

United Nations Global Programme
against Trafficking in Human Beings

*Coalitions against Trafficking in Human Beings
in the Philippines - Phase 1*

**A Cross-Analysis Report into
Smuggling and Trafficking between
the Philippines and Australia**

Executive Summary

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This research was part of a larger project on trafficking in human beings from the Philippines, *Coalitions Against Trafficking in the Philippines - Phase 1*, carried out under the auspices of the United Nations Interregional Crime and Justice Research Institute (UNICRI) and the United Nations Centre for International Crime Prevention (CICP). The focus of the research was to determine certain aspects of trafficking in persons between the Philippines and Australia to include modes of recruitment, transportation, use of fraudulent documents, deception and exploitation, routes, corruption and collusion and the involvement of organised criminal groups.

Introduction

Australia has passed legislation making organised people smuggling a criminal offence,¹ carrying maximum penalties of 20 years imprisonment and/or fines of up to \$220,000. In Australia there is no specific law against trafficking in persons. The criminal provisions aiming to capture “trafficking” activities are the Slavery and Sexual Servitude provisions under the Commonwealth Criminal Code.² These provisions were enacted only recently, in 1999, and to date there have been no prosecutions under this legislation. Consequently, official police statistics on the number of persons trafficked to Australia do not exist. The number of trafficked persons is, however, thought to be small. It is generally accepted that human trafficking is not a significant problem in Australia. This view is supported by findings of the U.S. Department of State in its recent global report into trafficking in persons.³ The report attempted to encompass all countries which have a significant number (defined as “in the hundreds”) of trafficking victims. Australia was not a listed country in this report.

The lead agency in Australia with responsibility for the control of people smuggling and trafficking is the Department of Immigration and Multicultural Affairs (DIMA). Each year, DIMA publishes statistics on the number of unauthorised arrivals to Australia, as well as qualitative information regarding compliance successes against criminal people smuggling syndicates. The annual numbers of (detected) unauthorised arrivals to Australia over the past six years indicate an upward trend in recent years - official figures for the 1999-2000 financial year indicate a total of 5,870 unauthorised arrivals to Australia.⁴ This figure is higher than the numbers of unauthorised arrivals seen in preceding years: 3,027 during 1998-99, and 1,707 during 1997-98.

Within this context it is clear that for present purposes, namely an investigation of irregular migration between the Philippines and Australia, only a very limited analysis is possible. The incidence of trafficking and smuggling to Australia is generally low, hence the incidence of

¹ Under the *Migration Act 1958 (Cth)*, Division 12 – Offences in relation to entry into, and remaining in, Australia – in particular, s.232A.

² *Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999 (Cth)*, amending the *Criminal Code Act 1995 (Cth)*.

³ *Trafficking in Persons Report*, US Department of State, July 2001. Available at www.state.gov/g/inl/rls/tiprpt/2001/

⁴ *Protecting the Border: Immigration Compliance*, Department of Immigration and Multicultural Affairs, 2001, Canberra, Australia.

trafficking and smuggling from one country alone – in this case, the Philippines – is necessarily even smaller. Furthermore, the Philippines appears not to be a major source or transit country for unauthorised arrivals to Australia, in part because of preventive measures in place in both countries to discourage/prevent irregular movement between Australia and the Philippines.

Law enforcement compliance activity against irregular migration in Australia

To reduce the attractiveness of Australia as a destination country for unauthorised migration, DIMA has a range of preventive systems in place. These include integrity in visa processing, computer warning systems, offshore compliance activities, training of airline staff, and DIMA airport inspectors. Each of these measures enhance the degree of difficulty involved in smuggling or trafficking people to Australia, including from/through the Philippines. Australia also has a dedicated law enforcement team tasked with the investigation of people smuggling and trafficking activities – the joint Australian Federal Police (AFP)/Department of Immigration and Multicultural Affairs (DIMA) People Smuggling Strike Team. It was reported during discussions with members of the Strike Team that the team has not conducted any investigations on human smuggling/trafficking to Australia through the Philippines. The only information coming to the attention of the Strike Team about such activity between the two countries has been patchy intelligence about individuals involved in trafficking and prostitution from the Philippines to Australia.⁵

DIMA also has compliance officers who investigate suspected breaches of Australian immigration law *onshore*. Information from DIMA regarding onshore compliance activity suggests that between July 2000 and the end of April 2001, there were around 900 Filipino nationals located by compliance officers in Australia as being in breach of immigration law.⁶ This number includes a variety of persons, ranging from visa overstayers, to those in Australia on legitimate visas who were found to be in breach of their visa conditions (such as those who take on paid work while in Australia on a tourist visa – work is not permitted under tourist visas). Only a subset of this “onshore” group is likely to have been smuggled or trafficked.

Criminal practices involved in the unauthorised movement from the Philippines and/or unauthorised stay in Australia

For Filipinos, the most common type of immigration irregularity appears to be the “facilitation” of visitor or tourist visas for persons who would not otherwise be eligible, who then travel to Australia with prior intent to overstay, work illegally on arrival, enter into a contrived marriage, or apply for refugee status with fraudulent or frivolous claims on arrival (to enable the person to work while the claim is considered).

⁵ Personal communication from member of AFP/DIMA People Smuggling Strike Team, 21 March 2001.

⁶ Personal communication with DIMA official.

In terms of attempted irregular migration of Filipino nationals to Australia, such movement appears to occur exclusively by air.⁷ In some cases, individuals may have planned and arranged their own travel, yet in many cases, unauthorised entry will have been facilitated by a range of criminal organisers. Middle-men or “fixers” exist in the Philippines who can provide assistance with preparation of fraudulent documents (including supporting documents), travel arrangements, even employment once in the destination country (in this case, Australia). These facilitators appear to exist as loose networks of individuals, who have some level of association and may refer clients to each other for particular services but who do not work as closely-linked groups. Some of the individuals providing illicit migration services work in travel agencies. Filipinos entering Australia via these means tend to be young (25-35) and may be of either gender.⁸

Third country nationals (such as those from the Middle East or other Asian countries) travelling irregularly through the Philippines to Australia more often make use of tampered or fraudulent travel documents (e.g., Australian passports which have been photo-substituted or bio-data-page-substituted). These documents are provided by suppliers in the Philippines (who may have obtained them from forgers in other countries). Filipinos tend to use different facilitators than do third country nationals, as there appear to be multiple loose networks of agents and facilitators in the Philippines who tend to service different client groups.⁹ Prices for various services vary greatly.¹⁰

To give an idea of the scale of immigration fraud between the Philippines and Australia, some official statistics of relevance are presented in Table 1. These include air arrivals over the past 2 years, both in terms of :

- (a) the number of persons (irrespective of nationality) arriving unlawfully by air whose last point of embarkation was Manila¹¹; *and*
- (b) the number of Filipino nationals arriving without lawful authority by air (using any route).

Figures on visa cancellations are also presented.

⁷ DIMA Fact Sheet 81, *Unauthorised arrivals by air and sea*, summarises the ethnicities of all unauthorised boat arrivals to Australia between 1989-2001. No Filipinos are recorded. See www.immi.gov.au/facts/81boats.htm

⁸ Information concerning irregular immigration between the Philippines and Australia is sourced from personal communications with various law enforcement agencies in the Philippines and Australia.

⁹ e.g., Filipino agents will service Filipino locals, whereas transiting third country nationals will often move within networks of facilitators of their own nationality: personal communications with various law enforcement agencies in the Philippines.

¹⁰ For instance, a visitor visa application with a package of false documents may range from US\$1,000-4,000 (including airfare); a fraudulent Filipino passport (photo-substituted) may sell for between US\$2000-4000; counterfeit passports from other countries are more expensive, e.g., US\$10,000-20,000: personal communications with various law enforcement agencies in Australia and the Philippines.

¹¹ This would include Filipinos and third country nationals.

Table 1: Immigration compliance figures relating to the Philippines

	1998-1999	1999-2000
Number of unauthorised air arrivals (irrespective of nationality) whose last point of embarkation (LPE) was Manila airport	65	68
Number of unauthorised air arrivals holding Filipino citizenship (irrespective of LPE)	77	92
Number of <i>onshore</i> visa cancellations for Filipino nationals	243	261
Number of visa cancellations <i>offshore</i> at post - Manila	61	192

Source: *Protecting the Border: Immigration Compliance*, DIMA 2001.

Additional information of relevance to smuggling, trafficking & irregular migration between the Philippines and Australia¹²

Illegal workers in Australia

Each year, a number of persons are found to be working illegally in Australia. They include people who have entered the country legally and subsequently work illegally (e.g., tourists), and those in the country without lawful authority who are also working. The latter category includes those who have been smuggled here, although those in this category are mainly overstayers.¹³ Official figures on the number of interceptions of illegal workers in Australia are published by DIMA.¹⁴ During 1999-2000, 2,519 people were found by compliance staff to be working illegally.¹⁵ Over half were working in New South Wales. The top business sectors identified as employing illegal workers were restaurants, factories, brothels and hotels.¹⁶ However, it was not stated how many (if any) of these illegal workers were suffering under conditions of exploitation and deception/coercion such as to render them “trafficking” victims. Furthermore, there was no breakdown of the illegal worker sample by nationality,

¹² Other topics addressed in the original paper (Tailby, 2001) are Unauthorised movement from the Philippines and/or unauthorised stay in Australia; Unauthorised air arrivals; Visa cancellations; Overstayers; Exploitation of humanitarian system; Trafficking in children; Sexual exploitation by Australians in the Philippines; Migrant brides; Serial sponsorship and Contrived marriages.

¹³ DIMA 2001, p.75.

¹⁴ Illegal workers comprise those currently in Australia legally but who choose to work in breach of visa conditions, as well as those without legal immigration status who are also working. See *Review of Illegal Workers in Australia: Improving Immigration Compliance in the Workplace*, Department of Immigration and Multicultural Affairs, 1999, Canberra, Australia, p.66.

¹⁵ DIMA 2001, op cit, p.73.

¹⁶ *ibid.*

thus it was not possible to determine what proportion of those intercepted were Filipino nationals.

Sex work and sexual exploitation in Australia

In Australia, the majority of foreign women entering for sex work are recruited from South East Asia and fly in (on tourist visas) bonded to verbal contracts.¹⁷ There have been cases in which women have claimed that their agreement was for waitressing work and they were coerced into prostitution—such allegations, if substantiated, would amount to trafficking given the elements of deception and exploitation.

Some sensational accounts in the foreign press have claimed that 300 young women from the Philippines and other countries were forced into sexual slavery in Australia.¹⁸ The US Department of State also cites claims that women and children from various Southeast Asian countries, including the Philippines, are trafficked into Australia for purposes of prostitution.¹⁹ Yet it has been reported by both law enforcement agencies and sex industry bodies in Australia that the majority of women know they are coming to Australia for sex work²⁰ and indeed come to Australia under a form of work contract; what may not be known are the conditions under which they will work. Thus, although the practice of South East Asian women coming to Australia for contracted sex work is labelled as “trafficking” by some commentators, the term appears to be used as shorthand by law enforcement sectors to describe organised movement into Australia to perform sex work contrary to entry visa conditions.²¹ In most cases, it does not have the meaning carried by the UN Global Programme’s definition of trafficking.

At one stage, of those prostitutes found working illegally in Australian brothels, a majority were from the Philippines, however mainly Thai and Malaysian prostitutes are found in current searches.²² Insufficient details were available to provide an Australia-wide picture of such trends. To provide some context on figures, during 1999-2000, compliance action located 190 foreign women working unlawfully in the sex industry.²³ It is unknown how

¹⁷ Personal communication, Sex Workers Outreach Project, Sydney. See also Brockett, L. & Murray, A. 1994, “Thai sex workers in Sydney”, in R. Perkins, G. Prestage, R. Sharp & F. Lovejoy (eds.), *Sex Work and Sex Workers in Australia*, University of New South Wales Press, Sydney.

¹⁸ “Tough laws to fight sex slave trade”, Malaysian National News Agency, 5 January 1999, cited in The Protection Project, January 2001, www.protectionproject.org

¹⁹ 1999 Country Report on Human Rights practices in Australia, US Department of State, February 25, 2000, www.state.gov/www/global/human_rights/1999_hrp_report/australi.html

²⁰ see e.g., Pacor, P., *Briefing paper on movement of South East Asian women for prostitution in Australia*, Australian Federal Police, Canberra, January 2001; personal communication from Sex Workers Outreach Project, Sydney.

²¹ Tailby, R. 2001, “Organised crime and people smuggling/trafficking to Australia”, *Trends and Issues in Crime and Criminal Justice*, no.208, Australian Institute of Criminology, Canberra, <http://www.aic.gov.au/publications/tandi/tandi208.html>

²² Pacor, op cit.

²³ DIMA 2001, op cit, p.114.

many of these women were brought to Australia under deception or coercion and forced to work in exploitative conditions. Furthermore, the majority of these women were Thai or Malaysian prostitutes, not Filipino. As such, available evidence does not suggest significant levels of trafficking of Filipino women into the Australian sex industry. Official figures however must be interpreted with caution, as they are somewhat under-representative. During compliance raids (e.g., on brothels, restaurants), so long as persons present at the raided premises have legitimate immigration status (for instance, hold a valid visitor visa), DIMA can only pick up persons who are actually working (hence breaching the conditions of their visas). There may be other persons present who are not working, therefore are not in breach of their visas. Although the presence of these persons in the place of employment may be suggestive of their being employed (in contravention of their visa conditions), unless they are actually found to be working, they may not be brought in.²⁴

Some (dated) anecdotal evidence about the organisation of Filipino women for prostitution in Australia exists.²⁵

An NGO in 1996 reported that although Thailand was the major supply centre for foreign women coming to Australia for sex work, a smaller number were coming in from the Philippines and Vietnam.²⁶

Again, these claims refer to activity in the early to mid 1990s, and more recent evidence from law enforcement agencies suggests that Filipinos are seldom found to be working illegally in the Australian sex industry.

Summary

In sum, there is little available data about people smuggling or trafficking between the Philippines and Australia, and it is likely that this is a reflection of the low prevalence of such activities. Existing evidence suggests that there is very little trafficking from the Philippines to Australia. Filipino women are seldom found during current compliance raids of brothels, although they were more frequently encountered working illegally in Australia's sex industry in the past. Data on Filipinos working illegally in other employment sectors were not readily available. The small number of claims of trafficking of Filipino children to Australia by paedophiles have largely been discredited. Although there are a large number of Filipinos who have come to Australia as spouses, there have only been a small number of (reported) cases where Filipina wives have been subject to exploitation and violence, sometimes fatal, at

²⁴ Personal communication with DIMA officer.

²⁵ For instance, a study into non-English speaking background (NESB) women sex workers conducted in 1994 cites comments from a brothel owner in Melbourne: "I haven't been in the business for long – but a couple of weeks ago this bloke, a local, approached me and asked me if I wanted to take girls from the Philippines on contract. He said the deal was that he could guarantee that the girl could work here legally for two years, visas, passports the lot – the only cost to me would be \$1,400-\$1,500 for the airfare. The girl pays \$10,000. He showed me photos of every one of them, with details of their address, history and everything. I didn't want to get involved, too much hassle and it's like white slave trading or something..." Quote from Melbourne brothel owner, cited in *Siren Speaks: About non-English speaking women who are sex workers in Australia*, Prostitutes' Collective of Victoria, 1994.

²⁶ "Trafficking of women into Australia", *Anti-Slavery Bulletin, Briefing Note No.5/1996*, Anti-Slavery Society, Melbourne, Australia.

the hands of their Australian husbands. It could be argued that such situations are tantamount to trafficking, particularly in the case of forced prostitution or serial exploitative sponsorship. However legislative limitations on serial sponsorship enacted by the Australian Government five years ago have made serial sponsorship far more difficult. There are a number of allegedly contrived marriages to foreign spouses each year in Australia, yet it is not clear how many of these (if any) involve Filipino spouses.

The available data suggest that the majority of immigration fraud cases involving movement between the Philippines and Australia consist of “facilitated” entry to Australia, most commonly on genuine short-term visas (which may have been obtained on the basis of fraudulent supporting information), by Filipino nationals who intend not to abide by visa conditions during their stay and/or who intend to overstay. Where illicit assistance has been provided to such persons (for profit) to aid their securing a visa, this would be sufficient to make the case one of smuggling. A range of “fixers” or facilitators in the Philippines provide a variety of services to those seeking unauthorised entry to Australia (or other countries). Services include preparation of bogus supporting documents for visa applications, provision of fraudulent travel papers (e.g., passports), facilitation of passage through border controls, and arrangement of employment in the destination country. Facilitators tend to be only loosely associated, and tend to provide services within their own ethnic groups – i.e., Filipinos typically use Filipino fixers, whereas foreign nationals transiting the Philippines usually tap into foreign syndicates or facilitator networks operating in major centres in the Philippines. There is additionally suggestion of onshore assistance in some cases, such as assistance with the lodging of frivolous humanitarian assistance claims once in Australia, the provision of employment for those without authority to work, or introduction assistance for those seeking to marry. Within the broader context of all smuggling, trafficking, and other forms of irregular migration experienced by Australia, however, the Philippines is only a relatively minor source and transit country for such practices. The strong preventive measures put in place by the Governments of Australia and the Philippines contribute to the prevention and deterrence of irregular migration between those two countries.