

January 31, 2020

**Australian Government**  
Australian Border Force

Submission by email to: [humantraffickingandslavery@abf.gov.au](mailto:humantraffickingandslavery@abf.gov.au)

**Submission to the National Action Plan to Combat Modern Slavery 2020-24: Public Consultation Paper on behalf of the International Organization for Migration (IOM)**

The International Organization for Migration (IOM) welcomes the opportunity to provide feedback on the consultation paper to inform the draft National Action Plan to Combat Modern Slavery 2020 - 2024, (NAP). IOM takes this opportunity to share from its global experience in working to eradicate modern slavery, trafficking in persons, forced labour, wage exploitation, forced marriage and debt bondage. IOM and the Commonwealth of Australia have cooperated on migration issues for more than 65 years. As a founding member state, the Government of Australia has consulted with IOM on many migration-related issues and worked collaboratively on a multitude of projects. The strength of the relationship is reflected through the commitment to a strategic partnership. As, such it's a privilege to collaborate on the future development of the National Action Plan.

This submission responds to the four consultation questions with relevant reference to the initial twelve goals and provides further recommendations.

**About the International Organization for Migration**

Established in 1951, IOM, the United Nations' Migration Agency, has continued to respond to migration challenges of increasing scale and complexity, promote inclusion of migration into state policies and contribute to upholding the humanitarian principle for action. IOM's membership body is comprised of 173 member states, with a further eight (8) states holding observer status. As an intergovernmental migration organization with a global operational capacity and specific expertise working with vulnerable migrants, IOM is well placed to help protect trafficked migrants with the provision of direct assistance.

As the only UN entity with a specific migration mandate, IOM works with migrants and governments to provide humane responses to the growing migration challenges of today. IOM helps ensure the orderly and humane management of migration, to promote international cooperation on migration issues, to assist in the search for practical solutions to migration problems and to provide humanitarian assistance to migrants in need, including victims of modern slavery. The IOM Constitution gives explicit recognition to the link between migration and economic, social and cultural development, as well as to the right of freedom of movement of persons.

IOM was among the first intergovernmental organizations to recognize trafficking in persons in the modern era from its fieldwork in Southeast Europe and Southeast Asia. Since the early 1990's, IOM's counter trafficking efforts have grown exponentially to include practical support to governments in over 100 countries and the identification and provision of direct assistance to approximately 100,000 victims of trafficking, of 103 different nationalities in 117 countries of destination. IOM is widely acknowledged as playing a leading global role in countering trafficking in persons together with governments, civil society and victims of trafficking, and it is providing its technical expertise on, inter

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alia, trafficking issues, in the formulation of the Global Compact on Migration and supporting the implementation of the 2030 Sustainable Development Goals addressing trafficking.

## **NATIONAL ACTION PLAN TO COMBAT MODERN SLAVERY PUBLIC CONSULTATION QUESTIONS**

### **Question 1**

**Do the 12 goals capture key areas of focus for Australia over the next five years?**

In 2004 the Australian Government launched its first Action Plan to Eradicate Trafficking in Persons, based on a public inquiry into human trafficking in Australia. In 2015 the Australian Government significantly improved this by introducing the National Action Plan to Combat Human Trafficking and Slavery 2015-2019. Whilst this action plan was being implemented, the Commonwealth Government also launched a public inquiry into human trafficking and slavery-like practices in 2017, under the premise that counter trafficking efforts need to broaden its focus beyond the sex industry and take into consideration contemporary issues such as forced marriage and exploitive labour practices<sup>1</sup>. IOM recognizes the launch of the National Action Plan 2015-2019 was a significant achievement and commends the Australian Government for broadening the key areas of focus proposed in the National Action Plan to Combat Modern Slavery 2020-2024.

IOM concurs the twelve goals cited in the public consultation report distributed by the Australian Border Force in January 2020 captures key areas of focus for Australia over the next five years, with a clear intention to address the full cycle of exploitation from recruitment to reintegration, giving balanced focus on prevention, enforcement and victim support<sup>2</sup>. The NAP cites at least eight goals pertaining to the prevention efforts of human trafficking and slavery (goals 2, 3, 5, 7, 8, 9, 11, 12), with the remaining goals prioritizing victim support and efforts to enforce our relevant legislation and policies, (goals 1, 4, 6, 10).

It is evident the Australian Government has proposed twelve goals that meet the contemporary challenges to the Australian society with a greater emphasis on serious forms of labour exploitation, including forced labour and deceptive recruiting compared to the previous NAP<sup>3</sup>. IOM supports the shift in terminology whereby the term 'victim' encompasses scope to include survivors of modern slavery, using broader terminology for victims of human trafficking. Terminology in the proposed 2020-2024 action plan has moved from 'refine and finalize' to terms such as 'train, enhance, engage and promote', which suggests there will be a greater emphasis on monitoring achievable objectives. IOM also vigorously applauds the goals that focus on our responsibilities to uphold international standards on modern slavery. IOM welcomes the opportunity to view a draft of the strategic objectives, activities and measurables for each of the twelve goals in the near future where IOM can delve into a more thorough assessment of the proposed goals.

### **Question 2**

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<sup>1</sup> Seagrave, M, Milivojevic, S, 2010. 'Auditing the Australian Response to Trafficking', in *Current Issues in Criminal Justice*, Vol 22, Issue 1, 2010.

<sup>2</sup> <https://www.homeaffairs.gov.au/reports-and-publications/submissions-and-discussion-papers/combat-modern-slavery-2020-24>

<sup>3</sup> <https://www.homeaffairs.gov.au/criminal-justice/files/trafficking-national-action-plan-combat-human-trafficking-slavery-2015-19.pdf>



**Should there be additional goals to address other areas of focus, emerging issues or trends? If so, what should they be?**

Whilst the proposed goals for the 2020-2024 action plan appear broad in nature, IOM recommends some additional goals as well as expanding the existing goals address important areas of focus, emerging issues and trends.

**Proposed Goal #1 - Maintain and promote compliance with international standards on modern slavery**

Recommended Goal: Appointment of a National Anti-Slavery Commissioner

As stated in its previous Submission to the Australian Parliamentary Inquiry into Modern Slavery (2017), IOM recommends the establishment of a National Anti-Slavery Commissioner who could contribute to this ambition<sup>4</sup>. An independent commissioner on modern slavery would have capacity to independently review the National Action Plan alongside Australia's international obligations and examine its legislative response to ensure they are achievable with adequate resourcing and have measurable outcomes.

Expansion of Goal #1: IOM would also like to see this goal complemented by mentioning its commitment to the United Nations Global Compact and Sustainable Development Goals which aim to eliminate forced labour, human trafficking and modern slavery by 2030<sup>5</sup>.

**Proposed Goal #2 - Engage the Australian community to understand and combat modern slavery**

Recommended Goal: Enhance a focus on the *demand* side of human trafficking

Addressing the demand side of trafficking and exploitation should be more clearly articulated in the proposed 2020-2024 action plan. IOM suggests this requires the engagement of those creating the demand, including consumers themselves and the private sector. Far too often public awareness campaigns are targeting potential victims, highlighting the risks of unsafe-migration in the absence of viable alternatives, either at home or through safe migration channels. By contrast, the responsibility of the industries and consumers demanding sexual services, cheap labour and cheap goods usually goes unrecognized. Efforts are needed to address the reality that some goods are sold as cheaply as they are because of the poor and irregular payment of migrant workers in global supply chains. Campaigns to shift individual behaviour in their role both as consumers and as conscientious members of society should be expanded and efforts made to sensitize, encourage, assist, or obligate companies to clean up their supply chains should be enhanced. Some positive examples to expand the audience of migrant workers can be found in community awareness campaigns like 'Operation Skywarp', an initiative between the Australian Federal Police and Anti-Slavery Australia, (2019).<sup>6</sup> IOM posits that goal two could reflect on such projects and expand it's focus on the demand side of human trafficking in more detail.

Goal two is closely aligned with goal five and goal nine. Goal nine cited in the 2020-2024 action plan aims to promote transparency and accountability for combating modern slavery risks in global supply chains. In 2014 the Minister for Justice established the Supply Chains Working Group, made up of experts from government, business, industry, civil society, unions and academia. The working group concluded in 2016 with strong recommendations to provide Australia's business sector with improved awareness raising materials and the feasibility of a model for large businesses in Australia to publicly

<sup>4</sup> [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Law\\_Enforcement/Humantrafficking45/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Law_Enforcement/Humantrafficking45/Submissions)

<sup>5</sup> <https://sustainabledevelopment.un.org/sdgs>

<sup>6</sup> <https://www.afp.gov.au/news-media/media-releases/forced-marriage-awareness-campaign-launched-australia%E2%80%99s-busiest-airport>



report on their actions to address supply chain exploitation<sup>7</sup>. IOM acknowledges the Supply Chain Working Groups recommendations were embedded into Modern Slavery Act 2018. IOM hopes the 2020-2024 action plan will continue to promote transparency and accountability for combating modern slavery risks in global supply chains with the support of our organization who has specialised expertise in this area, with projects such as IRIS and CREST, (which will be outlined in more detail throughout this submission).

**Proposed Goal #4 - Maintenance of a robust and comprehensive legislative framework to combat modern slavery**

Recommended Goal: Enhance the transparency and inclusion of monitoring & evaluation activities  
IOM recommends the Australian Border Force considers weaving an element of monitoring, evaluating and aligning the plethora of related legislated documents as part of its 2020-2024 action plan commitments. IOM envisages that goal one and goal four should be aligned in that the various departments for enforcing, preventing and monitoring modern slavery have synergy between the legislative frameworks and how they impact each policy outcome. One such example is incorporating the Australian Policing Protocol to Combat Human Trafficking, Slavery and Slave-like Practices (National Policing Protocol), into the National Action Plan with specific measurable objectives and embedding the strategy into immigration compliance activities to ensure Australia's victim identification protocols are consistent with international standards<sup>8</sup>.

Recommended Goal: Introducing victim-centric non-judicial remedies

NGO's and civil society have extensively advocated for the removal of the requirement for victims to cooperate with the criminal justice system in order to access the relevant compensation and supports for victims of trafficking<sup>9</sup>. IOM would like to see the 2020-2024 action plan utilise goal six, seven and goal ten to implement contemporary non-judicial remedies that support a more victim centred approach. IOM advocates for victims to be assisted in accessing civil remedies in tort or contract law where the burden of proof is a balance of probabilities. According to the Freedom Partnership to End Modern Slavery Submission to the Joint Committee on Law Enforcement 2017, a number of alternative solutions were proposed that could be exercised by non-law enforcement agencies. IOM recommends the Australian Border Force considers those solutions as part of its 2020-2024 action plan goals<sup>10</sup>.

**Proposed Goal #5 - Enhance its response to combating serious forms of labour exploitation, including forced labour and deceptive recruiting**

Expansion of Goal #5: IOM hopes the Australian Border Force will consider expanding the statement to include 'coercion', alongside deceptive practices. According to an AIC report on Labour Trafficking (2012), the majority of suspected trafficking victims have entered Australia on valid visa's, but traffickers wittingly use a wide range of coercive practices once they are on-shore in Australia to lure migrants into exploitive working conditions<sup>11</sup>. Episodes of modern slavery have been identified in the industries of agriculture, horticulture, hospitality, textiles, construction, cleaning and in most cases coercion and control of victims was achieved through threats of violence, obligations to repay debt, isolation, manipulation of tenuous or irregular migration situations and a general sense of obligation. Coercive practices by labour hire agents and human traffickers are more difficult to prove and

<sup>7</sup> <https://www.homeaffairs.gov.au/about-us/our-portfolios/criminal-justice/people-smuggling-human-trafficking/human-trafficking>

<sup>8</sup> <https://www.afp.gov.au/sites/default/files/PDF/AFP-Corporate-Plan-2015-2019.pdf>

<sup>9</sup> [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Law\\_Enforcement/Humantrafficking45/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Law_Enforcement/Humantrafficking45/Report)

<sup>10</sup> [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Law\\_Enforcement/Humantrafficking45/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Law_Enforcement/Humantrafficking45/Submissions)

<sup>11</sup> David, F, 2012. Organised Crime and Trafficking in Persons, Australian Institute of Criminology Trends and Crimes in Criminal Justice, Series No.436. Canberra: AIC



prosecute under Australia's criminal justice system, because they use more subtle forms of psychological oppression, power and control to restrict one's freedom of movement.

**Proposed Goal #8, #10, #12 – Enhance our response to combating serious forms of labour exploitation, including forced labour and deceptive recruiting**

Expansion of Goal #8: Once again, IOM envisages that goals eight, ten and twelve are similarly aligned, as they require collaboration between the Fair Work Ombudsman and the various departments of Home Affairs. Exploitive practices and modern slavery sit in a spectrum between human trafficking and abhorrent labour law breaches. It's imperative the relevant departments collaborate to protect vulnerable workers rather than to inadvertently trigger actions that could result in further harm to the migrant. The recent high-profile cases of labour exploitation in the 7-Eleven and agriculture industry demonstrate that due to the multiplicity of bodies regulating exploitive practices in Australia, the National Action Plan should consider broadening its goals to consider the introduction of a central coordinating body<sup>12</sup>.

**Proposed Goal #12 - Work collaboratively across government, along with non-government stakeholders to combat modern slavery**

Recommended Goal: Increased cooperation with Australian Businesses

IOM recommends that an additional goal be created with regards to promoting better cooperation with local Australian businesses. Several European countries have considered ways in which businesses can be encouraged to participate in combatting the risks of modern slavery. In 2008 the Danish Government introduced a statutory CSR reporting requirement into their National Action Plans which obligates all state owned public limited companies irrespective of their size, to report on their CSR achievements in their company annual reports<sup>13</sup>. This is broader than the modern slavery statements introduced under Australia's Modern Slavery Act and worth considering.

In addition to increasing its cooperation with Australian businesses, IOM recommends the Australian Government expands its goal to explicitly mention international cooperation with other national governments and UN related bodies in the Oceanic region as a priority to prevent modern slavery, protect victims and prosecute perpetrators.

Expansion of Goal #12: Expanding working groups within the Bali Process

In the international context, the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process) has effectively raised regional awareness of the consequences of people smuggling, trafficking in persons and related transnational crime, and developed and implemented different strategies and practical cooperation. This multilateral mechanism can play a key role in goal 11 and 12 by engaging with non-government stakeholders and promoting regional agreements. Although the Bali process has typically focus on trafficking and high-level political dialogue, there is an increasing need in broadening its scope and reach. The 2018 Declaration of the Seventh Ministerial Conference of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime recognised such need by promoting new mechanisms of engagement with the private sector<sup>14</sup>. The Acknowledge, Act and Advance Recommendations (AAA Recommendations) agreed in the Second Bali Government and Business Forum (06-07 August 2018) has already set out a pathway for both business and government to contribute to the eradication of these transnational crimes<sup>15</sup>. Similarly, the Bali Process Working Group on Trafficking in Persons (Working Group) has a network of experts on trafficking that could foster new partnerships with the

<sup>12</sup> The Senate Education and Employment References Committee, 'A National Disgrace: The Exploitation of Temporary Work Visa Holders', Commonwealth of Australia, 2016

<sup>13</sup> <https://mk0globalnapshvlfq4.kinstacdn.com/wp-content/uploads/2017/12/denmark.pdf>

<sup>14</sup> Declaration of the Seventh Ministerial Conference of the Bali Process On People Smuggling, Trafficking In Persons And Related Transnational Crime (Bali Process).

<https://www.baliprocess.net/UserFiles/baliprocess/File/BPMC%207%20Ministerial%20Declaration-Final.pdf>

<sup>15</sup> Bali Process Business Forum – Acknowledge, Act, Advance Recommendations.

<https://www.baliprocess.net/UserFiles/baliprocess/File/AAA%20Recommendations.pdf>



civil society and academia. IOM recommends consideration to expand such Working Groups and the possibility of creating a dedicated sub-group on labour exploitation and forced marriage. Expanding such engagements within the Bali Process context provides unique opportunities to further develop cooperation across governments, businesses and the civil society.

### Question 3

**The Government is committed to ensuring victims of modern slavery are supported, protected and empowered. Are there ways in which the Government can better reflect the voices of victims and their lived experiences in the 2020-24 Plan and Australia's response to modern slavery?**

#### **Proposed Goal #7 - Enhance our response to combat forced marriage**

Accurate numbers of human trafficking cases worldwide are unknown and difficult to estimate. According to ILO and the Walkfree Foundation, there were 40 million victims of modern slavery in 2016, including 25 million people in forced labour and 15 million people in forced marriage.<sup>16</sup>

According to the Australian Institute of Criminology *'Estimating the dark figure of human trafficking and slavery victimisation in Australia'* statistical bulletin, "the number of human trafficking and slavery victims in Australia in 2015–16 and 2016–17 was between 1,300 and 1,900. This means there are approximately four undetected victims for every victim detected"<sup>17</sup>. This is a strong indication of the need for Australia to respond to not only the identified number of victims, however also the gap. The challenge with reflecting the voice of victims of forced marriage is the cultural contexts that requires victims to report on family members and the personal / social consequences associated with such reporting mechanisms. IOM recommends the NAP considers the cross-cultural context and has provisions to assure victims there are viable long-term protection solutions available to them.

Encompassed in the process of combatting forced marriage is awareness raising to the broader community inclusive of potential victims and perpetrators, survivors, service providers and the community, nationally and internationally. IOM commends the AFP and Anti-Slavery Australia Project Skywarp pilot campaign introduced at Sydney airports in 2019. Based on the project Skywarp pilot evaluation, presuming to incorporate the voices of survivors, IOM recommends consideration to expand the campaign nationally and internationally through established and enhanced inter-governmental relationships. Based on research of international routes of forced marriage inbound and outbound from Australia, initial concentration should be given to airports of countries of destination/origin and predominant transit airports.

#### **Proposed Goals #8 and #9 - Enhance our response to combating serious forms of labour exploitation, including forced labour and deceptive recruiting / #9. promote transparency and accountability for combating modern slavery risks in global supply chains, including in Government procurement**

The voices of migrant workers themselves are too often overlooked in the process of combating modern slavery, both within Australia's own backyard and within the complex international supply chain model. IOM firmly believes in the elevation of the voice of migrants in our work to ensure policies and interventions make improvements that are most needed and desirable for migrant workers. Of the estimated 25 million victims of forced labour in 2016, of those 5 million may have crossed international borders<sup>18</sup>. Australia is indeed well known to be a destination country for temporary migrant workers.

IOM supported legislation of the Modern Slavery Act, 2018. IOM strongly encourages development of innovative strategies to map, learn more about, and better understand our supply chains in order to

<sup>16</sup> Global Migration Indicators [https://publications.iom.int/system/files/pdf/global\\_migration\\_indicators\\_2018.pdf](https://publications.iom.int/system/files/pdf/global_migration_indicators_2018.pdf)

<sup>17</sup> Estimating the dark figure of human trafficking and slavery victimisation in Australia – <https://aic.gov.au/publications/sb/sb16>

<sup>18</sup> Global Migration Indicators [https://publications.iom.int/system/files/pdf/global\\_migration\\_indicators\\_2018.pdf](https://publications.iom.int/system/files/pdf/global_migration_indicators_2018.pdf)



bring about the transformative change that is needed to counter forced labour and modern slavery. The recruitment industry and its business partners need to consider adopting and implementing an ethical “employer pays” business model in order to combat debt bondage. The goal of the IOM International Recruitment Integrity System (IRIS) is to transform the international recruitment industry to make it fair for workers, recruiters and employers. It does this by promoting the Employer Pays Principle, greater transparency within international recruitment, as well as the rights of migrant workers<sup>19</sup>. Incorporated within commendable ethical recruitment systems is involvement of migrant workers and the recruiter to provide comprehensive cognized pre-departure and post arrival orientation. The Australian Government could enhance and monitor this model through provision of IOM supported recommendations within the Salvation Army Submission to the Joint Committee on Law Enforcement Inquiry into Human Trafficking, January 2017:

12. Support the establishment of a national, independent helpline that is operated by an NGO to ensure victims are able to seek safe, confidential advice and support.

18. The Australian Government should introduce newly arrived workers on temporary work visas to a non-government organization (including unions) that is able to assist the migrant worker understand their rights and responsibilities;

19. The Government should provide information directly to all migrant workers and partner visa entrants prior coming to Australia about their rights and responsibilities in a language they understand, including how to seek help from both relevant government authorities and non-government organizations. This should also include access to free, confidential legal advice by phone<sup>20</sup>.

Again, in reference to the 2019 implemented project Skywarp campaign pilot, subject to the pilot evaluation and potential expansion internationally through established and enhanced inter-governmental relationships, consideration should be given to disseminate materials in other languages at departure airports outlining laws on forced marriage in Australia and information on accessible support resources available such as My Blue Sky - <https://mybluesky.org.au>

Under the proposed National Action Plan voices of victims and those exposed to modern slavery, namely migrant workers, may be heard and reflected through extensive monitoring of ethical recruitment systems through measurement of effectiveness of pre-departure orientation, post arrival orientation and remediation mechanisms. This could be captured within comprehensive idyllic annual Modern Slavery Statements, and independent worker interviews conducted within responsible recruitment due diligence.

IOM and the Responsible Business Alliance (RBA) facilitated a roundtable discussion dedicated to the challenges faced by employers in incorporating pre-departure orientation into recruitment processes. The session also sought to identify good practices for effective delivery and inform the review of existing pre-departure orientation materials/curriculum to address identified key issues pertaining to labour migration.

- Challenges in incorporating pre-departure orientation to tackle frequent information gaps
- Current pre-departure orientation modes of delivery: constraints and contribution to better rights-based information for workers
- Good practices and potential solutions<sup>21</sup>

This was pertinent to Malaysia, however the principle of effective good practices can be applied and implemented in other countries. IOM suggests that effective practices to implement and monitor ethical recruitment stages could encompass the following phases:

<sup>19</sup> IOM CREST <https://crest.iom.int/international-recruitment-integrity-system>

<sup>20</sup> Salvation Army Submission to the Joint Committee on Law Enforcement Inquiry into Human Trafficking, January 2017. [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Law\\_Enforcement/Humantrafficking45/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Law_Enforcement/Humantrafficking45/Submissions)

<sup>21</sup> IOM CREST - <https://crest.iom.int/events/iom-rba-joint-consultation-pre-departure-orientation>



- Stage 1: Due diligence with the recruitment service provider;
- Stage 2: Selection/ Pre-recruitment process with an emphasis on “no recruitment fee” policy;
- Stage 3: Pre-departure orientation by the labour recruiter to ensure information is delivered to the workers.
- Stage 4: Before the actual signing of the employment contract, a subsequent orientation session to ensure a matching of expectations.

Incorporating the voice of migrant workers within the recruitment process is likely to instill trust amongst prospective migrant workers and enhance the productivity of the recruitment process. Recruitment agencies may consider utilizing experienced migrant workers to co-facilitate the pre-departure orientations. The experience sharing by the experienced migrant workers as “ambassadors of the company” and the ability of the experienced workers to address the prospective workers in their native language is likely to contribute toward trust and confidence building of the prospective workers. Use of visual material such as videos outlining a day in the life of a migrant worker may further instill trust and comprehension of expectations<sup>22</sup>

Such ethical recruitment practice should be incorporated within comprehensive Modern Slavery Statements and monitored through independent worker interviews conducted within responsible recruitment due diligence, further outlined within the Modern Slavery Statements.

**Proposed Goal 10. provide appropriate support, protections and remedies to empower victims of modern slavery**

IOM values and supports the National Action Plan’s 2020-24 aim of inclusion of a victim-centered remediation approach for victims of not only human trafficking as identified in the 2015-19 NAP, however also all identifiers of modern slavery. Responding to modern slavery and human trafficking in global supply chains requires multi-stakeholder co-operation, inclusive of survivors, to promote social dialogue and enhance remediation approaches to ensure migrants receive justice deserved.

Whilst prevention of all forms of modern slavery is the purpose of the NAP, an effective remediation process to ensure the voice of victims and potential victims is heard, is accessibility to confidential grievance mechanisms, notably within all tiers of labour supply chains. As noted within the IOM Remediation Guidelines for Victims of Exploitation in extended mineral supply chains, (incorporating applicable principles to other sectors), this includes the provision of operational-level grievance mechanisms which, established within a wider system of remedy, offer a formalized means for individuals and communities that may be adversely impacted to lodge their grievance, resolve legitimate claims and access remedy, if appropriate<sup>23</sup>.

Access to remedy is an important responsibility for governments and business to ensure harm is minimized and remediated. With respect to the responsibilities of the Australian Government; IOM recommends that victims have an opportunity to pursue civil remedies, such as compensation for lost wages, excessive overtime allowances, inclusive of punitive damages, all of which can be ordered by a civil court on a balance of probabilities, even if there is insufficient evidence to convict a trafficking crime has occurred.

With respect to the responsibilities of Australian businesses; IOM Corporate Responsibility in Eliminating Slavery and Trafficking (CREST) supports business to develop remediation guidelines and mechanisms that support workers in raising grievances and builds business capacity to provide accessible, transparent and effective remediation through dialogue and stakeholder engagement to improve management systems to prevent further and future harm. Again, this could be captured through the Government auditing process of comprehensive idyllic annual Modern Slavery

<sup>22</sup> IOM CREST - <https://crest.iom.int/events/iom-rba-joint-consultation-pre-departure-orientation>

<sup>23</sup> Remediation Guidelines for Victims of Exploitation in Extended Mineral Supply Chains  
<https://publications.iom.int/books/remediation-guidelines-victims-human-trafficking-mineral-supply-chains>



Statements, incorporating independent worker interviews conducted within responsible recruitment due diligence<sup>24</sup>.

Under the proposed National Action Plan, a special emphasis should be given to protect the needs of victims who are children. In majority of the cases the victim's vulnerability is also linked to their migration status. Therefore, when addressing the needs of the victim the migration framework should be explored and emphasis on all tiers of labour supply chains. Regarding remedy for child labour, it is important that the child is removed from child labour but not put in a more precarious position. For example, when a child is below the legal working age, the goal of remediation should be to support the competent authorities in removing the child from the workplace and ensuring that alternatives, preferably formal full-time schooling, are in place. However, such alternatives are not always readily accessible. The process of remediation should include dialogue with the caregivers of the child and, where feasible, should seek to enrol the child in school without damaging the child's welfare or that of their family. Where they exist, the enterprise is encouraged to engage with credible initiatives in the community to help children make the transition from work to school. Remediation for children above the minimum age could include removing the hazard, moving the child to safe work, or providing vocational or skills training<sup>25</sup>.

#### Question 4

**The Government is committed to ensuring that we can measure the impacts of the 2020-24 Plan. Are there evaluation methods, data sources or metrics the Government should consider in developing an evaluation framework?**

#### The background

A comprehensive evaluation framework in NAP 2020-24 will allow for a system that captures targeted individual, household, and community (including business) responses towards a greater structural outcome. The aim of developing such a comprehensive response is to mainstream modern slavery abolition across Australian business and the greater community. In 2008–09, the Australian National Audit Office (ANAO) audited the management of the Australian Government's Action Plan to Eradicate Trafficking in Persons<sup>26</sup>. The ANAO report recommended that the Interdepartmental Committee on Human Trafficking (IDC) improve the way that progress was reviewed and how the results of Australia's efforts were measured. As a result, the Australian Government developed a whole-of-government performance framework, overseen by the IDC that created a way to estimate the scale of human trafficking, slavery and slavery-like practices in Australia. This framework was incorporated into the monitoring framework within in the NAP 2015-2019 and included annual reporting to Parliament, a national roundtable on human trafficking and slavery, an operational working group, and biannual whole-of-government performance management framework<sup>27</sup>. Through this ongoing monitoring the Australian Institute of Criminology (AIC) evaluated the National Action Plan (2015-2019), to enhance the on-going monitoring of human trafficking and slavery in Australia. This report identified a conceptual framework, evaluation of current programme settings and proposed indicators and data sources that could be considered<sup>28</sup>.

IOM makes the following recommendations:

#### **1. Using the newly available data sources**

<sup>24</sup> IOM CREST <https://crest.iom.int/operational-framework>

<sup>25</sup> Remediation Guidelines for Victims of Exploitation in Extended Mineral Supply Chains  
<https://publications.iom.int/books/remediation-guidelines-victims-human-trafficking-mineral-supply-chains>

<sup>26</sup> <https://www.homeaffairs.gov.au/about-us/our-portfolios/criminal-justice/people-smuggling-human-trafficking/human-trafficking>

<sup>27</sup> <https://www.homeaffairs.gov.au/criminal-justice/files/trafficking-national-action-plan-combat-human-trafficking-slavery-2015-19.pdf>

<sup>28</sup> <https://www.aic.gov.au/publications/tbp/tbp059>



Modern slavery is largely under reported. The AIC Report identified this in 2015 stating that large portions of data the Australian Government has on modern slavery is from 'incidents and responses' rather than 'risks'. In other words, the data is easily gathered from actual reported cases rather than from actual or perceived risk, well known to the community at large. Given the number of reported cases is recognized as significantly lower than the actual cases in Australia, creating policy or making decisions based purely on reported data may not provide an accurate picture. Instead it is suggested that a more standardized approach is required to gather possible risks.

Currently there are number of government and privately sponsored programmes dealing with individuals who may potentially be in a position of risk. These individuals may be subjected to acts of modern slavery in the form of domestic servitude, forced marriage and labour exploitation. According to IOM's Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants Programme, (GLO.ACT), origin and transit issues determine risk factors<sup>29</sup>. However, programs onshore that work with communities to prevent modern slavery by providing education to communities, deal with protective factors. This category of service providers has a vast knowledge base which can be tapped into in order to ascertain the risks and identify more qualitative data.

One such programme is the Community Support Programme (CSP). CSP works with the lodgment of Subclass 202 Global Special Humanitarian Visas from specific cohorts to apply for permanent residency in Australia. 1000 Visas are granted per financial year by the Department of Home Affairs. On arrival in Australia the applicants are tracked by Approved Proposing Organizations (APOs) for 12 months to determine financial self-sufficiency, employment and other social outcomes. Much of this data is provided to the Department of Home Affairs. As such, the Department effectively has a data-source of 1000 migrants, which can be tracked from source country, transit and to Australia and settlement. This information can determine what their employment is, if after 12 months it matches the original application, any exploitative red flags, if the single applicants married within the year and to whom and if these applicants are employed and active in the community. Similarly, the Humanitarian Settlement Providers (HSPs) provide settlement services to offshore humanitarian migrants arriving in Australia. During their case management and exit, information is gathered, and this is also shared with the Department of Home Affairs. Additionally, there are number of community organizations who may represent a diaspora who provide orientation services to new migrants and families who have a greater visibility of workings in the community. Finally, there are evaluations already compiled by organizations who are directly involved in the sphere such as the Australian Red Cross. Consequently, the Department of Home Affairs has a current data source that can be tapped into by the IDC to track over the lifetime of the NAP<sup>30</sup>.

It is therefore recommended these organizations should be approached with culturally and linguistic diverse communities, (CALD), appropriate questionnaires to discuss and understand the prevalence of modern slavery like practices within visa subclasses and community groups. This approach encompasses community, household and individual data into a structural response and utilizes targeted data, which over the life of the NAP promotes mainstreaming of modern slavery abolition, removing the reporting element on a case by case basis.

## **2. Extending international reach of the Modern Slavery Act 2018**

The Modern Slavery Act has begun the process of educating Australian business on supply chains affecting commerce in Australia. The Modern Slavery Statement has ensured companies covered by this legislation recognize the practices of both local and foreign entities they engage. However

<sup>29</sup> IOM Guidance on Responsible Planning "IOM Determinants of Migrant Vulnerability Model, page 12"

<sup>30</sup> [Australian Red Cross Forced Marriage Stream Trial Evaluation Final evaluation report \(Summary\) https://www.dss.gov.au/sites/default/files/documents/09\\_2019/forced-marriage-stream-trial-final-evaluation-report-summary.pdf](https://www.dss.gov.au/sites/default/files/documents/09_2019/forced-marriage-stream-trial-final-evaluation-report-summary.pdf)



legislative requirements can only encourage the process so far. Mainstreaming the abolition of modern slavery is the goal.

In the Modern Slavery statement, companies are encouraged to quantify the corrective measures taken to eradicate modern slavery in their supply chains. If this information can be pooled together in a manner which identifies the location of modern slavery practice, its impact and nature of the crime, there is greater propensity to develop international cooperation in a targeted manner and subsequently alleviate potential labour exploitation in the international procurement process.

This process however is aimed at individual businesses. IOM recommends Commonwealth Procurement Rules (CPR)s include reference to the Modern Slavery Act and are audited periodically. Additionally, the Government provide relevant staff training, domestically and with supply chain companies on modern slavery and the role of international business in complying. IOM recommends the Australian Government sets the standard reflected within its own Modern Slavery Statement by not conducting business with foreign companies, unless a process of due diligence is undertaken, and they comply with Modern Slavery Act.

The Modern Slavery Act also provides Australia with an opportunity to collaborate with international organizations maintaining data tracking sheets. IOM currently maintains the IOM Counter-Trafficking Data Collaborative (CTDC) and IRIS databases<sup>31</sup>. The CTDC is a global data hub developed by IOM on human trafficking. IRIS is a social compliance scheme designed to promote fair labour recruitment. IOM recommends the Australian Government takes into consideration these opportunities, as both databases are global and would allow the Australian Government to tap into trafficking data on a global scale.

## Conclusion

IOM is committed to the principle that humane and orderly migration benefits migrants and society. However, migrants are often vulnerable to trafficking and the associated forms of exploitation en route and at destination. Therefore, IOM supports the Australian Government's commitment to combatting human trafficking and modern slavery by setting clear goals for the National Action Plan to Combat Modern Slavery 2020-2024. It is admirable of the Australian Government to demonstrate commitment to addressing the operational challenges of migration with intent to strengthen legislation that governs modern slavery to uphold the human dignity and well-being of Australians and migrants in the workplace.

This submission has responded to the four questions posed by the Australian Government, in its preparation phase for the National Action Plan to Combat Modern Slavery 2020-2024. In summary, IOM concurs the twelve goals cited in the public consultation report distributed by the Australian Border Force in January 2020 captures key areas of focus for Australia over the next five years, with a clear intention to address the full cycle of exploitation from recruitment to reintegration, giving balanced focus on prevention, enforcement and victim support.

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<sup>31</sup> <https://iris.iom.int/>

Submitted on behalf of the International  
Organization for Migration by:

A handwritten signature in blue ink, consisting of a stylized 'P' followed by a long horizontal stroke that curves upwards at the end.

Pär Liljert

Chief of Mission – Australia  
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Zealand, Papua New Guinea, and  
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