

# Trends & issues

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**Foreword** | *There is a lack of international and Australian research about offenders who have been convicted of human trafficking, slavery and slave-like practices. In Australia, 15 offenders have been convicted of such crimes. The publicly available court judgments about these offenders contain invaluable information about the characteristics and motivations of offenders, the intersection of trafficking offending with other forms of criminality and the common methods offenders use to control and exploit their victims.*

*By analysing these cases, this paper provides an accessible and timely assessment of offenders who commit human trafficking, slavery and slave-like crimes in Australia. This paper is part of a wider program of research undertaken by the AIC on this type of crime in Australia and the Asia-Pacific region, which is funded by the Australian Government as part of its national Action Plan to Eradicate Trafficking in Persons.*

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## Human trafficking and slavery offenders in Australia

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The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Trafficking Protocol) came into force in 2003 under the umbrella of the United Nations Convention against Transnational Organised Crime (UNTOC). Since then, a growing number of countries, including Australia, have introduced or strengthened laws that criminalise a range of practices related to human trafficking. In Australia, between 1 January 2004 and 30 June 2012, 15 offenders (involving at least 37 victims and 9 schemes) have been convicted of trafficking in persons, slavery and slavery-like offences. Given the relatively recent focus on these types of crimes, there has been little research on offenders in Australia or internationally (Aronowitz, Theuermann & Tyurykanova 2010; David 2012).

This paper presents the first analysis of convicted offenders in Australian cases. It provides an overview of the limited international literature on offenders in trafficking in persons, slavery and slavery-like crimes before analysing the characteristics of convicted offences in Australian cases. Although there have only been a small number of convictions in Australia, this paper provides the first analysis of the characteristics of Australian offenders and identifies the similarities and differences between offending in the Australian context and elsewhere. The conclusion identifies how these findings may inform strategies to prevent and deter offending.

### The legal framework

A central element of Australia's response to human trafficking is identifying and prosecuting offenders for crimes of human trafficking, slavery and slave-like practices. These crimes all involve extreme forms of exploitation and are often described as akin to a 'modern form of slavery' (UNODC 2009: 6). While laws prohibiting slavery have a long history internationally (Gallagher 2010), it was the entry into force of the Trafficking Protocol in 2003 that led many countries, including Australia, to introduce new laws to criminalise human trafficking, slavery and slave-like practices.



Under the Trafficking Protocol, adult men and women are trafficked if they are recruited, moved, harboured or received through the use of threats, force, coercion, abduction, fraud, deception or abuse of power, or because of a position of vulnerability, for the purpose of exploitation. In this context, exploitation includes forced labour or services, slavery or practices similar to slavery and servitude. In the case of a child, trafficking requires only two elements—the action and the purpose of exploitation.

While the crimes of slavery, servitude, forced labour and trafficking in persons differ in their precise legal elements (Gallagher 2010), they all aim to prohibit exploitative conduct that deprives the victim of basic rights and freedoms. In this paper, the term ‘human trafficking and slavery crimes’ should be understood to refer to a range of offences contained in divisions 270 and 271 of the *Commonwealth Criminal Code Act 1995* (the Criminal Code).

Australia’s response to human trafficking, slavery and slave-like practices has evolved over the past decade. Since the introduction of human trafficking and slavery offences into Divisions 270 and 271 of the Criminal Code, the practical experience of investigating and prosecuting human trafficking and slavery in Australia has confirmed that, contrary to popular stereotypes, human trafficking is not a problem unique to the sex industry and occurs in a diverse range of settings (APTIDC 2012).

The recently enacted *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013* expands the existing range of offences against slavery and human trafficking by establishing new offences of forced labour, forced marriage, organ trafficking and harbouring a victim. It also extends the application of existing offences of deceptive recruiting and sexual servitude so they also apply to forms of servitude and deceptive recruiting outside the sex industry.

The offenders considered in this paper are those convicted of slavery, sexual servitude

and human trafficking offences under Divisions 270 and 271 of the Criminal Code. There are complementary state/territory offences, for example, sexual servitude. However, monitoring of convictions for crimes related to human trafficking under state/territory legislation is not well established or comprehensive and is an area that is under consideration as part of the Australian Institute of Criminology’s (AIC) human trafficking monitoring program at the time of writing. Therefore, the paper only considers the 15 offenders convicted of human trafficking, slavery and sexual servitude under the Criminal Code.

Human trafficking, slavery and slave-like practices, such as servitude and forced labour, criminalise situations where the control exercised over a person is such that their freedom is seriously undermined and the person is subjected to serious forms of exploitation. To date, slavery and slavery-like offences have been the most commonly prosecuted human trafficking offences in Australia. Thirteen of the 15 convictions under the Criminal Code have been for offences of slavery and sexual servitude. Only two convictions have been for specific trafficking in persons’ offences.

As a signatory to UNTOC, Australia has obligation to ‘encourage those involved in trafficking in persons crimes to cooperate with law enforcement’ (Art 26 UNTOC) and also to protect victims, as well as witnesses (who may be offenders) from potential retaliation (Arts 24 and 25 UNTOC). There is no specific provision in Australian legislation for the treatment of trafficked persons who have also engaged in criminal activity. However, in Europe, a directive of the European Union provides for the non-prosecution of victims of human trafficking for their involvement in criminal activities that they have been compelled to commit as a direct consequence of being trafficked (European Union Directive 2011/36/EU).

The principle of non-punishment of trafficked persons for other offences (eg penalties for breaches of immigration law) has also been recognised in non-binding guidelines issued by the United Nations Human Rights Council (UN Economic and

Social Council 2002). As Gallagher (2010: 288) explains:

the principle is not intended to confer blanket immunity on trafficked victims who may commit other non-status related crimes with the requisite level of criminal intent.

It follows that the non-punishment principle does not extend to protect victims who *later* become trafficking offenders.

## International research on offenders

This section reviews what the limited international literature on human trafficking offenders reveals about the characteristics of offenders. It focuses on literature about offenders from destination countries that have a level of socioeconomic development comparable to Australia. The key themes that emerged from this review provide useful points of comparison for the analysis of offenders in Australia.

### Organised nature of human trafficking

The Trafficking Protocol falls under the umbrella of an organised crime convention, the UNTOC. While anti-trafficking responses often reflect the assumption that international organised crime groups are heavily involved in human trafficking, this assumption is not well tested against known cases (Aronowitz, Theuermann & Tyurykanova 2010; David 2012; Gorzdziaik & Bump 2008).

A complicating factor in considering the level of organised crime involvement in human trafficking is the evolution and diversity in understanding concepts about organised crime (David 2012; von Lampe 2011). Under the UNTOC (Article 2(a)), an organised criminal group is:

...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 (UN 2000b: 4).

This broad concept of a 'structured group' reflects a recognition that organised crime can be diverse and adaptive, and that it may not necessarily conform to hierarchical Mafia-style stereotypes (David 2012; Edwards & Levi 2008). It may, however, involve 'a diverse and analytically distinct range of actors, activities and harmful consequences' (Edwards & Levi 2008: 364).

Internationally, the crimes of human trafficking, slavery and slave-like practices are recognised to be diverse and to vary in scale and sophistication; key actors can be highly organised criminal groups, loosely connected networks, individuals, or family and friends of the victim (UNODC 2010a). A report for the Organisation for Security and Cooperation in Europe further observed that:

[w]hile the degree to which trafficking offenders are organised differs from one case to the next, trafficking operations can fall on a continuum ranging from 1) soloists or individual traffickers; to 2) loose networks of organised criminals; to 3) highly structured international trafficking networks. (Aronowitz, Theuermann & Tyurykanova 2010: 18)

To the extent that human trafficking crimes are organised, the literature on organised crime offending is of interest and as von Lampe (2011: 154–155) explains:

[What is of interest is not only] who is present but also...the nature of the relationships between those present... [Understanding organised crime involves understanding] the sociological concept of situation in terms of a spatio-temporal process of social interaction...the complexities of the social dimension of a crime situation are only imperfectly captured ...by typologies of the persons present in a situation.

Thus, diversity in the level and nature of organisation, the relationships of offenders with other offenders and victims, and the situations that enable these relationships to be manipulated for crime, are key themes relevant to understanding the modus operandi of offenders.

## Human trafficking offenders' characteristics, histories and roles

The international literature on offenders suggests that their profile is often more complex than popular stereotypes would suggest. As Surtees (2008: 44) observes:

...there is an image of the typical trafficker—a middle-aged man, unknown to the victim, who deceives her and traffics her into prostitution. In reality, however, traffickers are far more diverse than often represented in the media and information campaigns...

What little research exists on human traffickers tends to focus on analysis of demographics such as age, gender and place of birth (Aronowitz, Theuermann & Tyurykanova 2010). While this analysis has its limitations, it does reveal some important information. Just as there are gendered aspects to victimisation in human trafficking crimes, with victims being more likely to be female (some estimates put the proportion as high as two-thirds; USDOS 2012; UNODC 2010b), there also are gendered aspects to offending.

Although males continue to account for the majority of offenders in many nations, UNODC have noted that 'trafficking in persons is a crime with a relatively high rate of female involvement' and there is a 'positive correlation between the share of girls detected as victims and the share of women convicted for trafficking in persons' (UNODC 2012: 29).

The similarities between offenders and victims are reported to be important to the process of recruiting and controlling victims:

Since victims are often recruited by means of deception, traffickers need to gain the trust of potential victims. For this reason, recruitment is often carried out by nationals of the same country as the victims. The use of women to recruit other women has been documented by studies conducted in the field... The victims' trust is also needed at destination to reduce the risk of escape (UNODC 2010a: 40).

The 2010 report by the Organisation for Security and Cooperation in Europe suggests the high numbers of female offenders in trafficking may be related to their former involvement as victims of this offence, observing:

...[they undergo] a sort of transformation of their exploitation as former victims into traffickers themselves; the psychological impact of trauma and a quasi-liberation from their victim status; gaps and limitations in investigations resulting in the investigation terminating at the point when the first-line offender is identified and prosecuted; or shortages of and inadequate assistance and protection leading to a cycle of re-victimization and re-trafficking (Aronowitz, Theuermann & Tyurykanova 2010: 43–44).

A number of studies highlight cases of former victims involved in trafficking offending (Denisova 2004; Siegel & de Blank 2010; UNODC 2009). A report on victims of trafficking in south-eastern Europe observed that a higher percentage of victims in Moldova were recruited by women than by men, with victims and former victims involved in the recruitment process (Surtees 2008, 2005).

The transformation of victims into offenders is an emerging theme in the international literature (Surtees 2008; UNODC 2009). Although the non-punishment principle would only seem to apply to victims who commit offences as a direct result of their trafficked status, the issue of how to respond to victims who later become perpetrators can raise complex issues for detection and prosecution of trafficking crimes. A 2009 report of the Dutch National Rapporteur identified two cases of victims who also had a role in offending, but as subordinates rather than as leaders and they were not prosecuted in the Dutch system (Dutch Rapporteur on Trafficking 2009).

Unique research in the Netherlands examined the role of 89 convicted women offenders involved in human trafficking (but only where sexual exploitation had occurred; Siegel & de Blank 2010). The research found that most female offenders

had subordinate roles (rather than roles as leaders in criminal schemes) and the line between being an offender and being a victim was sometimes vague, with some female offenders participating in criminal activities because they feared recriminations. For each offender, the researchers considered country of origin, age, relationship with male offenders, use of violence and their role and tasks in the criminal enterprise. Female offenders fell into three categories—*supporters* (subordinate to the leading female or male traffickers and commonly controlling or instructing female victims), *partners in crime* (where female offenders had a relationship with a man and cooperated with him in principle on the basis of equality in conduct, tasks and activities) and *madams* (female offenders who play a leading role in human trafficking activities; Siegel & de Blank 2010). Of the 89 total cases, researchers classified the *supporters* as comprising the majority of offenders (n=50; 56%), followed by *partners in crime* (n=25; 28%) and then *madams* (n=10; 11%), with four cases unable to be classified due to insufficient information or controversy about the classification (Siegel & de Blank 2010).

### Offenders' relationships with victims

Relationships between offenders and victims is an important theme in the international literature, in part because these relationships help explain how offenders can control their victims without physical force. In his research on slavery, the sociologist Kevin Bales emphasised that the relationship between the victim and the offender can be manipulated to achieve control over the victim (Bales 2006). The features of relationships that can be manipulated are often deeply embedded in a victim's circumstances and history, such as:

cultural, religious, social, political, ethnic, commercial, and psychological influences and combinations of these influences... [which] follow general patterns reflective of the community and society in which that relationship exists (Bales 2006: 1).

Human trafficking offenders can manipulate crime contexts such that force is not necessary (Aronowitz, Theuermann &

Tyurykanova 2010) and across social, cultural and even spiritual dimensions, non-physical methods of control will vary depending on the victim's susceptibilities and context (Aronowitz, Theuermann & Tyurykanova 2010; Dutch Rapporteur on Trafficking 2009; UNODC 2010a).

The increasing use of very subtle forms of control in human trafficking is observed internationally:

in Austria, [where] most women trafficked into prostitution are currently (as opposed to the past) earning a small salary which provides hope in paying off their debts...Dutch police report this same phenomenon...they are living in their own apartments, provided 'courtesy' of their traffickers... (Aronowitz, Theuermann & Tyurykanova 2010: 51)

Part of the impetus for non-physical control of victims is that it reduces the risk of escape (UNODC 2010b) and can enhance profits. Human trafficking is commonly characterised as a crime type where many of the offenders are motivated by profit rather than by a desire to harm a victim (Aronowitz, Theuermann & Tyurykanova 2010).

### Intersection of human trafficking and other crimes

Human trafficking is commonly reported to involve the commission of a series of other offences at various stages of the trafficking process. For example, human trafficking crimes may involve immigration fraud and use of corrupt agents to facilitate recruitment and travel of trafficked persons across state borders (David 2012). As human trafficking and slavery are commonly motivated by profit, crimes relating to money laundering may occur as part of the trafficking process.

There is a lack of research about the overlap of human trafficking crimes with other types of crime, particularly in Australia's Pacific region. However, previous AIC research on the vulnerability of people to human trafficking in the Pacific region noted that such risks can be heightened in localities where unregulated and/or illegal logging and fishing industries occur (Herbert 2007; Lindley & Beacroft 2011).

### Trafficking in persons type crimes in Australia— investigations and prosecutions

Between 2004 and 2012, there were 346 investigations and assessments by the Australian Federal Police of suspected cases of human trafficking, slavery and slave-like practices such as sexual servitude and forced labour. Forty-six individuals were referred by police for assessment for prosecution under the Criminal Code (Attorney General's Department personal communication 2 January 2013), with 15 people convicted. At the time of writing, there were three prosecutions before the courts and one of these was an appeal from a lower court conviction (Attorney General's Department personal communication 2 January 2013). Most convictions have been for slavery offences. The high numbers of investigations compared with convictions highlights the complexity of investigations and prosecutions for this crime type.

Most convictions have been for slavery offences that occurred in the sex industry. In 2011–12, cases in the sex industry continued to be investigated, alongside an increasing proportion of non-sex industry cases; 59 percent (n=24) of the 41 new investigations and assessments in 2011–12 pertained to the sex industry (APTIDC 2012) compared with 69 percent (n=24) of the 35 new investigations in 2010–11 (APTIDC 2012).

To date, there have been no reported prosecutions of domestic trafficking or trafficking involving forced marriage in Australia. A prosecution for attempted organ trafficking was discontinued (O'Brien 2012).

Criminal justice data on human trafficking, slavery and slave-like practices in Australia is not indicative of the nature or scale of offending. Criminalisation of this crime type and responses to it in its modern form are recent, so victims and witnesses may not yet recognise it as a crime and may not report it (David 2010; Joudo Larsen et al. 2012).

The historical emphasis by police on the sex industry (David 2010) is reflected in the types of cases that have been investigated

and prosecuted. However, the high proportion of prosecutions in the sex industry is not necessarily indicative of the vulnerability of persons in the sex industry, or indeed in the non-sex industries and in marriage contexts.

With the growing number of cases and international interest in the characteristics and motivations of offenders, the unique analysis of human trafficking offenders in Australia undertaken in this paper is a timely contribution to this emerging area of focus. However, the small number of convicted offenders and other issues raised earlier means the findings need to be treated with caution and revisited as more cases emerge.

## Convicted offenders in Australia

Successful convictions in Australia for human trafficking and slavery crimes offer a unique insight into the characteristics of convicted offenders.

The 15 convicted offenders were involved in nine trafficking schemes; with seven of the nine trafficking schemes involving slavery, human trafficking and sexual servitude in the sex industry.

The analysis of these 15 offenders is largely based on reported judgments and to a lesser extent on other publicly available material such as media reports. The analysis identifies focuses upon the following key themes:

- the gender, age and country of birth of the offender;
- the organised nature of the crime;
- whether the background of the offender was similar to the background of the victim(s) and whether the offender had a history of prior victimisation;
- whether the relationship and shared networks between the victim(s) and the offender were used by the offender to commit the crime;
- the non-physical or physical nature of the control exercised by the offender over the victim(s);
- intersections with other forms of criminality, for example, immigration fraud; and

- the motivations of the offender and the offender's explanations of their own conduct.

Not all of these themes were addressed in publicly available material in relation to every successful prosecution and so this is a limitation in the analysis of Australian convicted offenders that follows.

### The prosecution of Wei-Tang and DS

In the landmark case of *R v Tang*, the High Court provided judicial guidance on the meaning of slavery (*The Queen v Tang* [2008] HCA 39). The case concerned five Thai victims, all of whom entered Australia to work in the sex industry and who were required to pay off a 'debt' of between \$40,000 and \$45,000 each by having sex with customers at a brothel in Melbourne. Their movements were restricted and their passports were confiscated.

Three alleged offenders were charged—Wei Tang, a female Melbourne brothel owner, Paul Pick, the manager of the licensed brothel where the victims were exploited and DS, a former female victim of slavery who worked at the brothel.

Ms Tang and Mr Pick pleaded not guilty. After a jury found Mr Pick not guilty of eight of the 10 charges against him and failed to reach a verdict about the remaining two offences, the prosecution decided not to pursue the case. While the evidence suggested several offences against the *Migration Act 1958* (Cth) as outlined below, none of the defendants were charged with these offences.

DS pleaded guilty to two counts of slave trading (s 270.3(1)(b) Criminal Code) and three counts of possessing a slave (s 270.3(1)(a) Criminal Code; *DS v R* [2005] VSCA 1999 [2]). DS was a Thai national who was a crucial witness in the prosecution case against Ms Tang and was herself recognised by the court as a former victim of slavery.

Ms DS arrived in Australia on 24 June 2000 having been 'contracted' by a Sydney 'owner' to work in a condition of debt bondage (*DS v R* [2005] VSCA 1999 [7]). She had no freedom of movement and her passport was confiscated. After this

period of slavery ended, DS continued working for 'Sam' who had been her 'owner' when she arrived in Australia (*DS v R* [2005] VSCA 1999 [7]). This work involved negotiating with Thai organisers to recruit Thai victims and 'she generally looked after the "contracted" women' at Club 417, a brothel in Melbourne' (*DS v R* [2005] VSCA 1999 [7]). DS collected money earned by the victims from Ms Tang and delivered it to Sam. She also acted as an escort and assisted in making false visa applications for some of the victims.

The charges against DS concerned her actions in arranging the victims' travel from Thailand to Australia and facilitating the transfer of possession from the victims' previous 'owner' to their new owner, Ms Tang. DS successfully appealed against her original sentence of nine years imprisonment and was resentenced to six years imprisonment, with a non-parole period of two and half years (*R v DS* [2005] VSCA 99 [27]).

After describing how the five Thai victims were reduced to slavery, Chernov JA observed that DS had herself been in similar circumstances as a 'contracted prostitute', required to service 700 clients in Australia to fulfil her 'debt' to traffickers (*R v DS* [2005] VSCA 99 [7]). In sentencing DS, Chernov JA (Batt and Vincent JA agreeing) found that her conduct involved serious offending, stating that:

[t]he appellant played an important role in the criminal scheme by effectively arranging for each of the victims to work in a brothel in circumstances where they were totally subjected to the directions of their 'owner' so far as their work was concerned and were deprived of their basic freedom of movement. The appellant well knew the scheme involved robbing victims of their basic rights—she was such a victim herself at one stage, yet she participated in the illegal and highly immoral scheme (*R v DS* [2005] VSCA 99 [18]).

However, the Court did reduce the original sentence imposed on DS to take into account that she had pleaded guilty, was clearly contrite and that she continued

to provide valuable assistance to the authorities 'at considerable risk to her safety' (*R v DS* [2005] VSCA 99 [19]).

Ms Tang was 44 years of age when she was convicted of slavery offences in 2006 following a jury trial (*R v Wei Tang* [2006] VCC 637). Ms Tang admitted to certain actions that the prosecution argued constituted slavery but she maintained that the five Thai victims acted voluntarily and understood the terms of the agreement they entered into. After Ms Tang successfully appealed her conviction, an appeal was heard by the High Court.

By a six-to-one majority, the High Court overturned the orders of the Victorian Court of Appeal and restored Ms Tang's slavery conviction. Ms Tang then appealed against her sentence (*R v Wei Tang* [2009] VSCA 182). While the Victorian Court of Appeal reduced her sentence by 12 months, the Court rejected the submission that the offending was at the lower end of the scale of seriousness and that insufficient regard was had to the fact Ms Tang believed the five victims consented to the conditions of the contract.

The Court of Appeal stated that, had the victims been kidnapped or coerced into agreeing to come to Australia to work in the sex industry, Ms Tang's culpability would 'undoubtedly have been much higher' (*R v Wei Tang* [2009] VSCA 182 [42]). However, the conduct was still 'very serious offending' as the victims were 'not free to choose whether or when they worked in the brothel' (*R v Wei Tang* [2009] VSCA 182 [42–43]). The Court also noted that:

[i]t was common ground on the plea the applicant did not know what slavery was and did not have any idea she was committing the offence of slavery. The prosecutor accepted that, although the applicant 'knew precisely what she was doing', she did not believe she was doing anything wrong (*R v Wei Tang* [2009] VSCA 182 [49]).

The Court then endorsed the sentencing judge's comments that, given Ms Tang's 'background and experience of repression, it is surprising that she chose to commence

such serious crimes against humanity', before concluding that Ms Tang could not have failed to have appreciated 'the repressive nature of the regime to which she subjected the women' (*R v Wei Tang* [2009] VSCA 182 [50]).

### The prosecution of Mclvor and Tanuchit

Trevor Mclvor and Kanakporn Tanuchit were a married couple who were convicted of five offences of intentionally possessing a slave and five offences of using a slave. Their five victims were Thai women who were exploited in a NSW brothel owned by Mr Mclvor and co-managed by Ms Tanuchit. Four of the five women arrived in Australia expecting to do sex work, while the fifth was told she could do massage work and that sex work was optional. All of the women were deceived as to the nature and/or conditions of work and also the nature of the debt (*R v Mclvor and Tanuchit* [2010] NSWDC 310 [8]).

Mr Mclvor and Ms Tanuchit purchased the five women in transactions enabled by their contacts in Thailand (*R v Mclvor and Tanuchit* [2010] NSWDC 310 [8]). Visas for the women were obtained using fraudulent information, however, no charges under the *Migration Act 1958* (Cth) were laid, with the evidence as to Mclvor and Tanuchit's direct involvement in immigration fraud limited (one of the victims came to Australia ostensibly to attend an engagement party for Tanuchit and Mclvor; *R v Mclvor & Tanuchit* [2010] NSWDC 310 [10]).

At the time of sentencing, Ms Tanuchit who was born in Thailand, was 42 years of age with no prior convictions. The judgment noted that Ms Tanuchit reported being controlled by Mr Mclvor to some degree during their marriage and that her background '[was] not dissimilar to many of her victims'. A psychologist found she was suffering from extremely severe anxiety and depression (*R v Mclvor and Tanuchit* [2010] NSWDC 310 [42]). The judgment does not reveal whether Ms Tanuchit, who came to Australia in 1995 and had two children from her marriage to Mr Mclvor, worked in the sex industry upon her arrival in Australia. Ms Tanuchit 'did not demonstrate

any victim empathy' and 'appeared to minimise her offending behaviour and place some of the responsibility with the victims' (*R v Mclvor & Tanuchit* [2010] NSWDC 310 [43]).

Mr Mclvor was 63 years old at the time of his conviction and had been involved in the operation and management of brothels for a long period of time, with 'a criminal history for comparatively minor offences' (*R v Mclvor & Tanuchit* [2010] NSWDC 310 [38]). Mr Mclvor and Ms Tanuchit were both sentenced to 12 years imprisonment; Mr Mclvor with a seven and a half year non-parole period and Ms Tanuchit with a seven year non-parole period.

### The prosecution of Sieders and Yotchomchin

Johan Sieders and Somsri Yotchomchin were both found guilty of exploiting four Thai women in a condition of sexual servitude in an Australian brothel (*R v Sieders & Yotchomchin* [2006] NSWDC 184) and sentenced for four years (non-parole period of 2 years) and five years (non-parole period of 2 years and 6 months) respectively. Appeals against the sentence failed (*Sieders v R; Somsri v R* [2008] NSWCCA 187).

Ms Yotchomchin was a Thai-born Australian citizen known as one of 'the mothers of the contract' (*Sieders v R; Somsri v R* [2008] NSWCCA 187 [231]). At the time of sentencing, she was 44 years old. Ms Yotchomchin was born in Thailand where she was raped at 13 years of age and became pregnant. As a result, she and her family were socially ostracised in their village. At the age of 15 years, she left her son in the care of her mother and moved to Bangkok to obtain work.

Ms Yotchomchin arrived in Australia in 1997 and later married. Following her separation from her husband, she worked in the sex industry. A psychologist provided a report that Ms Yotchomchin was suffering from a post-traumatic condition resulting from her rape and detention. However, the trial judge did not accept her psychiatric condition had any causal relationship with the offence for which she had been found guilty (*Sieders v R; Somsri v R* [2008] NSWCCA 187 [234]).

Referring to the case of DS, the judge noted that Ms Yotchomchin had been a victim of sexual offences before participating in the trafficking of others. As a consequence, the offender 'well knew that the scheme involved robbing the victims of their basic rights' (*R v Sieders; R v Yotchomchin* [2006] NSWDC [127]).

Sieders and Yotchomchin relied upon a Thai woman, MP, to make contact with the five victims in Thailand and facilitate their travel to Australia. Each of the women was accompanied, on the flight to Australia, by a male escort who delivered them to one or other of the offenders, or to Sieders' wife, Ms A. After arriving in Australia on tourist visas, an Australian-based migration agent and solicitor, Mr Kazi, assisted the five victims to make fraudulent applications for protection visas.

Johan Sieders was an Australian citizen born in the Netherlands. Mr Sieders and his Thai-born wife operated a brothel in Penrith and Mr Sieders claimed that it was his wife's suggestion that he recruit the five Thai victims. Mr Sieders' control over the victims was found to be 'somewhat more limited than that exercised by [Somsri]' so he received a slightly shorter sentence of imprisonment (*Sieders v R; Somsri v R* [2008] NSWCCA 187 [223]).

### The prosecution of Dobie

Keith Dobie, an Australian-born man, was convicted of trafficking in persons (s 271.2(2B) of the Criminal Code), as well as presenting false information to an immigration officer (s 234(1)(a) *Migration Act 1958* (Cth)) and dealing in the proceeds of crime with an amount exceeding \$10,000 (s 400.6(1) Criminal Code). The offending in this case involved the exploitation of two Thai women who were brought to Australia by Mr Dobie and was facilitated by the commission of immigration offences.

Appeals by Mr Dobie against his sentence were unsuccessful. There was no evidence Mr Dobie was involved in large-scale offending or had links to organised crime, but he did have a lengthy criminal history, including fraud, false pretences and stealing (*R v Dobie* [2009] QCA 394 [38]).

### The prosecution of brothers Ho and Leech

In this case, three offenders were convicted of slavery offences (*Ho v The Queen; Leech v The Queen* [2011] VSCA 344 [13]). Two other defendants were found not guilty. The six Thai victims entered Australia from Thailand on three month tourist or business visas arranged by agents overseas and then worked in a situation of debt bondage. Fraudulent information was provided to obtain the visas for the victims' initial entry into Australia and in order to facilitate their continued presence in Australia, false protection visa applications were lodged on behalf of the women.

All three convicted offenders (brothers Kam Tin Ho and Ho Kam Ho, as well as Sarisa Leech) appealed against their sentences (*Ho v The Queen; Leech v The Queen* [2011] VSCA 344). Kam Tin Ho and Ho Kam Ho, who were born in Hong Kong and migrated to Australia, had a number of prior convictions and had worked as managers of brothels prior to their offending. The appeals against their sentences were unsuccessful.

On appeal, Leech, who was 37 years old at the time of sentencing, argued that her sentence was manifestly excessive, particularly in light of her own experience as a contracted slave and the fact she had no prior convictions. Ms Leech arrived in Australia in 1997 'under a contract of a similar kind that [the victim] was under, being required to service some 650 men' (*DPP (Cth) v Ho & Leech* [2009] VSC 495 [29]).

Ms Leech's prior victimisation was not treated as a mitigating factor in sentencing as the court said the fact she was once a contracted slave had 'both positive and negative aspects from her perspective' (*Ho v The Queen; Leech v The Queen* [2011] VSCA 344 [129]). What this suggests is that the court considered that Ms Leech should have appreciated that her actions robbed her victims of their basic rights, given her own history of victimisation. The court also distinguished Ms Leech's situation from that of DS who, unlike Ms Leech, pleaded guilty and cooperated with law enforcement. The sentencing appeal succeeded on another

ground and Ms Leech was resentenced, leaving her with a total effective sentence of five years and six months.

### The prosecution of Netthip

In the case of Namthip Netthip, a Thai-born woman (DOB not published) pleaded guilty to knowingly conducting a business that involved the sexual servitude of 11 Thai women (contrary to s 270.6 Criminal Code; *R v Netthip* [2010] NSW DC 159). Ms Netthip was also convicted of making false statements to an immigration official for a protection visa application and causing a document containing a false statement to be delivered to an immigration officer (contrary to s 234(1)(b) and s 234(1) *Migration Act 1958* (Cth)).

Ms Netthip gave evidence that, with the assistance of a Thai facilitator, she recruited 11 Thai women to travel to Australia to repay a debt of \$53,000 each. On average, the victims took around six months to repay the debt. As part of the arrangement, Ms Netthip assisted the victims (who arrived in Australia on visitor visas) to make false applications for refugee status and coached them about how to respond to the questions from immigration officials (*R v Netthip* [2010] NSW DC 159 [10]). In sentencing Ms Netthip, Murrell SC DCJ described the contraventions of the *Migration Act 1958* (Cth) as 'part and parcel of the arrangement that constituted sexual servitude' (*R v Netthip* [2010] NSW DC 159 [36]).

Ms Netthip was born into impoverished circumstances in Thailand and later moved to Bangkok where she worked as an accountant and sent money home to her family. Ms Netthip came to Australia in 1987 on a student visa and after three months began working in the sex industry. In 1990, she married a former client whom she divorced in 1993. In 1994, she became an Australian citizen and in 1995, she gave birth to a daughter. Ms Netthip had no prior criminal history and since her arrival had worked in brothels either as a receptionist or a sex worker. Ms Netthip was sentenced to two years and three months imprisonment for sexual servitude offences, with a non-parole period of 13 months.

## The prosecution of Nantakhkhum

Wacharaporn Nantakhkhum, a 45 year old Thai woman, was the first person to be convicted of slavery offences in the Australian Capital Territory. The offences involved two Thai women who came to Australia to work in the sex industry. False information was provided to immigration officials to facilitate their entry to Australia. One woman had a debt of \$43,000. Ms Nantakhkhum was convicted of possessing a slave contrary to s 270.3(1)(a) of the Criminal Code, as well as four *Migration Act 1958* (Cth) offences, including allowing a non-citizen to work in breach of a visa condition and allowing a non-citizen to work in conditions of exploitation. An associate of Ms Nantakhkhum, Robert Dick, was convicted of sexually assaulting the victim of slavery but no human trafficking charges were brought against him.

Ms Nantakhkhum did not run a large-scale operation; there were only two women providing sexual services for her business and while both were working in breach of their visa conditions, only one woman was said to be in a condition of slavery. Ms Nantakhkhum obtained all the financial benefits for herself (*R v Nantakhkhum* SCC 149 of 2010, 24 May 2012, edited extract of proceedings <http://www.courts.act.gov.au/supreme/sentence/view/1182/title/r-v-nantakhkhum>).

The case of Nantakhkhum is similar to DS in that the offender was also a victim. Ms Nantakhkhum had a difficult childhood in rural Thailand; her father killed himself to escape family debts and she later gave birth to a child at 17 years of age. Refshauge J stated:

She came to Australia in 2004 and worked in similar conditions to those of the first victim. She was sold. She could not demand that clients use a condom and, particularly as she was older than the other women in the brothel, could not refuse to see a client. She and the other workers were not allowed to leave the brothel unsupervised, though later they were allowed to go and buy groceries. She eventually sought help of a client and left the brothel staying with the client until she moved to Canberra (*R v Nantakhkhum*).

Ms Nantakhkhum was sentenced to eight years and 10 months imprisonment with a non-parole period of four years and nine months. Refshauge J stated:

I also take into account that Ms Nantakhkhum herself experienced difficult conditions when she was working in the sex industry. This has both positive and negative elements to it so far as sentencing is concerned. She knew what it was like to be constrained in this way...She should have known that this was not the way to conduct such a business (*R v Nantakhkhum*).

Ms Nantakhkhum denied holding the first victim as a slave, saying she would never do this because she had experienced such conditions herself in Sydney. The judge rejected this submission as inconsistent with the evidence and the jury's verdict. Unlike *R v Tang*, the offending was 'not a sophisticated operation' but the offender showed 'no contrition' and was 'motivated by greed' (*R v Nantakhkhum* citing *R v Tang* at 342 [42–43]). The fact that the victim knew she was coming to Australia to provide sexual services and knew the amount of the debt, did not diminish the culpability of the offender (*R v Nantakhkhum* citing *R v Tang* at 342 [42–43]). The matter is now subject to appeal.

## The prosecution of the Kovacs

The first successful prosecution outside the sex industry involved the forced labour and repeated sexual assault of a Filipino woman who was brought to Australia to work for a married couple in Queensland (*R v Kovacs* [2008] QCA 417). Zoltan Kovacs was born in Hungary and his wife, Melita Kovacs, was born in the Philippines. Ms Kovacs' social networks in the Philippines enabled her to identify the victim, a young woman living in 'dire poverty' who was persuaded to come to Australia in the belief she could provide financial assistance to her family (*R v Kovacs* [2008] QCA 417 [47]). Immigration fraud was part of the modus operandi of the offenders; the victim was brought into Australia after entering into a sham marriage with Mr Olsasz, an Australian citizen.

Once the victim arrived in Australia she was repeatedly sexually assaulted by Mr Kovacs,

forced to work in a shop for 12 hours per day, five and a half days each week. After finishing work at the shop, she was required to care for the Kovacs' children in their family home. Both Kovacs were convicted of slavery offences and arranging a marriage for visa purposes contrary to s 240(1) of the *Migration Act 1958* (Cth). Zoltan Kovacs was also convicted of sexual assault.

## The prosecution of Trivedi

Like the Kovacs prosecutions, the Trivedi prosecution involved labour trafficking outside the sex industry (*R v Trivedi* (2011) NSWDC unreported). The owner of an Indian restaurant pleaded guilty to having facilitated the entry of a man from North India into Australia and being reckless as to whether that man would be subject to forced labour contrary to s 271.2(IB) of the Criminal Code. The offender, Diveye Trivedi, was born in India and his family connections enabled him to create a coercive environment where the victim was too afraid to complain to police. The offender sponsored the victim's travel to Australia on a temporary work visa, known as an s 457 visa (457 visa). Under the 457 visa scheme, eligible employers may sponsor overseas workers to work in Australia. Although the offender was not prosecuted for immigration fraud, it is apparent that the offender did not comply with immigration law concerning the treatment of workers holding 457 visas. The offender was sentenced to 250 hours community service and fined \$1,000.

## Common characteristics of Australian offenders

It is well recognised internationally that human trafficking, slavery and slave-like practices occur in a range of contexts, most notably the sex industry but also non-sex industries. In 2012, the International Labour Organisation (ILO) published an estimate of 20.9 million victims of forced labour globally, which includes 18.7 million people who are exploited in the private economy. Of these 18.7 million people, the ILO estimates that 4.5 million (22%) are victims of forced sexual exploitation and 14.2 million (68%) are victims of forced labour exploitation in sectors such as domestic



work and agriculture (ILO 2012). However, the ILO figures do not include estimates of the number of victims of trafficking for the removal of organs or forced marriage.

In Australia, offenders have been convicted of human trafficking and slavery crimes that occurred in the sex industry (eg *R v Netthip* [2010] NSWDC 159) and outside the sex industry (eg *R v Trivedi* [2011] NSWDC and *R v Kovacs* [2009] 2 Qd R 51). In the case of *R v Kovacs*, the victim travelled to Australia under a sham marriage arrangement and was kept as a domestic slave by a married couple in Queensland, while also being sexually assaulted by one of the offenders. This case highlights one of the less recognised human trafficking scenarios, where the abuse of marriage visas arrangements coupled with sexual assault and other abuses of the victim, are employed by the offender to control and exploit the victim (see also Lyneham & Richards forthcoming).

However, most of the successful prosecutions occurred in the sex industry and therefore the themes identified below may not be applicable to cases of human trafficking and slavery that occur in non-sex industries. By way of illustration, while offending in the sex industry is recognised in Australian court judgments as being for profit, research by the AIC (Lyneham & Richards forthcoming) suggests that this may differ where the person is at risk of victimisation in a situation of forced marriage. Further analysis of differences in offending patterns across the sex industry, non-sex industries and involving partner migration needs to occur as more cases outside the sex industry are presented and successfully prosecuted.

The ages of Australian convicted offenders ranged from mid-30s to early-60s, with most over 40 years of age (a mean cannot be calculated since exact ages are not publically available for all offenders). Over half of the 15 offenders (n=8) were women. Australian offenders overall appear to be older and a greater proportion female than is commonly reported in the international literature. For example, a 2010 report by the Dutch National Rapporteur in the Netherlands noted

that between 2003 and 2007, the mean age of convicted offenders in the Netherlands was 31 years, with seven aged under 18 years. The vast majority of convicted offenders were men (DNRTHB 2010).

Female offenders in Australia displayed diversity in their offending roles; not all were subordinates, with some offenders recognised by the courts as leaders (eg Tang and Netthip). However, others were in relationships with controlling male partners and co-offenders (eg Yotchomchin) and/or in subordinate roles with clear histories of prior victimisation (eg DS). Similar to the international literature, five of the eight female offenders had prior victimisation histories that were not dissimilar to their victims. In at least three cases, the offenders appear to have been exploited in situations of debt bondage and slavery upon their arrival in Australia. Other offenders also had histories of repression and hardship.

Although convicted offenders have sought to argue that their prior victimisation should be considered a mitigating factor in sentencing, these arguments have proved unsuccessful. In three cases involving offenders who were previously victims of slavery or slave-like practices, the courts have adopted the reasoning of the judge in *R v DS*, who said that DS 'well knew that the scheme involved robbing victims of their basic rights...yet she participated in the illegal and highly immoral scheme' (*R v DS* [2005] VSCA 99 [18]).

The offenders' migration experiences, knowledge of migration processes, and shared cultural and language backgrounds with the migrant victims appeared to help the offenders identify and control their victims. Ten of the 15 convicted offenders in Australian cases were migrants (all the female offenders and 2 of the male offenders). Most of the migrant offenders had the same cultural and language backgrounds as their victims. Thailand was the most common birth country, with a minority of migrant offenders from Hong Kong, China and the Netherlands (see respective cases of *Ho v R* [2011] VSCA 344 (1st Appeal), *R v Wei Tang* [2009]

VSCA 182 (sentencing) and *Sieders v R; Somsri v R* [2008] NSWCCA 187).

The UNODC (2012: 41) recently observed:

There are many factors that can render a source country vulnerable to human trafficking, the most commonly cited of which is poverty. But there are many poor countries that do not seem to produce large numbers of trafficking victims, so poverty alone is not enough to explain the phenomenon. Diaspora populations in destination countries are surely one factor, as is the presence of organised crime in the source country.

In Australia, human trafficking and slavery occurred in legal industries such as hospitality or the sex industry. The sex industry is largely decriminalised in those states where detection of crimes occurred (eg New South Wales, Victoria and the Australian Capital Territory).

Most schemes involved brothels, with two occurring in more private settings (*R v Dobie* [2011] QCA 021 and *R v Nantahkhum* [2012] ACTSC 55). In some, but not all cases, the sites were non-compliant with regulatory laws. The offenders who were convicted of human trafficking and slavery offences that occurred in the sex industry had, with the apparent exception of Keith Dobie, worked in that industry for some years.

The offenders often did not match stereotypes about highly organised criminals. Indeed, in the nine trafficking schemes, the offenders often shared similar backgrounds to their victims and in some cases, a history of prior victimisation, as mentioned earlier in the paper. In 2012, the United Nations Special Rapporteur's report on Australia's response to human trafficking emphasised the importance of avoiding stereotypes about trafficked persons and expressed concern that some of the children who work as crew on the boats used in people smuggling operations 'may themselves have been victims of trafficking' (Ezilio 2012: 6; see also AHRC 2012). While none of the prosecutions in Australia have involved this scenario, it is apparent that victims and offenders may not reflect stereotypes about human trafficking and slavery.

The analysis of Australian offending indicates that the trafficking process often involves other criminal activity such as immigration fraud and money laundering. In the 2012 US Trafficking in Persons report country narrative on Australia it was reported that:

...[one] syndicate relied on the established informal remittance system hawala as a means to launder its profits offshore (USDOS 2012: 73).

The judgments indicate that immigration fraud may have been part of the trafficking process in all nine human trafficking schemes. While only four of the 15 convicted offenders were also convicted of offences under the *Migration Act 1958* (Cth), in other cases (eg *R v Seiders & Yotchomchin* [2006] NSWDC 184) third parties (in that case an Australian solicitor and licensed migration agent) were convicted of immigration fraud. For reasons not publically available, in some cases (for example *R v Tang*) no charges were made in relation to migration offences, despite the judgment suggesting immigration fraud was part of the trafficking process.

All of the nine Australian schemes involved varying levels of sustained planning and coordinated activity over time. Most of the schemes also involved multiple victims who were exploited over some months or longer and made profits. However, the description of trafficking offending as involving 'small but highly sophisticated organized crime networks' (Schloenhardt, Beirne & Corsbie 2009: 31; USDOS 2012) applied to some but not all of the cases where convictions were obtained. For example, in *R v Nantakhum* (2012) the judge noted that unlike the offending in *R v Tang*, 'this is not a sophisticated operation' (Refshauge J cited in Schloenhardt 2013).

Similar to international literature, the nine Australian schemes varied from an offender who operated in relative isolation (eg *R v Dobie*), to more organised schemes involving offenders in Australia with offshore facilitators who were paid for various services from recruiting to arranging visas and travel (eg *R v Wei Tang*).

While not highly organised, the offenders were nonetheless effective in exploiting

their victims. The case of *R v Netthip* illustrates the subtle, complex and effective control over victims that may be exercised by offenders. In that case, the offender did not physically restrain or control the 11 victims of sexual servitude. When the victims first arrived in Australia, they mostly lived with the offender for a short period of time before entering into private rental arrangements. Victims caught public transport and had access to the internet and mobile phones. The victims, who all had debts of between \$53,000 and \$56,000, were paid their earnings directly and then made repayments to the offender. The offending occurred across a range of locations in New South Wales, Victoria and South Australia.

Australian offenders were motivated by profit. The 2010 UNODC (2010a: 276) report concluded:

Human trafficking... involves a lot of overheads... Turnover may be large, but profits, many of which accrue to small trafficking groups, are likely to be relatively small. In comparison almost all the money gained through identify theft is profit, with operating costs reduced to the price of the Internet connection.

The Australian cases confirm that the profitability of the schemes was small scale compared with other transnational crimes such as identify fraud. However, the profitability of the various schemes was attractive for the offenders involved, who mostly had limited education and in some cases, psychological and/or debt issues. Profit was enhanced by the amount of debt to be repaid by each victim (ranging from \$35,000 in many cases to \$53,000 in the *Netthip* case, with about \$20,000 commonly paid to migration facilitators), the numbers of persons trafficked simultaneously (ranging from 1 to 11) and the time the victims took to repay their debt (commonly some months).

## Conclusion

There are five key findings that emerge from the analysis of convicted offenders in the Australian context. These findings reflect the first analysis of a small number of cases and

therefore should be treated with caution. However, despite the limitations of the study, it highlights the importance of avoiding stereotypes about traffickers. What the analysis reveals is that relationships between offenders and victims are often complex and that the offenders use subtle methods to recruit and control their victims. Its findings may therefore inform the development and the implementation of strategies to prevent the crime and deter offenders.

First, in Australia, offenders have typically exploited their victims through subtle methods of control rather than through the overt use of force or explicit threats of violence. However, there was physical violence in some cases, most notably in the Kovacs case where a female victim was subject to repeated sexual assault. Bales' (2006) observation that in slavery cases, the means of victimisation may involve manipulating existing social contexts so physical force is not always necessary, is highly relevant to the Australian context. Given this, education and prevention initiatives, detection and prosecution responses will be challenging in that they require a focus on the more subtle, less visible non-physical methods of control, as well as physical means.

Understanding the more subtle means of control that offenders exercise over their victims requires an understanding of the victim's 'situation in terms of a spatio-temporal process of social interaction' (von Lampe 2011: 154–155). Thus, histories and relationships between offenders and victims, and the situations that enable these relationships to be manipulated for criminal purposes should be major considerations in risk assessments, detection and prosecution responses, and a focus of further research in line with modern literature on transnational and organised crime.

Significantly, debt bondage was a feature in all nine trafficking schemes. The offenders used debt bondage to control victims who were all from countries in the Asia-Pacific region. The offenders were mostly from the same source country of origin as their victims and often sought to characterise debt bondage arrangements as a voluntary business agreement. This

suggests that education initiatives (in both source countries and Australia) that build better understanding of risky and illegal debt bondage arrangements and services for assistance should be considered, to promote prevention and deterrence.

Second, offenders and victims were often the same gender and shared similar backgrounds and experiences. The majority of convicted offenders in Australia have been women; of the nine trafficking schemes that have been successfully prosecuted, eight involved female offenders (albeit in some cases with male co-offenders). Australian prosecutions reflect UNODC's analysis, which found that countries with a higher percentage of female victims also have higher rates of women convicted of trafficking in persons (UNODC 2012); 36 of the 37 victims in Australia have been women. Although only a small number of offenders have been convicted in Australia, it is noted that a higher proportion of Australian offenders were female than that reported in other developed nations where data is available, such as the Netherlands.

Gender is not the only characteristic Australia female offenders shared with their victims. Offenders and victims often had similar cultural, language, socioeconomic and migration backgrounds, and work histories. All the female offenders were migrants, born in the same foreign country as their victims and typically were from similar poor socioeconomic backgrounds to their victims. Almost all the offenders in the sex industry had prior work experience in that industry. This reflects a theme identified in the international literature and that appears particularly relevant to feminised industries such as the sex industry—that is, when female offenders share common characteristics with their victims, this may help them to recruit victims and gain their trust.

The case review also revealed that a significant number of the female offenders had prior histories of victimisation. At least three of the female offenders had reportedly been victims of slavery in Australia themselves, while two other offenders

had been the victims of sexual abuse.

The number of females who moved from victimisation situations to being offenders in Australian cases suggests that this issue needs special attention. Further research about how to limit the involvement of former victims in trafficking offending is required to identify effective ways to limit pathways from victim to offender and so to reduce offending.

Third, the reported cases of offending in Australia do not match common assumptions about high-end organised crime. This is consistent with the early findings of the inaugural report of the Anti-People Trafficking Interdepartmental Committee, which found that groups identified as having trafficked people into Australia have been relatively small, with many using family or business contacts to 'facilitate recruitment, movement and visa fraud' (APTIDC 2009: 26). These groups appear to have lacked 'the same high levels of organisation and sophistication as drug traffickers' (APTIDC 2009: 27). While not highly organised, offenders nonetheless exhibited levels of sustained planning and coordinated activity over time. Offenders often effectively partnered with trusted co-offenders from close knit, cultural or family groups and were able to rely upon their connections in the source country to facilitate human trafficking crimes.

This suggests that it might be effective to target prevention and deterrence initiatives at source countries, in particular, potential migration or labour agents who provide misinformation about migration to Australia and thus encourage potential victims of trafficking to make risky migration decisions, including entering into exploitative debt bondage arrangements.

Fourth, all the offenders were motivated by profit. Part of the motivation for non-physical control of victims is that it reduces the risk of escape (UNODC 2010a) and this can enhance profits. While the UNODC (2010b) concluded that human trafficking crimes are not as profitable as other crimes (such as identity crime), the offenders in the Australian cases found the schemes profitable enough to motivate them. The

use of debt bondage arrangements in all nine schemes enabled the offenders to profit from the services of their victims, with profits linked to the amount of debt, the number of victims and the time it took them each to repay the debts. Offenders typically saw their crimes as businesses and sought to justify their conduct as that of an employer, arguing that their victims entered into debt bondage schemes voluntarily.

Given that the cases in Australia were profit-making businesses, measures that 'disrupt the market forces that allow trafficking to thrive' are relevant for the development of anti-trafficking strategy (Aronowitz, Theuermann & Tyurykanova 2010: 15). Better practice for such approaches involves disrupting all elements of the process of trafficking, from recruitment to managing the proceeds of crime. However, it is common for only a few elements of the process, for example, the exploitation at destination and transportation to destination to be targeted (Aronowitz, Theuermann & Tyurykanova 2010); a common pitfall to be avoided as Australia's response matures.

Finally, the trafficking process often involves other criminal activity such as immigration fraud and money laundering. While human trafficking and slavery crimes in Australia did not occur in overtly illicit markets, it appears that other crimes (particularly immigration fraud), were involved in the commission of trafficking schemes. The precarious immigration status of most of the victims meant that the threat (actual or implied) of deportation created an environment in which victims were often afraid to seek help from Australian authorities, including police. In this context, it is important to ensure that anti-trafficking measures reflect the principle that victims should not be punished for offences that occurred as result of their status as trafficking victims.

While the case review draws out some similar patterns in human trafficking offending in Australia, there is still diversity in the backgrounds of trafficking offenders and variation in the sophistication and scale of the human trafficking schemes they undertook. It is notable that there is a divergence in the backgrounds of

male and female offenders. While all eight female offenders were born in the same country as their victims (the exception is the recent labour trafficking cases), most male offenders were not born in the same country as their victims, although they often had links to diasporas of the victim's country through family connections. An exception was Trevedi, a male offender in the non-sex industry, who shared the same country of origin as his victim.

This first review of Australian offenders deepens understanding of why convicted offenders were motivated to commit the crimes of human trafficking and slavery and how they exercised control over their victims. The findings from this review will need to be revisited over the next decade as more cases come to light. Following the recent introduction of new Commonwealth offences for forced labour, forced marriage and organ trafficking, future research should give specific consideration to how offending patterns differ across a range of sectors and settings.

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