



WHAT IS HUMAN TRAFFICKING?

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Human trafficking is a grave violation of almost all human rights, including: the right to liberty, integrity and security; the right to freedom from torture and other cruel, inhuman or degrading treatment; and the right to freedom of movement.

In international law, there are three key elements to trafficking:

1. recruitment, transportation, transfer, harbouring or receipt of a person;
2. through means such as threat or use of force, coercion, deception, or abuse of power or vulnerability;
3. for the purpose of exploitation .

This internationally accepted definition comes from the United Nations [*Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime*](#) ('Trafficking Protocol'), which was ratified by Australia in 2005.

Under the Trafficking Protocol the consent of the victim to migrate for work is irrelevant where it is obtained by any of the coercive, deceptive or abusive means. This is because in these circumstances a person cannot meaningfully consent. Children can never consent to be exploited.

In Australian law, trafficking offences are found in Division 271 of the [*Criminal Code 1995 \(Cth\)*](#) (Criminal Code). It is an offence to:

1. facilitate the movement of a person into, out of or within Australia;
2. using coercion, threat or deception to obtain the person's compliance.

The terms 'coercion', 'threat' and 'deception' show are defined .in section 270.1A of the Criminal Code. Under these provisions, coercion includes coercion through force, duress, detention, psychological oppression, abuse of power and taking advantage of a person's vulnerability.

It is also an offence to:

1. facilitate the movement of a person into, out of or within Australia; and
2. be reckless as to whether the other person will be exploited.

Exploitation can be forced labour, sexual exploitation, slavery or practices similar to slavery, servitude, or the removal of organs.¹



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IS HUMAN TRAFFICKING AN ISSUE IN AUSTRALIA?

Yes. Australia is a destination country for human trafficking.

People trafficked to Australia are exploited in situations of slavery, servitude, forced labour and in some cases, forced marriage. Cases of human trafficking and exploitation have been identified in a number of industries including the sex industry, agriculture, hospitality and construction, as well as private homes.

Australia has international obligations to identify, assist and protect trafficked people, prosecute trafficking offenders and take action to prevent human trafficking to Australia. These obligations stem from the Trafficking Protocol as well as other human rights and labour rights treaties, including:

- The [*International Covenant on Civil and Political Rights*](#). Article 8 provides that no person shall be held in slavery or servitude, or required to perform forced labour.
- The [*International Covenant on Economic, Social and Cultural Rights*](#). Article 7 recognises the right of all people to just and favourable conditions of work.
- The [*ILO Convention No. 29 on Forced or Compulsory Labour*](#), which requires all Member countries to suppress forced labour in all its forms.

Trafficking, slavery, and slavery-like offences are serious crimes under Divisions 270 and 271 of the Criminal Code. In 2013, Australia launched the [Australia-Asia Program to Combat Trafficking in Persons](#), further reflecting a strong commitment to addressing trafficking.

Sometimes people assume that trafficking is a problem that only occurs in the sex industry, but trafficking for labour exploitation occurs in a range of different industries including agriculture, hospitality, construction, or domestic work.

HOW MANY PEOPLE ARE TRAFFICKING TO AUSTRALIA?

Between 2004 and June 2016, the Australian Federal Police (AFP) received 691 referrals for human trafficking and slavery-related offences. In 2015-16, the AFP received 169 new referrals. This is an increase from 119 new referrals in 2014-15, indicating the growing number of trafficking cases that are being identified.²

The latest figures from the AFP demonstrate that there has been a drop in the proportion of cases that relate to sexual exploitation. In 2013-14, 44% of new AFP investigations were related to sexual exploitation. This dropped to 23% in 2015-16.



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This does not mean that there are less cases of sex trafficking, but rather that more cases of other types of trafficking are being identified. The profile of suspected victims of trafficking is changing, particularly with the introduction in 2013 of the offence of forced labour in the Criminal Code Act. As more attention is paid to the problem of labour trafficking outside the sex industry, more cases have been, and will be, identified.

Australia has international obligations to identify, assist and protect trafficked people, prosecute. As of May 2017 there have been 20 convictions of trafficking and slavery offences in Australia.³ However, the real figure is likely to be higher because trafficking can be hard to uncover and trafficked people may not seek help from authorities.

HOW IS TRAFFICKING DIFFERENT FROM PEOPLE SMUGGLING?

Between 2004 and June 2016, the Australian Federal Police (AFP) received 691 referrals for human trafficking and slavery-related offences. In 2015-16, the AFP received 169 new referrals. This is an increase from 119 new referrals in 2014-15, indicating the growing number of trafficking cases that are being identified.²

The *Protocol Against the Smuggling of Migrants*⁴ defines smuggling of migrants as procuring illegal movement of people in order to obtain a financial or other benefit.⁵ People smuggling is an offence under the Criminal Code.

The major difference between trafficking and people smuggling is that smuggled migrants consent to the smuggling, while trafficking victims 'have either never consented or, if they initially consented, that consent has been rendered meaningless by the coercive, deceptive or abusive actions of the traffickers'.⁶ Also, people smuggling does not involve exploitation of the person after arriving in the destination country.

You can find out more by reading the Australian Institute of Criminology's brief '[People smuggling versus trafficking in persons: what is the difference?](#)'

WHO CAN HELP?

If you or someone you know has been or is being trafficked, you can get help. If it is an emergency and there is threat of violence or the situation involves a child, **call the Police on 000**. The Australian Federal Police (AFP) take an active role in investigating trafficking and slavery-related offences. More information is available on their [website](#).

For further information and for confidential legal advice contact Anti-Slavery Australia on (02) 9514 9660, email us at antislavery@uts.edu.au, or visit our website at www.antislavery.org.au. To learn more about this and related issues, sign up for our [free, online eLearning course](#).



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REFERENCES CITED

1. United Nations Office on Drugs and Crime, *Human Trafficking* (08 September 2011) UNODC,
2. '[Trafficking In Persons: The Australian Government Response1 July 2015 – 30 June 2016](#)' (Eighth Report Of The Interdepartmental Committee On Human Trafficking And Slavery, Commonwealth of Australia, 2016) 11
3. Ibid, p 28.
4. *Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime*, UN Doc a/Res/55/25 (15 November 2000).
5. Ibid, art 3 (a).
6. United Nations Office on Drugs and Crime, *Trafficking in Persons* (United Nations Office on Drugs and Crime, 21 August 2009), 2.