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Foreword | *Children are vulnerable to many forms of abuse and exploitation and have long been victims of trafficking for the purpose of both sexual and labour exploitation. There has been some analysis of trafficking of children in Asia, where trafficking persists despite significant prevention efforts, however, comparatively little is known about trafficking in the Pacific. Given that over one-third of the population in the Pacific region is under 15 years of age, anecdotal reports of circumstances which may amount to trafficking raise concerns for the large youth population in the Pacific Islands. Further, although there have been no prosecutions for child trafficking in Australia, the risk experienced by children within the Asia–Pacific region is relevant to responses in Australia and in supporting the development of improved inter-country responses across the region.*

This paper examines current definitions of child trafficking, the forms that it is known to take in Asia and the Pacific, the factors which increase vulnerability to trafficking and the mechanisms for the protection of children from this crime.

It is clear that greater conceptual clarity in the definition of child trafficking, together with more detailed investigation of trafficking areas that are less well-known (such as the trafficking of boys for sexual exploitation and the vulnerability of refugee and migrant children) will assist in improving the evidence base for child trafficking and inform the development of more effective responses to these crimes in the Asia–Pacific region.

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The trafficking of children in the Asia–Pacific

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Child trafficking represents ‘a failure to protect the rights of the most vulnerable children’ (UNICEF 2008: 3). Although there have been no prosecutions in Australia, the issue is a serious one that warrants closer attention; particularly given Australia’s geographic position within a region where several countries are variously affected by problems such as weak migration systems, poor governance and transnational crime. Together with the growing use of technology in offending, these issues suggest a level of risk for children in the region that is of relevance to Australian efforts to address trafficking in persons.

This paper reflects key findings from a review of the available literature on the issue of child trafficking in both Asia and the Pacific. It includes observations on issues such as the forms of child trafficking observed in these regions, factors associated with vulnerability to trafficking and the issue of ‘good practice’ in the protection of children from this crime. This paper concludes by noting some of the gaps in the existing literature.

What is child trafficking?

Trafficking in children (persons under the age of 18 years) is defined in Article 3 of the Trafficking Protocol (UN 2000) as involving two elements—*an action*, in the form of recruitment, transportation, transfer, harbouring or receipt of persons, which is undertaken *for the purpose of exploitation*. ‘Exploitation’ includes, at a minimum, exploiting the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

There is room for considerable overlap between the specific legal concept of ‘trafficking in children’ and other concepts regulated by law such as the ‘commercial sexual exploitation of children’, ‘the worst forms of child labour’ and ‘illegal adoption’.

In deciding whether a situation can be classified as ‘trafficking in children’, it is important to recall the two elements noted above that are required to satisfy the definition. For example, ‘illegal adoption’ could constitute a form of child trafficking if it involved a person seeking a child for adoption into their family with the intention of exploiting that child.

Children are also affected where their parents are the primary victims of trafficking. Case managers in the Australian Government Support for Victims of People Trafficking Program noted that many of their clients (suspected victims of trafficking) had children who remained in their home country and could only come to Australia for a visit (David 2007). This presents issues for the welfare of both the client and their children, particularly given that long court cases involve further separation (David 2007). Protection for secondary child victims is afforded through Article 2 of the Convention on the Rights of the Child, which encourages

states to ensure the protection of children against discrimination or punishment arising from the status or activities of their parents (OHCHR 1989). Recent changes to the Australian people trafficking visa framework allows victims of trafficking and their immediate families (both in Australia and overseas) to apply for a Witness Protection Visa earlier in the prosecution process than was previously the case (APTIDC 2010).

Adult vs child victims

A critical difference between the trafficking of adults and children centres on the means of control during the trafficking process. The trafficking of adult men and women must involve an action, a means and a purpose. That is, 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 via a position of vulnerability, for the purpose of exploitation. A child is trafficked if that child was recruited, moved, harboured or received for the purpose of exploitation; the element of 'means' is not relevant.

Difficulties in identifying child trafficking

Although the Trafficking Protocol sets out 'the most comprehensive legal definition of "human trafficking" under international law' (UNICEF 2009: 21), it fails to define key terms such as *exploitation*, *slavery*, *forced labour* and *vulnerability*. As a result, interpretations of child trafficking vary markedly. This is clearly illustrated in the results of a survey undertaken by UNICEF in 2008 (UNICEF 2009). A small number of respondents from UN agencies and international non-government organisations involved in trafficking and related areas were asked to review 10 case scenarios and determine whether or not trafficking had occurred. Each scenario was constructed to ascertain the expert's analysis of the elements of trafficking as they apply to children. Box 1 contains several case studies that were among those presented to the respondents.

No two respondents answered all questions in the same way; an indication of the high degree of confusion regarding what constitutes child trafficking. The case scenarios presented are particularly contentious where they relate to 'grey areas'. For example, should age be a factor in determining agency and vulnerability among all persons under 18 years; that is, is a 17 year old really the same as a four

Box 1 Case scenarios of child trafficking from a UNICEF survey

1. A 13 year old girl from Cambodia is recruited by Mr X to work in a shoemaking factory in Thailand. She arrives and finds herself working around the clock with restrictions placed on her movement. Rent and food expenses are inflated and docked from her pay but the balance of her earnings is given to her.
2. A 17 year old girl from China agrees to an offer made by a recruiter to work in a brothel in Vietnam five days a week for low wages. She arrives at a brothel in Vietnam and the terms of agreement (time/wages) are honoured.
3. A 15 year old girl illegally migrates with her family using a human smuggling network and ends up working as a beggar on the city streets. Although she is not attending school, there are no restrictions on her movement and she gets her cut of the earnings.
4. An eight year old Vietnamese boy is forced by his family to work at a local brick factory. He labours every day carrying 40 pound loads of bricks on his head and engages in other hard physical labour. The owner of the brick factory insists that he has to work for another two years to satisfy the outstanding debt owed by his parents.
5. The parents of a 14 year old girl from West Java, Indonesia send her to live with relatives in Jakarta. The relatives have promised the girl's parents they will provide her with education, room and board in exchange for light housework. After she arrives, she is allowed to go to school but is forced to come home immediately afterward and do all the housework, babysitting and cooking throughout the week.

Source: UNICEF 2009

year old (Gozdziaik 2008)? Does illegal adoption of a child into a loving family meet the element of exploitation under the UN Trafficking Protocol? And are children who engage in cross-border street begging as part of family income-generating activities being exploited or trafficked? (Gozdziaik 2008; UNICEF 2009).

Factors associated with child trafficking

The trafficking of children is linked to a range of factors and vulnerabilities. A child's vulnerability to trafficking is influenced by individual, familial and socioeconomic factors (Rafferty 2007; UNICEF 2009). Importantly, trafficked children are children who are already vulnerable.

According to UNICEF, the child's individual circumstances, such as experiences of violence or abuse, lack of educational attainment, life skills, lack of citizenship and/or personal documentation and a desire for adventure can all act to increase vulnerability through loss of self-worth, feelings of hopelessness, few work opportunities due to dropping out or being unable to attend school for various reasons, inability to make sound decisions related to self-protection, barriers to employment or education and the perception that other countries and larger cities offer an improved life (UNICEF 2009).

Family-related factors such as family breakdown, domestic violence, substance abuse, child abuse and neglect, and the low status and role of children all contribute to increased vulnerability due to a lack of care and support for the child within the family environment. Of particular concern are cultural contexts where children are viewed as 'belonging to their parents or guardians, who have the authority to treat their children

as they see fit' (UNICEF 2009: 26). It is in such circumstances, where children are in 'relatively powerless positions' (Bessell 2004: 3), that young women may be forced to marry or girls as young as two years of age are betrothed to settle a family feud or in payment of a debt (Ali 2006).

Poverty and a lack of employment and educational opportunities places pressure on families to migrate for work and for children to leave school and seek employment, usually in unskilled or low-skilled sectors. Cultural norms again play a considerable role. In many cultures within the region, girls are considered to be less valuable than boys, resulting in situations where boys are sent to school first while the girls must earn money for their families. In times of economic hardship, children are often viewed as either a financial burden or a source of income (Ali 2006; HELP Resources Inc & UNICEF (PNG) 2005). Poverty is the primary reason behind children being sent to work in wealthy countries (Gozdziaik 2008) where the promise of good wages renders the practice acceptable (Dottridge 2002). Cultural practices involving the marriage of young girls, including as payment of family debt or for a 'bride price' can also be used to generate income.

Lack of birth registration has been highlighted as an issue of concern in the southeast Asia region due to the increased vulnerability of stateless persons (Refugee International 2009; Vital Voices Global Partnership 2007). Without citizenship, such persons 'have limited or no access to healthcare services, education, travel, employment or political representation' (Vital Voices Global Partnership 2007: 11) and are largely excluded from obtaining both government benefits and protections. For example, many hill-tribe women and

girls who are not afforded Thai citizenship become vulnerable to exploitation through lack of legal status and are known to be trafficked for both labour and sexual purposes (Physicians for Human Rights 2004).

The role of demand

Demand for cheap labour, young brides, sex with children and adoption drives the trafficking of children (UNICEF 2009). Demand for child labour is driven by the fact that children are cheaper to employ, easier to manipulate and control, and unlikely to seek protection through industrial processes. They can be made to undertake undesirable work, such as in the Thai fishing industry or making bricks in Vietnam (UNICEF 2009). Some forms of work are suited to children's smaller physical stature, for example, camel jockeys in the United Arab Emirates and other Gulf countries (UNICEF 2008).

The demand for sex with children and/or young brides is largely attributed to the value placed on virginity among East Asian cultures, demand from child sex offenders who often come from outside the region—usually from Western nations—the undersupply of girls and women available for marriage, fear of contracting HIV (UNICEF 2009) and the belief that sex with young children or virgins can cure HIV (Anderson & O'Connell Davidson 2002).

As the number of children eligible for adoption within developed nations has declined due to factors such as effective birth control reducing the number of unplanned pregnancies, changing community attitudes towards single mothers, changes to child protection and out of home care policies and practices, the demand for adoptable children from around the world, most often from developing nations, has increased. Commentators have noted that the inter-country adoption system is highly vulnerable to 'child laundering, child trafficking and child exploitation' (Smolin 2007: 27), although it is worth reiterating that while illegal adoption into a loving home may be criminal, the intent must be to *exploit* the child for it to constitute trafficking.

Child trafficking in Asia

Asia is known to be a region of origin, transit and destination for people trafficking. Southeast Asia in particular has long been recognised as a significant source of trafficked persons. Regional characteristics, such as high levels of intra-regional (and largely irregular) migration, extensive land

borders and disparities in economic, employment and education opportunities enable the trafficking of people in Asia (Joudo Larsen 2010).

Reported forms of child trafficking in the region include various forms of bonded and exploitative labour, such as domestic services, factory work, agriculture, fishing, construction, sexual exploitation (eg child prostitution or the production of child pornography), forced marriage, adoption, and begging (UNICEF 2009) and conscription into military forces (US Department of State 2009).

Children are trafficked using similar methods across the region. They are commonly recruited (including false recruitment) or introduced to work by an acquaintance, deceived by an acquaintance or relative, taken by use of force, abduction or kidnapping or taken with the consent of parents or guardians, which has been secured through a payment or benefit to the adult (UNICEF 2009). Among the most common methods is the promise of better economic opportunities, which lures children into exploitative industries (UNICEF 2009). This occurs against a backdrop of children's responsibility to generate income for the family (Gozdziaik 2008). The growing use of social networking sites, chat rooms, email and voiceover internet protocols has had an impact on trafficking in the region, with cases of Thai women and girls trafficked to Japan from initial contact over the internet and reports in Vietnam of students and other adolescents being trafficked after internet chatting (UNICEF 2009). This mode of recruitment presents a significant issue for prevention, as children are more likely to use the internet (Choo 2009), are 'more technologically savvy and at ease with the use of web 2.0 than their parents' (Choo 2009: 5) and use the internet largely without mediation by their parents.

The majority of trafficking in Asia is known to be intra-regional—from less developed countries to the more developed (Joudo Larsen, Lindley & Putt 2009). Known pathways within the region are set out in Figure 1 and include trafficking of:

- children from Cambodia to Thailand for begging;
- children from Bangladesh to Pakistan for sexual exploitation;
- girls from Vietnam/Myanmar to Cambodia/Thailand for sexual exploitation;

- girls from rural areas of Cambodia to urban centres for sexual exploitation;
- girls from Laos to Thailand for domestic or factory work;
- girls from Vietnam, Myanmar and North Korea for forced marriage in China;
- boys from Myanmar to Thailand to work in the fishing industry; and
- boys from Vietnam to China for illegal adoption (Ren 2004; Sanghera 2000; World Vision 2006; UNICEF 2009).

Although there is less information available regarding child trafficking in east Asia, it is known that trafficking of children generally follows the routes for trafficking of men and women. In east Asia, these routes are known to involve people being trafficked from North Korea to China, South Korea and Taiwan to Japan, and from Thailand and the Philippines to Japan and South Korea (Lee 2005).

However, the trafficking of children from east and southeast Asia is increasingly directed outside the Asia region and includes the following pathways:

- Bangladesh and Pakistan to the United Arab Emirates (UNICEF 2008);
- South Korea to the United States (Lee 2005);
- Indonesia to Brunei, Australia, Saudi Arabia, Kuwait, the Netherlands, Germany and Austria (UNICEF 2009);
- Philippines to Costa Rica, New Zealand, the United States and Northern Mariana Islands, and
- Thailand to South Africa, Germany and Switzerland (UNICEF 2009).

Trafficking primarily occurs within the context of irregular migration driven by economic disparities between countries within the region. Movement of this sort is primarily of migrants from less developed countries with a high rate of growth of working-age population (such as China and Indonesia) to more developed countries with moderate to negative rates of growth of working-age population (such as Thailand and Japan; UNICEF 2009). Children may choose to move alone or migrate with family, with the majority of such movements beginning voluntarily. It is only when exploitation occurs at a point in this process that the situation becomes one of trafficking (Marshall 2001; UNICEF 2009).

Figure 1 Pathways of child trafficking in the Asian region



Source: Lee 2005

Child trafficking in the Pacific

Much research has been conducted on trafficking in Asia, however, very little is known about trafficking into, through and out of the Pacific region.

The Pacific region is characterised by a largely youthful population, with almost 37 percent of the region's population aged under 15 years (UNSTATS 2007). Children in the region are susceptible to a range of exploitative and criminal activities, including commercial sexual exploitation, sex tourism, labour exploitation, illegal adoption, customary marriage and billeting. The issues underpinning the vulnerability of children in the Pacific region include the low availability and high cost of education and lack of employment opportunities for young people, as well as risky cultural practices such as billeting, informal adoption and early marriage (Joudo Larsen, Lindley & Putt 2009).

As a result of these factors and the high rate of growth of the working-age population (World Bank 2009), young people looking

for work in the region may choose to migrate and in doing so, may become vulnerable to trafficking. Similarly, limited schooling options in outlying islands have led to an increase in the number of students seeking to attend school in urban areas or overseas (Asian Development Bank 2002).

Other areas of risk relate to cultural practices that support a range of living arrangements for children in the region, including the billeting of children within region-wide familial networks. Many children and young people seeking access to education or better employment prospects are sent to live with relatives in urban areas. The child's close relatives may be geographically distant and the pressure of having an additional member of the household and lack of access to funds may lead to children being exploited, or engaging in risky activities that may increase vulnerability to trafficking (Joudo Larsen, Lindley & Putt 2009).

Similarly, children may be informally adopted or fostered within familial networks. In such cases, children may be 'adopted' by an

aunt or uncle who has no children of their own. Customary adoption practices associated with kin networks are among a wide range of living arrangements that children in developing countries experience (Lloyd & Desai 1992) and despite the risks highlighted by researchers, child fostering and circulation arrangements have long been in place in many parts of the world, including the Pacific region (Donner 1999; Gozdziaik 2008).

The logging industry in some Pacific Island nations also presents a significant risk to children. Reports have indicated that employees of foreign logging companies have been implicated in the sexual exploitation of children living in villages which neighbour the logging camps (Herbert 2007).

Early marriages also present a risk for the young women involved, as they are removed from the protection afforded by their own family environment at a time in their life when they are quite vulnerable (Ali 2006). Across the Pacific, girls can legally marry from as young as 14 years of age, although in some countries, such as the Solomon Islands and Vanuatu, customary law allows girls to marry at age 12 and 13 years (Ali 2006). The custom of 'bride price' in countries such as Papua New Guinea has also been used to trade daughters for cash or other goods from mining or logging employees (Ali 2006).

Low socioeconomic levels and limited employment opportunities create pressure to seek alternatives for income generation in the region. Overall, when these factors are combined with the low status afforded to girls in some Pacific cultures (Ali 2006), risky cultural practices such as informal adoption, early marriage and bride price can be seen as an opportunity to generate income and may be adopted by groups who did not previously adhere to such practices (HELP Resources Inc & UNICEF (PNG) 2005).

Child trafficking in Australia

Australia ratified the UN Convention against Transnational Organized Crime and its two optional protocols—the Protocol against the Smuggling of Migrants by Land, Sea and Air (the Smuggling Protocol) on 27 May 2004 and the Trafficking Protocol on 14 September 2005. Subsequently, the *Criminal Code Amendment (Trafficking in Persons) Act 2005* created a range of people trafficking offences, including trafficking in children.

Under s 271.4 of the *Criminal Code Act 1995*, the offence of trafficking in children involves organising or facilitating the actual

or proposed entry or exit of a person aged less than 18 years into Australia either intending, or being reckless as to whether, the person will be used to provide sexual services or be otherwise exploited. Receiving a person aged less than 18 years for the same purpose is also an offence. In accordance with the UN Trafficking Protocol, there is no need for the use of deception, force or threats for the offence to be considered one of trafficking in persons. This offence carries a maximum penalty of 25 years. Other trafficking offences (including the trafficking-related offences of sexual servitude and deceptive recruitment, first introduced in 1999) are considered to be aggravated offences and attract higher penalties where the victim is a child.

There have been no prosecutions relating to child trafficking in Australia to date, however, two possible cases of children trafficked into the Australian sex industry have come to light in recent years. In both cases, it has been claimed that the women (reportedly, aged 12 and 13 when trafficked), had been sold by their parents to traffickers in Thailand and were forced to work in brothels upon arrival in Australia. It should be noted that in one of these cases, despite admissions made to DIAC officers, the facts regarding the woman's age and method of entering Australia were not clearly established (Milovanovich C, Deputy State Coroner, Westmead Coroner's Court Inquest into the death of Puang Thong Simpalee, 24 April 2003). Nonetheless the incident is important as it highlighted potential risks in relation to trafficking in Australia and in doing so led to a joint Parliamentary Inquiry into the trafficking of women for sexual servitude in Australia.

Both cases came to light following routine compliance inspections by immigration officials, with one girl discovered 10 days after being forced to work in the brothel and the other discovered 15 years after an alleged incident of trafficking. Neither case led to a prosecution in Australia; the young woman discovered after 15 years died in Villawood Detention Centre due to complications arising from heroin addiction and severe malnourishment (Ellison 2003; Milovanovich C, Deputy State Coroner, Westmead Coroner's Court Inquest into the death of Puang Thong Simpalee, 24 April 2003). In the other case, it was claimed that state and federal agencies were unaware the girl was a minor. Importantly, no federal anti-sexual servitude and trafficking offences existed at the time, preventing the AFP from investigating the offences. An investigation by Thai police into this matter led to the

conviction and imprisonment for up to 19 years of three Thai nationals involved in trafficking the girl (Craig 2007).

Trafficked children and child protection systems

Trafficked children experience serious physical, psychological and emotional trauma, which puts them at risk of falling back into exploitative situations. Such experiences during the formative years can have 'long-lasting and potentially irreparable' effects on a child (UNICEF 2009: 19). The conflation of child trafficking with smuggling, irregular migration and prostitution is problematic but 'child protection can be advanced irrespective of the entry point, be it child trafficking, sexual exploitation of children, child labour or child migration' (UNICEF 2009: 75).

National and international bodies advocate improving the lives of children by minimising the risk of harm through a holistic approach to child protection, known as a systems-building approach. Under such approaches, child vulnerability is incorporated alongside other child protection concerns such as drug use, children in conflict with the law, school drop-outs, violence and abuse at home, social and economic marginalisation, unsafe migration and social norms that put children at risk (UNICEF 2009). This represents a more comprehensive means of addressing the factors influencing child trafficking through the strengthening of legal and justice systems, social welfare systems and social behaviour change systems (UNICEF 2009).

In short, improving legislative and policy frameworks, institutionalising training for law enforcement and social welfare staff, establishing specialist units, addressing underlying vulnerabilities (including harmful cultural practices), ensuring accreditation and regulation of key sectors and promoting knowledge regarding safe migration pathways will all assist in increasing resilience among children, provide greater protection from a range of abuses and ultimately, strengthen responses to trafficking.

Conclusion

While a greater amount of information regarding the trafficking of children in the Asia-Pacific region has become available through the activities of governments, non-government organisations and researchers in recent years, there remains

a need to strengthen the evidence base on child trafficking, particularly in relation to achieving greater conceptual clarity and examining causes.

As demonstrated through the UNICEF survey of trafficking experts, interpretations of what constitutes trafficking vary markedly. Unclear definitions can lead to unclear or inadequate responses. This can be addressed through closer examination of the areas where opinions diverge regarding what is, and is not, child trafficking. However, narrowly defining child trafficking may result in the undermining of children's rights as enshrined in the Convention on the Rights of the Child (UNICEF 2009) and may act as a barrier to effective child protection systems.

Strong and effective responses require a strong evidence base and there are several areas where systematic analysis is lacking. These areas include the trafficking of children for adoption and marriage, the trafficking of boys for sexual exploitation and the vulnerability of refugee and migrant children. Little information is available about these groups of children and greater analysis of their particular needs and circumstances is warranted.

Finally, interventions that seek to address the problem on all levels—community, family and individual—within a broader child protection framework are likely to be the most effective way of increasing resilience among children. By addressing child trafficking along with other child protection concerns, protection from a range of abuses, including trafficking, is more likely.

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