



Pacific Immigration Directors' Conference



Policy Brief: No. 2/2010

Understanding human trafficking and people smuggling

Trafficking in numbers:

Around the world 12.3 million adults and children are in forced labour, bonded labour, and forced prostitution. (US Department of State, 2010)

Women and girls account for about 80% of the detected victims. Child trafficking accounts for about 15-20% of the victims. Child trafficking has been detected in all regions of the world. (UNODC, 2009)

The United Nations estimates the total market value of illicit human trafficking at US\$32 billion. (ILO, 2005)

Sexual exploitation accounts for about 80% of the detected cases. Experts believe trafficking in persons for forced labour is greatly under-detected or is mostly prosecuted under other offences. (UNODC, 2009)



Purpose

This policy brief to gives an overview of issues relating to human trafficking and people smuggling. It has been designed for immigration officers in the Pacific region.

The brief answers the following five questions and provides details for further information:

- What is human trafficking?
- What is people smuggling?
- How is trafficking different to smuggling?
- What is the situation in the Pacific?
- How can PIDC members respond?

What is human trafficking?

Human trafficking is a modern form of slavery. It is global issue that has received increasing attention around the world, and is one to which the Pacific is not immune.

Human trafficking is defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children which supplements the UN Convention against Transnational Organised Crime. It is also known as the Palermo Protocol or the Trafficking in Persons Protocol.

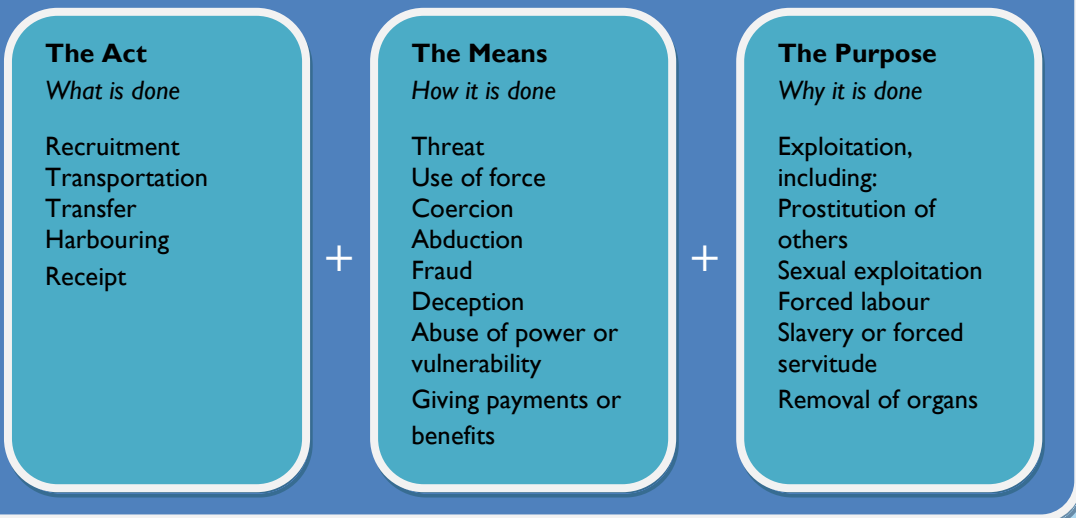
The definition of trafficking can be broken down into three parts: the Act, the Means and the Purpose. As in the diagram below, a case of trafficking requires at least one element in each of these three parts to be in

“Trafficking in persons” shall mean the recruitment, transport, harbouring or receipt of persons, by means of the threat or other forms of coercion, of abduction, of fraud, of deception, of force, of power or of a position of vulnerability or of the giving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of 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.

Article 3(a) of the Trafficking in P

place. Claiming that a victim consented cannot provide a defence for a trafficker if one of the means can be established. If the victim is under 18, consent is completely irrelevant.

Human trafficking =



Different terms, same meaning:

- Human trafficking = trafficking in human beings = trafficking in persons
- People smuggling = human smuggling = migrant smuggling = smuggling of migrants

What is people smuggling?

In contrast to trafficking, the UN Protocol against the Smuggling of Migrants by Land, Sea and Air (the Migrants Protocol) essentially defines smuggling as obtaining the

illegal entry of a person into a country for financial or other material benefit. A smuggled migrant will ordinarily have agreed to be smuggled.

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human dignity and freedom. ...
often suffering from horrible
sexual abuse, it is hard for
that there might be a place
of refuge.”

President Barack Obama,
January 4, 2010

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How is human trafficking different to people smuggling?

Human trafficking and people smuggling can be difficult to tell apart for many reasons. For example, people who pay to be smuggled may ultimately become victims of trafficking; traffickers may act as smugglers; and a smuggled person may suffer conditions that make it hard to believe they gave their consent. Mistakenly treating a trafficking victim as a smuggled migrant can have severe consequences for the victim.

There are important differences between human trafficking and people smuggling that need to be recognised.

Consent

Usually smuggled migrants consent to being smuggled. Trafficking victims will not have consented or their consent is meaningless given the threats, coercion or deception by

the trafficker. This is an important part of the Trafficking Protocol.

Exploitation

The relationship between the smuggler and the migrant involves a commercial transaction, where a fee is charged to facilitate the illegal entry of the migrant into a country. The relationship ends when the migrant arrives at their destination. Trafficking involves the ongoing exploitation of the victim to generate profits for the trafficker.

Transnationality

People smuggling always involves illegal border crossings. Trafficking can occur within one country. If borders are crossed the legality or illegality of the crossing are irrelevant.

What is the human trafficking situation in the Pacific?

Although trafficking by definition is not always transnational, it is the cross-border cases that the PIDC as an immigration forum has sought to better understand.

In the seven years that the PIDC has been collecting information in the region a total of 14 different members have at some point reported that they believe trafficking to occur into or through their jurisdiction. In the same period a total of 16 different members have reported a belief that people smuggling occurs.

In each of the last four years (see chart on right), six PIDC members have reported a belief that trafficking occurs and from seven to ten members have reported people smuggling to occur.

The exact number of incidents and the number of individuals involved is less clear with members having limited capacity to detect, identify and respond to people smuggling and human trafficking. However, in 2008, Pacific Island members reported 35 instances of people smuggling and in 2009

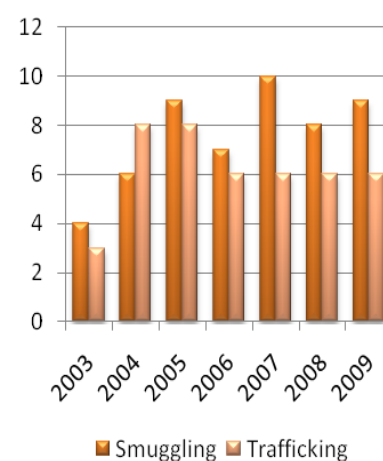
they reported 21 instances.

Each year, PIDC members also provide information on the number of persons refused entry at the border, the suspected size of their unlawfully residing population and instances of immigration-related fraud. Some of these instances of irregular migration may also have a trafficking or smuggling element.

For 2009, Pacific Island members reported that 507 persons were refused entry at the border, that approximately 15,000 people were believed to be residing unlawfully and that 34 persons were detected committing immigration-related fraud.

Compared to figures for other regions in the world, the number of persons being trafficked or smuggled into, around and through the Pacific is not large. However, given the severity of the crimes, the size of Pacific Island populations, and the wider social and economic effects of organised crime, it should be an issue of significant concern for the region.

Number of PIDC members reporting trafficking and smuggling, 2003-09



How can PIDC members respond to smuggling and trafficking?

Members can respond to people smuggling and human trafficking in several areas, including:

Adopting legislation

Adopting effective legislation is essential to deter smugglers and traffickers, to enable their prosecution, to protect victims and to facilitate cooperation between countries. Legislation should meet the definition of trafficking in the Trafficking Protocol. Model legislation is available from the Pacific Islands Forum Secretariat, as part of their transnational organised crime model, as well as from UNODC and IOM.

Developing policy and procedure

Legislation needs to be followed up with appropriate policy approaches and procedures to ensure that the legislation is actually used to combat trafficking and smuggling, and leads to prosecutions. This requires close cooperation between law enforcement agencies and a clear definition of roles. Immigration officers are well-placed to detect trafficking and smuggling,

but it may be the police who lead investigations. It may also require cooperation with agencies in other countries, and with non-governmental organisations to ensure victims receive the support they need.

Training and awareness-raising

Immigration officers need to be trained to detect and understand both smuggling and trafficking, to know what immediate steps they should take, and who they should contact. In cases of trafficking, an immigration officer's ability to identify the crime may be a victim's only chance. Public awareness can also play a key role in supporting law enforcement efforts.

Gathering information

Information in the region is limited. Trafficking and smuggling may often go undetected, but sometimes they, and potentially linked immigration crimes such as document fraud, are detected but information is not systematically recorded. Keeping and maintaining records of these crimes helps to build a picture of what is happening in jurisdictions and the wider region. This in turn can help to shape policy and lead to resources being directed more effectively.

Considering the victim

In cases of trafficking it is important to ensure that the rights of victim are respected and that they receive appropriate protection, including from criminal prosecution and through the provision of shelter and medical assistance.



Who are the victims of trafficking?

It is not possible to give a simple description. Victims can be children or adults, male or female, illiterate or well-trained, and of any ethnic group. Males can be trafficked for sexual exploitation; women can be trafficked for labour; children can be used as petty thieves. Victims may be sex workers, or have been forced into working in factories, in fields or in homes.

Where can I find out more?

The PIDC Secretariat can provide further information on human trafficking and people smuggling and can direct you to additional resources.

The United Nations Office on Drugs and Crime (UNODC) has a comprehensive set of tools, training materials and other publications, including a 'First Aid Kit' for law enforcement first responders to trafficking, which is highly relevant to immigration officers. UNODC also produced a global report on human trafficking in 2009. Visit www.unodc.org.

Who are the traffickers?

In the same way victims are hard to describe, so are the traffickers. They can be male or female, part of a criminal group or acting on their own, and be of any nationality or ethnicity. They may even be friends or relatives of the victim.

The International Organization for Migration (IOM) also has a range of resources available at www.iom.int. The US Department of State publishes an annual trafficking in persons report that ranks 177 countries according to the actions they have taken to combat trafficking. Visit www.state.gov.