls upon states to ensure that the protection and support provided to the victims are at the centre of any anti-trafficking policy and to provide protection, assistance and temporary residence permits to victims that are not contingent on their cooperation with the prosecution of their exploiters, as articulated in Articles 6, 7 and 8 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children” (United Nations Economic and Social Council 2003: 22). According to Project Respect (2004), a prosecution-based criminal justice response also presents some of the same difficulties for victims of trafficking as it does for victims of sexual assault in local jurisdictions, especially in terms of discouraging others to come forward, or to seek support, and in potentially exposing them to a system of justice that has often ended up blaming the victim (2004).

Addressing demand

As outlined above, over the last few years in Australia we have seen a great increase in migration-based responses to trafficking (focusing on regional cooperation, aid programs and issues of immigration), as well as criminal-justice based responses, focussing on legislative improvements and the provision of support for trafficking victims who participate in prosecutions). These are important steps, but, in addition to concerns about service responses raised above, feminist and human rights activists have also noted that these responses focus largely on the “supply” side of the equation. There is a growing insistence upon addressing the often invisibilised “demand” side: the men who buy trafficked women.

Article 9 of the Trafficking Protocol deals with the measures states should take to *prevent* trafficking. This focuses on addressing “root causes” of trafficking, including “demand”. There have been two major interpretations of this word. The more conservative interpretation is that states should educate men who use prostitutes to distinguish between those who have been trafficked and those who have not, and to prosecute those buyers who knowingly use trafficked women. This approach is currently being undertaken in Britain. The second interpretation is that states should target demand for prostitution itself, as the same demand fuels supply of both trafficked and non-trafficked prostitutes, and that the men who use them are unable (and/or unwilling) to distinguish between them. The US State Department is of this view, and link causally the legalisation of prostitution to demand for sex trafficking: “Legalisation of prostitution expands the market for commercial sex, opening markets for criminal enterprises and creating a safe haven for criminals who traffic people into prostitution ... Legalisation simply makes it easier for them to blend in with a purportedly regulated sex sector and makes it more difficult for prosecutors to identify and punish those who are trafficking people.” They also claim that “where prostitution has been legalised or tolerated, there is an increase in the demand for sex slaves and the number of victimised foreign women - many likely victims of human trafficking.” (US State Department 2004b: 2).

This interpretation is supported by the UN Working Group on Contemporary Forms of Slavery, which “urges states to ensure that their policies and laws do not legitimise prostitution as the victims’ choice of work, or promote the legalisation or regulation of prostitution” (United Nations Economic and Social Council 2003: 22), and is in line with the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

This approach has been taken up in Sweden, where prostitution is seen as a form of violence against women. Government-funded support services and exit programs are available to women in prostitution, and buyers are criminalised. The result, according to Gunilla Eckberg, Special Adviser to the Swedish Government on human trafficking, has been a decrease in trafficking for sexual exploitation (Eckberg 2001). In Australia, prostitution is regulated at the State/Territory level, and there is a growing tendency towards legalisation, which could be argued as undermining the possibility of addressing demand according to the latter interpretation. As mentioned earlier in this paper, the lack of further evidence-based research examining the effect of legalisation of prostitution on demand for trafficked women could be said to hamper theoretical and policy developments along this line.

More recently, the UN Commission on the Status of Women (CSW) at its Review and Appraisal of the Beijing Platform for Action (28 February–11 March 2005) noted that it is “convinced that eliminating demand for all forms of exploitation, including for sexual exploitation, is a key element to combating trafficking in women and girls” (CSW 2005, PP10), and calls upon governments to “undertake research on best practices, methods and strategies, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in women and girls, in particular to eliminate demand” (CSW 2005 OP2c). While the Commission does not provide a clear interpretation of how to address demand, it reflects an emerging trend to look at trafficking not just through the options (or lack thereof) available to trafficked women, but rather through the options available to the men who buy them, without whom trafficking would not exist.

Service responses

Project Respect, in Australia, and the Coalition Against Trafficking in Women (CATW), internationally, have noted the need for women’s services to work more closely with women in the sex industry generally, as “women in the sex industry sustain the same kind of injuries as women who are battered, raped and sexually assaulted” (Raymond et al 2001: 78). The most extensive international study of violence in prostitution to date has shown extremely high levels of physical violence (73 per cent) and rape (62 per cent) of women in prostitution, with 66 per cent suffering post-traumatic stress syndrome (regardless of nationality, place of prostitution, legality of prostitution or level of violence) (Farley et al 1998). It can safely be assumed that the levels of violence trafficked women experience will be even greater.

“Non-trafficked women in the sex industry have a real role to play in supporting trafficked women. Often they will be the only people trafficked women are in contact with who do not have a vested interest in maintaining their exploitation” (Maltzahn 2002: 65). Yet all women in the sex industry suffer increased levels of rape and violence and are in need of support services². Research by the Prostitutes Collective of Victoria showed that respondents felt “out of touch with reality” and “different from other people, especially other women”, with 64.2 per cent of women wanting to leave the industry (Noske et al 1996: 11). According to Maltzahn, this means that, regardless of differing positions on prostitution, there is a need for greater outreach by services to women in the sex industry (Maltzahn 2002). Janice Raymond of CATW believes that:

“Battered women’s and rape crisis services need to expand their mission to include victims of the sex industry. Adequate resources from [US] Local, State and Federal Government need to be allocated for these additional programs and services” (Raymond et al 2001: 96).

Women in sex industries have long felt targeted and over-surveilled by law enforcement agencies, and some have raised concerns that anti-trafficking laws will increase this surveillance (Scarlet Alliance 2004). A recommendation that has wide support among all groups, again regardless of differing positions of prostitution, is that law enforcement should not target women, who have been trafficked and prostituted, as offenders. In their research on trafficking of women in the United States, Raymond *et al* also outlined several legal issues equally applicable to trafficking here in Australia:

“Law enforcement and social service providers reported that the burden of proof needs to be shifted to the traffickers. Legislation must not allow traffickers to use the consent of the victim as a defence against trafficking. Law enforcement should be sensitive to the lack of options that women have who are trafficked” (Raymond et al 2001: 96).

Conclusion

The last decade has seen enormous growth in the trafficking of people, mostly in women, for the purposes of sexual exploitation. During the writing of this report, trafficking in people passed from third-largest to second-largest international crime with profits estimated to equal the trade in weapons (March Bell 2005). The United States Justice Department’s senior special counsel for trafficking issues and civil rights has recently called it the number one human rights issue today (March Bell 2005). As the world tries to come to terms with the scale of trafficking, different, and sometimes conflicting, modes of analysis are being used to examine, understand and attempt to address it. Feminist analyses like that of Kathleen Barry’s in her 1979 book *Female Sexual Slavery* were instrumental in exposing the extent of modern trafficking for sexual exploitation. Barry and other feminists framed this form of trafficking as a gendered issue of male violence against women long before current levels of economic globalisation and international migration led some analysts to search for explanations in these phenomena. Migration- and globalisation-based analyses add to our understanding of how international economic patterns have contributed to the increase in trafficking generally, but cannot alone explain why the majority of victims continue to be women, nor why prostitution is the “work” they are most often trafficked into.

Human rights groups have been slow to address trafficking as a human rights abuse, just as they have been more generally to recognise violence against women perpetrated by “private” individuals, such as intimate partner rape or domestic violence. However, a human-rights based analysis is now key to our understanding trafficking in terms of a violation of human dignity, autonomy and freedom, as well as an abuse of power. Along with feminist analyses, it enables an examination of the intersections of sex, race and class that make some people more vulnerable to abuse than others.

The United Nations Trafficking Protocol of 2000 supplied an internationally agreed-upon definition of trafficking for the first time, amid arguments over issues of “consent” which the drafters of the Slavery Convention eighty years