


**OFFICIAL**



**Australian Government**

**Department of Home Affairs**

A stylized blue globe with a digital grid overlay, showing the continents of North and South America. The globe is set against a dark blue background with light streaks and a diagonal blue band on the right side.

# **Targeted review of Australia's visa framework to identify and reduce vulnerabilities to human trafficking and modern slavery**

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# 1. Report objective

The objective of this report titled the “Targeted review of Australia’s visa framework to identify and reduce vulnerabilities to modern slavery” is to provide an analysis of the current integrity of Australia’s visa framework and programs in relation to how risks of human trafficking and modern slavery are identified and addressed.

The Department of Home Affairs and the Australian Border Force (together, the Department) have established, and continue to implement a range of protocols to contribute to whole-of-government efforts in addressing modern slavery through:

- continued engagement with relevant government agencies and non-government organisations to contribute to a nationally consistent and co-ordinated response to modern slavery
- the continued development and implementation of relevant legislation and policy to address modern slavery, and
- the establishment and refinement of procedures and processes of relevant line areas in the identification, response and referral of victims of human trafficking and modern slavery to appropriate stakeholders/providers.

Despite these efforts, the consequences of human trafficking and modern slavery continue to be felt in Australia. In response, the Australian Government continues to review Australia’s visa framework and, in partnership with industry and civil society, implement relevant opportunities to increase the effectiveness of Australia’s ongoing efforts to combat human trafficking and modern slavery.

The contents and proposed opportunities of this review should be considered in conjunction with other reviews that may touch on aspects of, or investigate, human trafficking, modern slavery and broader worker exploitation matters. These include (but are not limited to):

- A Migration System for Australia’s Future<sup>1</sup>: This independent review, requested by Minister O’Neil, seeks to (amongst other recommendations), “reduce the exploitation of migrant workers”.
- Exploitation of Australia’s Visa System Rapid Review: This independent review, commissioned by Minister O’Neil, seeks to review exploitation of Australia’s visa system regulatory frameworks and make recommendations on how to address the identified risks.

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<sup>1</sup> A migration system for Australia’s future - Terms of Reference for the Independent Strategy Leads

This review is in response to recent media reporting relating to human trafficking within the sex industry, and allegations that unscrupulous migration agents are facilitating the exploitation of the visa system.

- Targeted Review of Divisions 270 and 271 of the *Criminal Code Act 1995*<sup>2</sup> (Criminal Code):  
As part of the Australian Government's commitment to the National Action Plan (NAP) to Combat Modern Slavery 2020-25<sup>3</sup>, this targeted review was jointly conducted by the Australian Attorney-General's Department (AGD) in collaboration with the Australian Federal Police (AFP), and the Commonwealth Director of Public Prosecutions (CDPP). The review aims to strengthen the criminal justice response to human trafficking and modern slavery through the Criminal Code.

The aim of this review is to complement, rather than duplicate, the focus or terms of reference of previous or concurrent inquiries. For example this internal review seeks to identify opportunities to increase the effectiveness and efficiencies in the identification of, and response to, victims and survivors of human trafficking and modern slavery as they interact with Australia's visa framework.

It should be noted that while this review focusses on vulnerabilities within Australia's visa framework, where relevant and appropriate to do so, analysis and proposed opportunities to enhance identification of victims of human trafficking and modern slavery may also reference Australian citizenship procedures and processes, to ensure a consistent and holistic approach is taken across relevant Portfolio legislation, policy and procedures.

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<sup>2</sup> Targeted Review of Divisions 270 and 271 of the Criminal Code Act 1995 (Cth) - Attorney-General's Department

<sup>3</sup> National Action Plan to Combat Modern Slavery 2020-25 - Attorney-General's Department

## 2. Summary of key findings

Detailed below is a brief summary of the key findings of this review, based on analysis of relevant departmental information systems and broader open-source information. These findings are articulated further throughout this review report:

- Australia's migration program and supporting visa system are substantially effective in regulating the entry, stay and departure of non-citizens.
  - There are opportunities that can be considered to further increase the prospects of identification and reduction of suspected victims of human trafficking and modern slavery for possible referral to the AFP and/or providers of support and assistance.
- The *Migration Act 1958* (the Migration Act) and the *Migration Regulations 1994* (the Migration Regulations) require visa applicants to act with integrity and provide accurate and correct information and supporting documents when applying for a visa (and in all other interactions with the Department).
  - The Department engages integrity and enforcement measures where there is information that indicates a visa applicant/holder or visa sponsor has, or may have, provided false and/or misleading information and/or documents to the Department.
  - Where there is actionable evidence, departmental decision makers are able to refuse the grant or initiate cancellation of a visa, or cancel the approval of citizenship, for suspected perpetrators of human trafficking and modern slavery.
- When comparing the total number of visas granted to the number of human-trafficking referrals to the AFP, it is apparent there are insufficient numbers of suspected victims upon which to develop targeted profiles to effectively identify suspected victims/survivors of human trafficking and/or modern slavery.
  - Initially, departmental officers identify relevant AFP Human Trafficking & Slavery Indicators<sup>4</sup> before referring any suspicions to a specialist ABF Human Trafficking Contact Officer (HTCO). The HTCO will further assess the circumstances to determine whether a person may be a victim of human trafficking and/or modern slavery, and require a referral to the AFP.
  - This highlights the importance of initial and refresher training for relevant departmental officers and HTCOs in order to identify the AFP Human Trafficking and Slavery Indicators.

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<sup>4</sup> Human trafficking & slavery indicators - Australian Federal Police

- When considering the numbers of visas granted, there are a comparatively small number of unscrupulous actors identified (significantly less than one (1) percent of the entire migration program<sup>5</sup>) who have provided false and misleading information which resulted in acts of human trafficking and/or modern slavery.
- Family members play a significant role in the initiation and conduct of human trafficking and modern slavery as it intersects with the visa system, with many victims and survivors not initially declaring the familial perpetrator.
- Key observations:
  - The top three most exploited *visa groups* for the purposes of human trafficking and/or modern slavery practices are visitor, partner and protection based visas.
  - The most prolific *AFP trafficking types* are forced marriage, forced labour and sexual servitude.
  - The top three *Citizenships* of victims of human trafficking and/or modern slavery practices engaging with Australia's visa system are: Australian, Indian and Afghan.
- While existing controls and settings within Australia's visa system are generally effective in identifying human trafficking and modern slavery, this review identifies a range of opportunities to increase the rate of identification of suspected victims for referral to the AFP.
  - This review also acknowledges the established pathway between the visa program and the Australian citizenship program.

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<sup>5</sup> Department of Home Affairs - Annual Reports



### 3. Introduction

The *2020 Global Report on Trafficking in Persons* published by the United Nations Office on Drugs and Crime (UNODC), describes human trafficking as a hidden crime<sup>6</sup>. This crime is a gross violation of human rights, and exists in every country and every region, with perpetrators operating not only in the dark corners of the internet and the underbelly of the global economy to entrap victims, but also in plain sight in the community.

Australia's *National Action Plan to Combat Modern Slavery 2020-25* (the National Action Plan) provides the strategic framework that underpins Australia's current response to modern slavery. The National Action Plan prescribes five National Strategic Priorities to: (1) prevent; (2) disrupt investigate and prosecute; (3) support and protect; (4) partner; and (5) research modern slavery<sup>7</sup>. To support the progression of these priorities, 46 action items are assigned to multiple agencies across the Commonwealth, including the Department.

This report is in response to Action Item 20 of the National Action Plan, which tasks the Department to:

- *“Undertake a targeted review of Australia’s visa framework, including to identify and reduce vulnerabilities to modern slavery.”*

Consistent with the National Action Plan, this report utilises the term ‘modern slavery’ to describe all forms of human trafficking, slavery and slavery-like offences as defined in Divisions 270 and 271 of the Criminal Code. These offences include trafficking in persons, slavery, servitude, forced labour, deceptive recruiting for labour or services, debt bondage, and forced marriage. Modern slavery is also used to describe the worst forms of child labour, including the commercial sexual exploitation of children and the exploitation of children for illegal activities such as drug trafficking.<sup>8</sup> Also in this report, the term ‘victim’ is taken to include those victims of modern slavery and human trafficking who continue to experience human trafficking and/or modern slavery, as well as those who have escaped the situation, and are considered to be *survivors* of human trafficking and/or modern slavery.

It should be noted that this review explores the circumstances of victims of modern slavery, who are at the higher end of the exploitation spectrum. Victims on the lower end of the spectrum, such

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<sup>6</sup> UNODC - *Global Report on Trafficking in Persons 2020*

<sup>7</sup> *National Action Plan to Combat Modern Slavery 2020-25*

<sup>8</sup> *National Action Plan to Combat Modern Slavery 2020-25*



as the worker exploitation cohort (falling under the auspices of the Fair Work Ombudsman), are not considered as part of this review.

The Department regulates the entry and stay of non-citizens to Australia in accordance with the Migration Act and the Migration Regulations. The Department continually monitors and reviews the integrity of its visa programs to ensure the effectiveness of controls designed to prevent all forms of abuse of Australia's visa framework. In doing so, the Department plays an active role in the Australian Government's strategy to combat human trafficking and modern slavery.

The outcome of this review, as defined in the Terms of Reference (Appendix A)<sup>9</sup>, set out the key deliverables as being to:

- a) identify gaps, weaknesses and vulnerabilities in the existing control frameworks
- b) mitigate and minimise the vulnerabilities that exist within Australia's visa framework to reduce the risk of human trafficking and modern slavery, and
- c) contribute to Australia's whole-of-government strategy to combat modern slavery.

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<sup>9</sup> **Note:** The Terms of Reference (ToR at Appendix A) that governs the scope of this review reflects that this is a working document, and will evolve as the project progresses based on stakeholder feedback and preliminary findings.

## 4. Australia's visa framework, human trafficking and modern slavery

Australia's universal visa framework allows people from any country or ethnic group to lodge an application for a visa to travel to, enter and remain in Australia on a temporary or permanent basis, regardless of their nationality, ethnicity, culture, religion or language. The Migration Act and Migration Regulations apply to all non-citizens in providing the legislative framework for the assessment of visa applications, and the administration of the lawful entry and stay of all non-citizens in Australia.

Under the Australian visa framework, non-citizens apply for specific visas that reflect their intended activities and length of stay while in Australia. Each visa comprises of:

- a specified purpose
- a corresponding range of requirements and conditions for visa holders, and sponsors (where relevant)
- duration of stay, and
- activities they can (and cannot) undertake while in Australia as per visa conditions.

The Migration Act and the Migration Regulations require visa applicants to act with integrity when applying for a visa, that the information and documents provided will be accurate and genuine, and that the applicant will remain compliant with the purpose and conditions of any visa granted to them.

The Department currently engages multiple approaches when assessing visa applications, which include:

- Application of automated analytical tools to assist with the processing of eligible applicants for specific visa subclasses;
  - where objective visa criteria must be met (that is, there is no requirement for the assessment of subjective or discretionary visa criteria)
  - these tools allow for rapid processing of relevant visa subclasses, and allows departmental decision makers to turn their minds to more complicated visa applications that contain discretionary and/or subjective assessments.
- Decision makers may manually assess specified visa subclasses and/or cohorts of visa applicants based solely on the information and evidence submitted by the applicant.
  - The decision maker may request additional information and/or evidence from the visa applicant without conducting an interview.

- Certain visa subclasses require a high level of discretion and/or weighing-up of subjective evidence from decision makers, where interviewing of the applicant may be required to verify the information and evidence provided and/or to obtain additional information.

Assessment of visa applications is required by the Migration Act. The Migration Regulations and associated policy guidelines assist decision makers to examine the claims and evidence from the applicant against the legislative criteria, resulting in a decision to grant the visa or refuse the application. There are no explicit instructions, processes or computer programs that can assist in determining whether a visa application is likely to be unmeritorious prior to conducting a full assessment. For context, an indication of the volume of visa applications the Department received in the 2021-22 program year (with associated COVID-19 pandemic restrictions), is over 2.8 million visa applications<sup>10</sup>, with over 2.4 million visas being granted<sup>11</sup>.

While the vast majority of visa holders comply with their visa conditions, there are a small number of unscrupulous actors identified who seek to exploit the Australian visa framework, with significant consequences for victims of human trafficking and/or modern slavery. Reasons for exploiting the visa framework include (but are not limited to) activities such as:

- use of visas, either obtained lawfully or through fraudulent means to enable entry and stay by individuals or groups to engage in criminal activity or obtain criminal advantage/outcome
- use of migration facilitators to commit fraud (including the provision of false or misleading information), and/or the targeting of vulnerabilities in visa processes, to obtain visas for non-genuine or ineligible applicants, or
- extending the stay of non-citizens through seeking unmeritorious reviews of visa refusal or cancellation decisions.

Unscrupulous actors may include visa applicants, migration agents, unlawful providers of immigration assistance<sup>12</sup>, and other third parties who seek to exploit the Australian visa program in order to facilitate the conduct of illegal activities. For the purposes of this review, illegal activities are those that relate to the facilitation and conduct of human trafficking and modern slavery of migrants, including former migrants who have become Australian citizens.

For most visa holders, it will not be until after their arrival in Australia and further contact with the Department or other stakeholders that indicators of human trafficking and modern slavery may start to become apparent – leading to a referral to the AFP for further investigation and

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<sup>10</sup> [Department of Home Affairs 2021-22 Annual Report](#)

<sup>11</sup> [Australia's Migration Trends 2021-22 Highlights](#)

<sup>12</sup> **Note:** Unlawful providers of immigration assistance include providers who are not registered with the Office of the Migration Agents Registration Authority (OMARA) or authorised lawyers in Australia (who hold an Australian legal practising certificate).

assessment. The opportunities for departmental officers to consider human trafficking and modern slavery of migrants include:

- field compliance and enforcement operations by ABF officers
- subsequent visa applications (post arrival in Australia)
- referrals from third parties, and
- outreach activities of the Department.

The Department works closely with members of the Interdepartmental Committee of the National Roundtable on Human Trafficking and Slavery<sup>13</sup>, the AFP and Non-Government Organisations (NGOs) in order to:

- contribute to a nationally co-ordinated approach in response to all forms of modern slavery, and
- identify and refer suspected victims of human trafficking and modern slavery for investigation and provision of appropriate support measures.

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<sup>13</sup> [Human trafficking - Attorney-General's Department](#)

## 5. Australia's response to human trafficking and modern slavery: A brief historical summary of key events

### 5.1. Legislative and policy developments

Australia has enacted significant reforms in relation to what is now known as human trafficking and modern slavery. Key changes to legislation and policy include:

- 1927, Australia ratified the *International Convention to Suppress the Slave Trade and Slavery*.
- 1958, Australia ratified the *Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery*.
- 1999, the Government's approach moved from treating human trafficking as a migration issue to treating it as an organised criminal activity, with trafficked persons regarded as victims of crime. Parliament amended the Criminal Code, with Division 270 defining a range of slavery offences.
- 2002, Australia signed the Trafficking Protocol, supplementing the *United Nations Convention against Transnational Organized Crime* (Trafficking Protocol)
  - Australia and Indonesia co-chaired two regional ministerial conferences on trafficking and smuggling in 2002 and 2003 known as the *Bali Process*.
- 2005, Parliament enacted Division 271 of the Criminal Code containing offences of trafficking in persons
  - the Government ratified the Trafficking Protocol, the first global and legally binding instrument with an agreed definition on trafficking persons.
- 2013, Parliament enacted the *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013*. The amendments incorporated offences of forced labour, forced marriage, organ trafficking and harbouring a victim.
- 2019, the *Australian Modern Slavery Act 2018* (Modern Slavery Act) entered into force which establishes a national Modern Slavery Reporting Requirement (Reporting Requirement) that applies to businesses and entities with annual consolidated revenue of AUD100 million or more.

- 2019, Introduction of the *Combating Child Sexual Exploitation Legislation Amendment Bill (2019)*, additional legislated protections for child victims of forced marriage under the age of 16 were enacted.

## 5.2. Parliamentary inquiries

There have been multiple Australian Parliamentary inquiries into human trafficking, which include:

- 2003, the Parliamentary Joint Committee on the Australian Crime Commission (ACC) conducted an inquiry into trafficking of women for sexual servitude<sup>14</sup>. Key recommendations included:
  - the ACC focuses its investigations on the methods by which people traffickers were able to circumvent Australian immigration controls through visa fraud, and
  - the Inter-Departmental Committee (IDC) on Human Trafficking and Slavery be formalised by the appointment of a Chairperson and charter.
- 2013, the Government introduced four standalone organ trafficking offences in the Criminal Code.
- 2015, the Parliamentary Joint Committee on Law Enforcement (PJCLE) initiated an inquiry into human trafficking, which lapsed at the end of the 44th Parliament. On 12 October 2016, during the 45th Parliament, the PJCLE reinstated the inquiry. On 18 July 2017, it released its report with key recommendations including:
  - strengthening visa systems to prevent involuntary human trafficking into the sex industry in Australia,
  - IDC agencies on Human Trafficking and Slavery strengthen their coordination and engagement with each other.
- 2017, the Joint Standing Committee on Foreign Affairs, Defence and Trade referred an enquiry to the Foreign Affairs and Aid Sub-Committee into establishing a Modern Slavery Act in Australia. Key recommendations of the report “*Hidden in Plain Sight: An inquiry into establishing a Modern Slavery Act in Australia*”<sup>15</sup> include:
  - introduce a Modern Slavery Act in Australia,
  - establish an Independent Anti-Slavery Commissioner under the proposed Modern Slavery Act.

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<sup>14</sup> [Inquiry into the trafficking of women for sexual servitude](#)

<sup>15</sup> [Hidden in Plain Sight: An inquiry into establishing a Modern Slavery Act in Australia](#)

### 5.3. National Action Plans

In 2004, the Government established Australia's first comprehensive whole-of-government strategy to combat human trafficking: *Australia's Action Plan to Eradicate Trafficking in Persons*<sup>16</sup>. The Action Plan included four central elements:

- Prevention
- Detection and investigation
- Criminal prosecution
- Victim support and rehabilitation.

The People Trafficking Interdepartmental Committee, chaired by the Attorney-General's Department was established, and given responsibility for co-ordinating the National Action Plan. IDC agencies included the AFP, Office for Women, and the then Department of Immigration and Citizenship<sup>17</sup>. Currently the Department, the Australian Criminal Intelligence Commission (ACIC), the Australian Institute of Criminology, and the Commonwealth Director of Public Prosecutions, with other agencies and non-government organisations offering expert advice at various times.

Following an extensive community consultation process, the Government launched a new five year *National Action Plan to Combat Modern Slavery 2020–25* (NAP) in December 2020.<sup>18</sup>

Building on the achievement of past plans, the National Action Plan provides the strategic framework for Australia's response to modern slavery from 2020 to 2025. It identifies five National Strategic Priorities to focus the Government's efforts<sup>19</sup>:

- **Prevent** modern slavery by combating the drivers of these crimes and empowering individuals and groups that are vulnerable to modern slavery
- **Disrupt, Investigate and Prosecute** modern slavery by identifying victims and survivors, implementing disruption strategies and holding perpetrators to account through effective investigations and prosecutions
- **Support and Protect** victims and survivors by providing holistic and tailored victim centred support and protection

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<sup>16</sup> [Australia's Action Plan to Eradicate Trafficking in Persons](#)

<sup>17</sup> [Interdepartmental Committee on Human Trafficking and Slavery, 2004](#)

<sup>18</sup> [National Action Plan to Combat Modern Slavery 2020–25](#)

<sup>19</sup> [NAP 2020-25: 5 National Strategic Priorities](#)



- **Partner** across government and with international partners, civil society, business, unions and academia to ensure a coordinated response to modern slavery; and
- **Research** by strengthening data collection and analysis to build the evidence base that supports our response to modern slavery.

#### 5.4. National Roundtable on Human Trafficking and Slavery

In 2008, the Government established the bi-annual National Roundtable on Human Trafficking and Slavery (the National Roundtable).<sup>20</sup> The National Roundtable brings together representatives from 12 government agencies and experts from 14 civil society organisations and industry bodies. It functions as a key consultation mechanism on the development of Australia's response to modern slavery, human trafficking and other slavery-like practices.

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<sup>20</sup> A Decade of Collaboration to Combat Human Trafficking and Slavery

## **6. Current risk controls to prevent, detect and disrupt cases of human trafficking**

The Department has established a range of controls to prevent, detect and disrupt cases of human trafficking and modern slavery. Key controls include:

### **6.1. Current human trafficking and modern slavery training for Department/ABF officers**

There are a range of departmental officers who have contact with visa applicants/holders, and have the opportunity to recognise potential indicators of human trafficking and modern slavery, and that the visa applicant/holder could be a victim. These officers includes, but not limited to:

- ABF compliance and enforcement officers
- Decision makers
- Status resolution officers
- State/territory office counter officers
- Citizenship officers
- Departmental officers in overseas consulates/embassies
- Airline liaison officers
- Other departmental officers.

Where it is suspected that a visa applicant/holder may be a victim of human trafficking or modern slavery, a referral to the departmental Human Trafficking Contact Officer (HTCO) network is initiated. Some HTCOs have received human trafficking and modern slavery training from the AFP, delivered through the AFP's "Look-a-Little-Deeper" training package (also delivered to other government agencies and non-government stakeholders) and the Human Trafficking Investigations Course. All HTCOs apply the established interagency Department-ABF-AFP Human Trafficking Reporting Protocol to refer suspected cases of human trafficking and modern slavery to the AFP for further investigation.

All departmental officers have access to departmental human trafficking and modern slavery resources (information and instructions), and online training modules. Line managers are able to request officers to complete introductory training in order to enhance the awareness and capability of officers, however these training modules have not yet been defined as a prerequisite for

performing visa or citizenship processing roles, where exposure to indicators of modern slavery or human trafficking are also likely to occur.

## **6.2. Human trafficking and modern slavery indicators**

Officers of the Department refer to the AFP Human Trafficking & Slavery Indicators<sup>21</sup> list when determining whether a suspected case should be referred to the AFP for further investigation. This list of indicators is grouped to complement the AFP trafficking types.

This indicator list is easily accessible by departmental staff and ABF officers through the Department's intranet and information storage systems.

## **6.3. Immigration integrity and assurance tools**

The Department has established a range of integrity and assurance tools that assist decision makers to assess indicative risks associated with the visa applicant and the visa program. The integrity and assurance tools identify or highlight areas of concern where further scrutiny should be applied, or, in the case of a low risk alert, highlight an application that presents very little risk where a 'light touch' approach may be appropriate.

The integrity and assurance tools are intended to ensure that visa program risks are treated consistently and efficiently across all global processing locations and all visa subclasses. Visa program risks also change over time, with new threats emerging. Visa integrity and assurance tools are designed to be updated in an agile manner to alert decision makers to new issues. Alerts in the various systems are based on objective information sourced from historical data, caseload and trend analysis, as well as anecdotal information.

It is expected that visa and citizenship decision makers and any other officers involved in visa and citizenship assessment, integrity and investigation roles complete the relevant training to make the most effective use of integrity and assurance tools.

While integrity and assurance tools are targeted at concerns relating to compliance with, and exploitation of the visa framework, they do not currently target specific indicators of human trafficking and modern slavery, noting the volume of human trafficking cases within the visa and

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<sup>21</sup> [Human trafficking & slavery indicators - Australian Federal Police](#)

migration caseloads presents challenges of scale for the complexity of indicators of human trafficking and modern slavery.

## 6.4. Migration Act Offences

The Migration Act contains criminal offences to deter the exploitation of non-citizens in Australia, which complement the offences of human trafficking and modern slavery set out in Divisions 270 and 271 of the Criminal Code. Higher penalties apply if a migrant worker is exploited and the offender knows of, or is reckless to, that exploitation.

The Migration Act establishes three specific frameworks that seek to prevent the misuse of Australia's visa programs by employers and third party providers (such as labour hire intermediaries or migration agents) to exploit migrant workers:

- the 'Employer Sanctions' Framework (s245AA – 245AM)
- the 'Paying for Visa Sponsorship' Framework (s245AQ – 245AY), and
- the 'Sponsorship Compliance' Framework (s140K – 140RA).

The Migration Amendment (Strengthening Employer Compliance) Bill 2023 was passed by both Houses on 7 February 2024 and will commence on 1 July 2024. The new legislation will:

- make it a criminal offence to coerce someone into breaching their visa condition
- introduce prohibition notices to stop employers from further hiring people on temporary visas where they have exploited migrants
- increase penalties and new compliance tools to deter exploitation
- repeal section 235 of the Migration Act, which actively undermines people reporting exploitative behaviour
- progressing protections for migrant workers from visa cancellation where they have experienced exploitation.

Under these legislative frameworks, delegated enforcement officers have a range of tools to respond proportionately to cases of non-compliance. This includes education activities and warnings, infringements, civil penalties, and the ability to cancel or bar an employer sponsor.

## 6.5. Human Trafficking Visa Framework

The Human Trafficking Visa Framework (HTVF) facilitates the temporary stay of non-citizens who are suspected victims of human trafficking and/or modern slavery and their immediate family members, depending on the person's circumstances. A lawful status enables suspected victims to remain in Australia and access assistance and support services provided through the Support for Trafficked People Program (STPP), administered by the Department of Social Services (DSS) and delivered nationally by the Australian Red Cross. Under the HTVF, a non-citizen may also be granted a permanent visa under certain circumstances.

The HTVF consists of the Bridging F (WF 060) visa (BVF), and the Referred Stay (Permanent) (DH 852) visa (RSV).

- The BVF regularises the status of suspected victims of human trafficking, enabling them to have a period of rest and recovery. It is also designed to assist authorities with the investigation and/or prosecution of human trafficking offences. Generally, the BVF provides:
  - an initial period of 45 days of lawful status where their previous visa had ceased or was cancelled
  - through the issue of an Assistance Notice, longer-term stay to assist in a human trafficking or slavery related investigation
  - entry to Australia (offshore trafficking victims), and
  - lawful status to support a victim's departure from and return to Australia (for onshore trafficking victims).
- The RSV also provides a permanent visa pathway, with protection and support to victims or witnesses of human trafficking and modern slavery. To be eligible, the suspected victim or witness needs to have assisted in the administration of criminal justice in relation to modern slavery in Australia, and would be considered to be in danger if they were to return to their home country. The suspected victim or witness must be in Australia at the time of visa application and be the subject of a relevant certificate issued by the relevant portfolio minister, currently the Minister for Immigration, Citizenship and Multicultural Affairs, or delegate of the Minister.

The STPP aims to provide assistance to victims of human trafficking and modern slavery by meeting their needs for safety, security, health and well-being, and develop options for life after they leave the program. Personalised STPP case managers are responsible for supporting the victim to access services to meet their individual needs.

Where the victim already holds a valid visa, such as a Partner visa, and does not require a visa under the HTVF, they remain eligible to receive support under the STPP.

Where a visa applicant/holder is assessed as not being a suspected victim of human trafficking or modern slavery, their immigration status will be managed consistent with any other non-citizen.

## 6.6. Identification and reporting

Where suspicions of human trafficking and/or modern slavery arise, it is established practice for departmental officers to refer the case to a departmental Human Trafficking Contact Officer (HTCO) for further consideration.

HTCOs are ABF officers located in each state and territory and are the main point of contact for all human trafficking matters within their respective regions. HTCOs are responsible for assessing whether to report an allegation of human trafficking to the AFP (in cases where the suspected victim is not at immediate risk of harm).

The Department and the AFP have an agreed protocol for reporting suspected cases of human trafficking between their respective agencies. The protocol is called the *Human Trafficking, Slavery and Slavery-like Practices Reporting Protocol 2022* (the Reporting Protocol). Under the Reporting Protocol, ABF HTCOs and Australia-based officers at overseas posts report suspected victims of human trafficking and/or modern slavery to the AFP.

The Reporting Protocol complements other agency-specific guidelines dealing with suspected cases of human trafficking, slavery, or slavery-like practices and outlines the responsibilities of departmental officers in managing suspected cases of human trafficking, identified during the course of their duties.

The Reporting Protocol sets a low threshold for HTCOs. Cases where indicators of human trafficking have been identified, are referred to the AFP for potential investigation.

The AFP is responsible for formally investigating all human trafficking, slavery and slavery-like offences, regardless of whether they are referred by the Department or any other third party.

It should be noted that the Reporting Protocol does not apply to any other reporting entities, and that all other entities who refer suspected victims of human trafficking and modern slavery do so according to their own policies and procedures.

## 6.7. Compliance frameworks

As previously mentioned, the Department administers three main legislative frameworks designed to uphold visa program integrity and prevent employers and third party providers from misusing visa programs to exploit migrant workers:

- The 'Employer' scheme seeks to ensure employers only employ visa holders with appropriate work rights, recognising that visa programs are designed and intended for specific purposes.
  - It should be acknowledged that Australian work-related legislation applies equally to both citizens of Australia and migrant workers. As a result, pay and conditions of work must be the same for both Australian citizens and migrant workers.
- The 'Paying for Visa Sponsorship' scheme seeks to protect migrant workers from exploitation or extortion, encourages fair recruitment practices, and protects employment opportunities for Australian workers, and
- The 'Sponsorship Obligations' scheme seeks to ensure sponsored visa holders are not exploited by their sponsors.

All suspected cases of potential human trafficking and modern slavery identified within these frameworks are referred to the AFP for investigation through the established Reporting Protocol.

## 6.8. Assurance Protocol

In February 2017, an initiative stemming from the Migrant Workers' Taskforce, an Assurance Protocol was implemented between the Department and the Fair Work Ombudsman (FWO) to encourage migrant workers to come forward with their workplace complaints without the fear of their visas being cancelled.

In accordance with the Protocol, the Department will not cancel a temporary migrant worker's visa for breaching their work-related visa conditions because of workplace exploitation, as long as the visa holder:

- believes they have been exploited at their workplace,
- has reported their circumstances to the FWO,
- is actively assisting the FWO with its inquiries,
- commits to abiding by visa conditions in the future,
- has complied with the work-related conditions of their visa; and



- there are no other grounds for visa cancellation (such as on national security, character, fraud or health grounds).

This measured approach seeks to balance risks to the integrity of visa programs with protecting the legal (visa) status of exploited migrant workers.

As at 31 December 2022, 78 migrant workers have been referred under the Protocol (since its commencement in February 2017) and none of the 78 migrant workers have had their visas cancelled<sup>22</sup>.

The Department is currently engaging with key stakeholders across Government, industry, unions, and civil society stakeholders to increase the effectiveness of the Protocol through processes of co-design. The Minister and the Department will release details of these changes as they are agreed for implementation.

## 6.9. Community Engagement Network

The Department's network of Community Liaison Officers (CLOs) have an essential role in supporting Australia's vibrant multicultural society by building and maintaining relationships with a wide range of cultural, religious and ethnic communities. The CLO network supports the communication of official information to multicultural communities, and provides a mechanism for community members to share information about their priorities and concerns. This includes disseminating Australian Government information to Culturally and Linguistically Diverse (CALD) communities, reinforcing critical messaging, and understanding the impact of the messaging on CALD communities. The CLO network drives community engagement to understand community sentiment, improve community understanding of Government programs and policies, and provide a feedback loop to the Government on challenges to social inclusion and barriers to participation.

Through the CLO network, community members engage with the Department on a range of topics, including human trafficking and modern slavery. Through this engagement, some community leaders and members have noted the need for government assistance and intervention for victims, while balancing this with honouring the cultural sensitivities and traditions of individuals, families and communities.

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<sup>22</sup> **Note:** This statistic captures all Assurance Protocol referrals, not just those found in the agriculture sector.

## 7. International views of Australia's response to Human Trafficking

As the above discussion highlights, the Australian Government takes a comprehensive, whole-of-government approach to combating human trafficking and slavery. Australia is committed to working with other governments (domestically and internationally) and with intergovernmental and non-government organisations, to prevent human trafficking and slavery, prosecute perpetrators, and protect and support victims.

On 22 June 2020, Ms Joy Ngozi Ezeilo, the former United Nations Special Rapporteur on Trafficking in Persons especially women and children, presented her annual report to the United Nations Human Rights Council, including reports of her missions to Australia. Ms Ezeilo found that, as a destination country, Australia had shown strong leadership and committed considerable resources to combating trafficking in persons. The report noted the strength of partnerships between government and civil society, and Australia's active engagement in the region through aid and diplomatic initiatives. It also noted a "very strong focus, particularly by the media, on trafficking for the purposes of sexual exploitation, resulted in lesser attention on other forms of trafficking in persons."

The United States of America Department of State 2023 *Trafficking in Persons* (TIP) Report rated Australia as "Tier 1"<sup>23</sup>. The report notes that Australia "fully meets the minimum standards for the elimination of trafficking", as "the government continued to demonstrate serious and sustained efforts during the reporting period, considering the impact of the COVID-19 pandemic on its anti-trafficking capacity". According to the report, these efforts included increasing funding for victim support services, prosecuting and convicting child sex tourists, establishing a pilot survivor advisory council, and initiating a review of its visa framework to identify vulnerabilities to trafficking and anti-trafficking laws. Australia continues to maintain a Tier 1 rating.

Because of the clandestine nature of human trafficking, accurate data on the extent of the problem and the effectiveness of Australia's whole-of-government strategy is difficult to assess. As highlighted further on in this report, there are wide discrepancies between the estimates of different government and non-government organisations and between those estimates and formally identified cases.

This discrepancy has been identified for response in the National Action Plan to Combat Modern Slavery 2020-25, through Action Item 40 "Establish a Monitoring and Evaluation Framework for the

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<sup>23</sup> [US Trafficking In Persons Report](#)

National Action Plan to enhance data collection and information sharing between government agencies, and with business and civil society organisations.”<sup>24</sup>

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<sup>24</sup> National Action Plan to Combat Modern Slavery 2020–25

## 8. Health of the migration program and visa system

The health of the migration program and the broader visa system itself continues to receive oversight, both internally from multiple review teams and externally from independent reviewers and other oversight entities.

The Australian National Audit Office (ANAO) continues to conduct multiple reviews on various aspects of the Department's operations, focussing on activities which include (but are not limited to) regulation, governance, program management, service delivery and policy development. The recent 2023 report on the "Management of Migration to Australia — Family Migration Program"<sup>25</sup> is important when considering implications for this review of the visa framework for a number of reasons, which include:

- recognition from the ANAO that family stream visas make up approximately 30 percent of the migration program, and
- the partner visa group accounts for more than 90 percent of visas granted within the family stream in 2020-2021.

While the Auditor-General made six recommendations "aimed at improving Home Affairs' policies and governance for the management of the visa caseload and strengthening approaches to measuring operational efficiency", the Auditor-General found that "the design and delivery of the Family program are largely effective".

The application of legislation, policies, and decision support tools the Department uses within the family visa group are applied consistently across the entire visa framework.

According to the Department's victim identification dataset, the family visa program (inclusive of partner visas) is the second largest cohort of victims of human trafficking and modern slavery. While the ANAO has assessed this visa program as being largely effective, there remains opportunities to increase operational efficiencies.

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<sup>25</sup> [ANAO: Management of Migration to Australia - Family Migration Program](#)

## **9. Methodology**

To deliver the outcomes identified in the terms of reference, the Department set up a review team to:

- a) conduct in-depth desk-top research and analysis of Australia's existing visa framework, focusing on visa programs that are vulnerable to abuse by human trafficking groups
- b) map the controls available to prevent, detect and disrupt cases of human trafficking, and
- c) conduct a desk-top literature review on international responses to human trafficking.

The review team completed a stakeholder mapping exercise, and then undertook a detailed consultation process involving stakeholder engagement meetings between December 2021 and May 2022.

## 10. Human trafficking and modern slavery – a statistical account

The use of statistical data is vital in gaining an appreciation of how to consider victims of human trafficking and modern slavery in the context of Australia's visa framework.

However, it should be noted that there is no single source of comprehensive statistics or data surrounding the conduct of human trafficking and modern slavery in Australia. As a result, the statistics declared by various reporting entities are likely to be reflective of their *focus* and *scope* of engagement with victims of human trafficking and modern slavery. This focus necessarily limits/skews individual datasets, and may cause unintended variations with documented numbers (across various entities).

Observers of these statistics should be mindful of a range of considerations such as:

- What is the objective/interest of the reporting entity?
- What authority does the reporting entity maintain?
- What level or scope of engagement does the reporting entity have with victims of human trafficking and modern slavery across the different cohorts and environments?

An example of differences between reportable numbers of victims of human trafficking and modern slavery from cases identified by the Department<sup>26</sup>, the AFP<sup>27</sup>, and Anti-Slavery Australia (ASA)<sup>28</sup> is demonstrated in **Table 01** below:

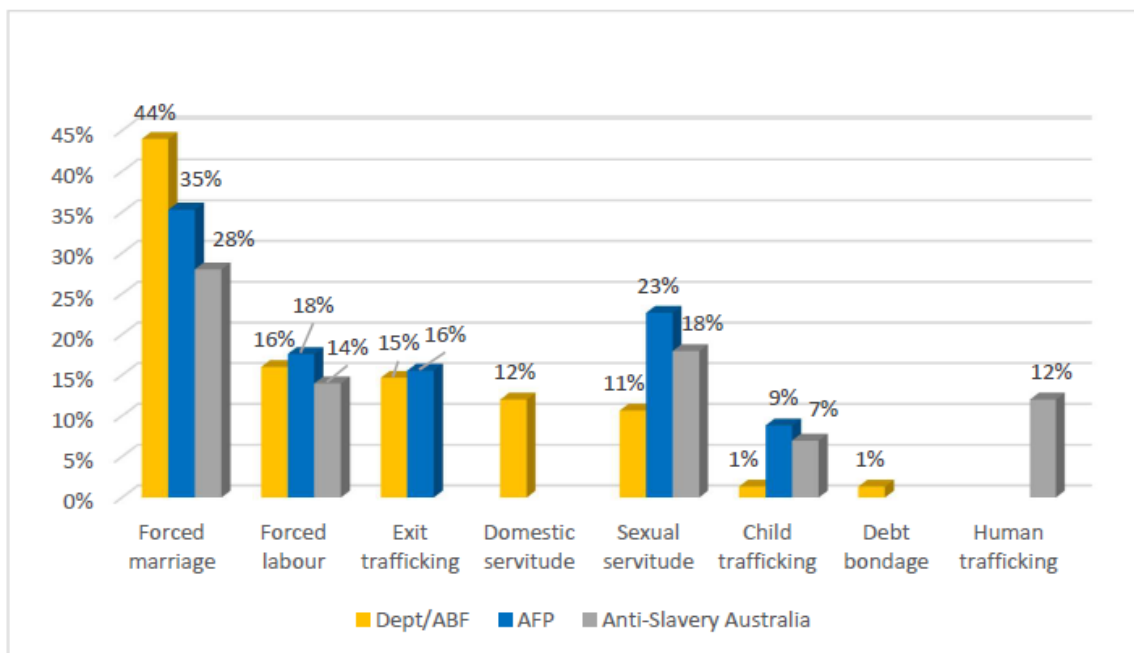
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<sup>26</sup> **Note:** The Department maintains a database of identified human trafficking and modern slavery victims who intersect with the migration program and visa system.

<sup>27</sup> Reports of Human Trafficking and Slavery to AFP

<sup>28</sup> Modern Slavery - Anti Slavery Australia

**Table 01:** Percentage of cohorts for the Department, the AFP & ASA (2021-2022)



**Table 01**, demonstrates the various discrepancies in data between the three reporting entities, which include:

- In an attempt for consistency of comparison, the numbers are representative of the percentage of human trafficking and modern slavery for each reportable cohort from each reporting entity. This is because ASA do not list actual numbers in their statistics<sup>29</sup>, and instead use percentages. It is difficult to derive any actual numbers from the ASA percentages, because ASA cited that “over 400”<sup>30</sup> victims received assistance and support from ASA. (It appears that the ASA statistics do not account for all cohorts, because their total percentage equates to 79 percent, and not 100 percent). Further;
  - The total number of victims of human trafficking and modern slavery for each entity and the subsequent size of cohorts who engaged with each stakeholder is different. For this example, in the program year of 2021-2022, the Department had identified 75 suspected victims, the AFP investigated the circumstances of 238 victims, and ASA assisted over 400 victims of human trafficking and modern slavery.

<sup>29</sup> Modern Slavery - Anti Slavery Australia

<sup>30</sup> Modern Slavery - Anti Slavery Australia



- For context, the numbers above for the program year of 2021 are part of approximately 2.1 million people in Australia who are non-citizens, from a total population of approximately 25.4 million people in Australia<sup>31</sup>.
- Given that ASA assisted over 400 victims, and the AFP investigated 238, it can be deduced that not all of those victims who sought support from ASA had their case investigated by AFP. Additionally, there is no way to check if all of those cases investigated by the AFP were receiving assistance from ASA. It is also apparent that the AFP are investigating more cases than have been referred to the Department.
- As a result of the differing totals between each reporting entity, and the subsequent percentage breakdowns of each cohort, it can be surmised that each entity has a different mandate, level and type of engagement with suspected victims of human trafficking and modern slavery.
- The categorisation of each cohort between reporting entities also appears to vary, making collation of comparative data between organisations more challenging.
  - The Department differentiates between entry and exit trafficking, but the ASA appears to include both in the same cohort. It is unknown what the breakdown of ASA victims are between entry or exit trafficking.
  - It is unknown whether the AFP and ASA had any contact with victims of domestic servitude and debt bondage, or if these cohorts were included with other cohorts.

The Australian Institute of Criminology released a finding that it is likely “for every victim detected, four go undetected”<sup>32</sup>. In applying this ratio as being indicative, the statistics noted in **Table 01** and further in this review could be considered accordingly.

It should be acknowledged that anecdotally, there is an unknown number of victims who do not self-identify (do not realise they are a victim of trafficking), do not wish to be identified, or are being withheld from being identified by a third party. This may be for a range of factors that relate to reasons for entering Australia, and reasons for remaining in Australia. These reasons may be self-motivated, or compelled by an unscrupulous third-party.

It is acknowledged that Action Item 40 of the National Action Plan to Combat Modern Slavery 2020-25 recommends the Commonwealth Government to “Establish a Monitoring and Evaluation Framework for the National Action Plan to enhance data collection and information sharing

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<sup>31</sup> 2021 Census – Parliament of Australia

<sup>32</sup> AIC - Estimating the dark figure of human trafficking and slavery victimisation in Australia

between government agencies, and with business and civil society organisations.”<sup>33</sup> This should assist to provide consistency of record keeping and reporting of victims of human trafficking and modern slavery.

### 10.1. Program years of 2015-2022

The Department commenced current record keeping arrangements of suspected victims of human trafficking and modern slavery in the program year of 2015. Since then, the Department has identified 634 cases in the period of 2015-2022<sup>34</sup>. If the Australian Institute of Criminology ratio of 1 in 5 is applied to these numbers of reported events, the projected numbers of victims of human trafficking and modern slavery who engaged with the Department could potentially be in excess of 3,000 for the period of 2015-2022.

It is within this period that the effects of the global COVID-19 pandemic, associated border closures and lockdowns need to be considered. Data from the Australian Bureau of Statistics (ABS)<sup>35</sup> was gathered to determine whether there was a statistical link between the number of Department identified cases of suspected human trafficking and modern slavery against net migration to Australia, and whether a predictable subset of migrants entering Australia could be determined (in **Table 02** below).

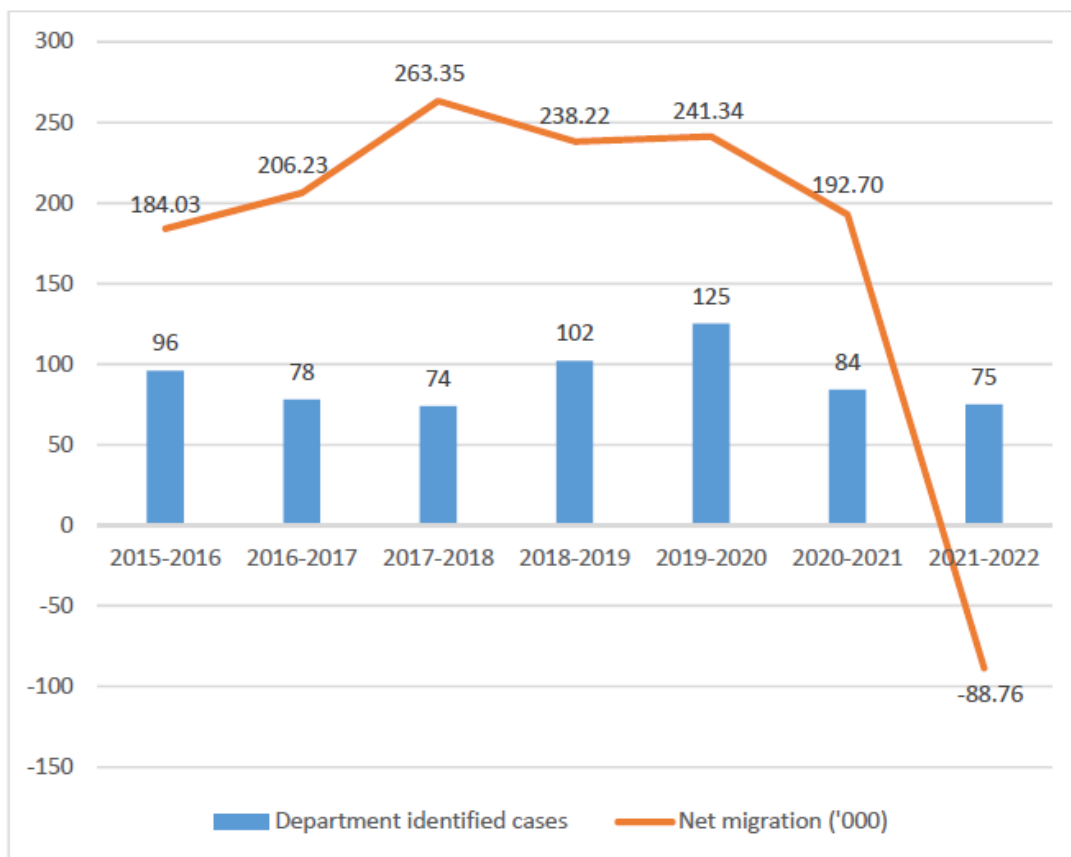
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<sup>33</sup> [National Action Plan to Combat Modern Slavery 2020–25](#)

<sup>34</sup> **Note:** In 2015, the Department commenced consistent recording of identified victims of human trafficking and modern slavery. In order to maintain consistency of data over each 12 month period, the program years of 2015-2016 to 2021-2022 were used.

<sup>35</sup> [Migration, Australia - Australian Bureau of Statistics](#)

**Table 02:** Department identified cases vs Net Migration ('000) (2015-2022)



**Table 02** demonstrates there is little statistical correlation between the number of suspected human trafficking and modern slavery cases identified by the Department, and the net migration movement (open source data<sup>36</sup>) of people into Australia prior to, and during the COVID-19 pandemic.

As a result, it can be posited that the individual circumstances of victims of human trafficking and/or modern slavery are independent of the generalised global movements of migrants to and from Australia, and how they interact with Australian visa programs. In this way, the levels of migration to Australia cannot be reliably used as indicators or predictors of corresponding increases/decreases of reportable instances of human trafficking and modern slavery.

<sup>36</sup> Net overseas migration – Australian Bureau of Statistics

## 10.2. Departmental referrals to AFP

The Department's human trafficking and modern slavery dataset informs the statistical analysis in this review, and contains those suspected cases of human trafficking and modern slavery that have been referred to the AFP for assessment and investigation<sup>37</sup>. The benefits of applying this departmental dataset include:

- Objectively evidenced identification of individual victims of human trafficking and/or modern slavery;
  - record of referral to the AFP for assessment and investigation
  - providing support for a non-citizen to apply for a BVF or RSV, and
  - referral to the Support for Trafficked People Program (STPP) as administered by the Department of Social Services (DSS).
- Linking the victim with their visa/citizenship pathway through further research within departmental information systems;
  - gaining more information and insight about the links between the victim to their visa pathway (and so their interaction with the visa program), and
- Links to the suspected offender and relevant circumstances can be identified upon further investigation of departmental information systems.

This dataset also offers some complications and limitations with reporting, which include gaps in data information and capture, inclusion of family members and colleagues (also identified as victims) under a single profile, in addition to other considerations which include but are not limited to:

- Unidentifiable victims – as there are no names, dates of birth, identification numbers or any other way to identify the person (generally resulting from a community referral) for some entries – possibly as a result of the reporting person not wanting to implicate themselves or others.
- There being no direct link between the time the AFP referral was made to the visa that the victim held at the time.
- There being no record of when the alleged offences of human trafficking and modern slavery practices commenced, or ceased (if at all).
- What was the outcome of the referrals made to the AFP?

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<sup>37</sup> **Note:** As a matter of policy, the threshold for referral from the Department to the AFP is intentionally set low. This is to ensure that visa holders who present with indicators (or self-identify) are referred to the AFP for further assessment and investigation by professionally trained investigators. Additionally, those referrals accepted by the AFP may also lead to a referral to DSS, for the possible delivery of additional support services through the STPP, or grant of a HTVF based visa.

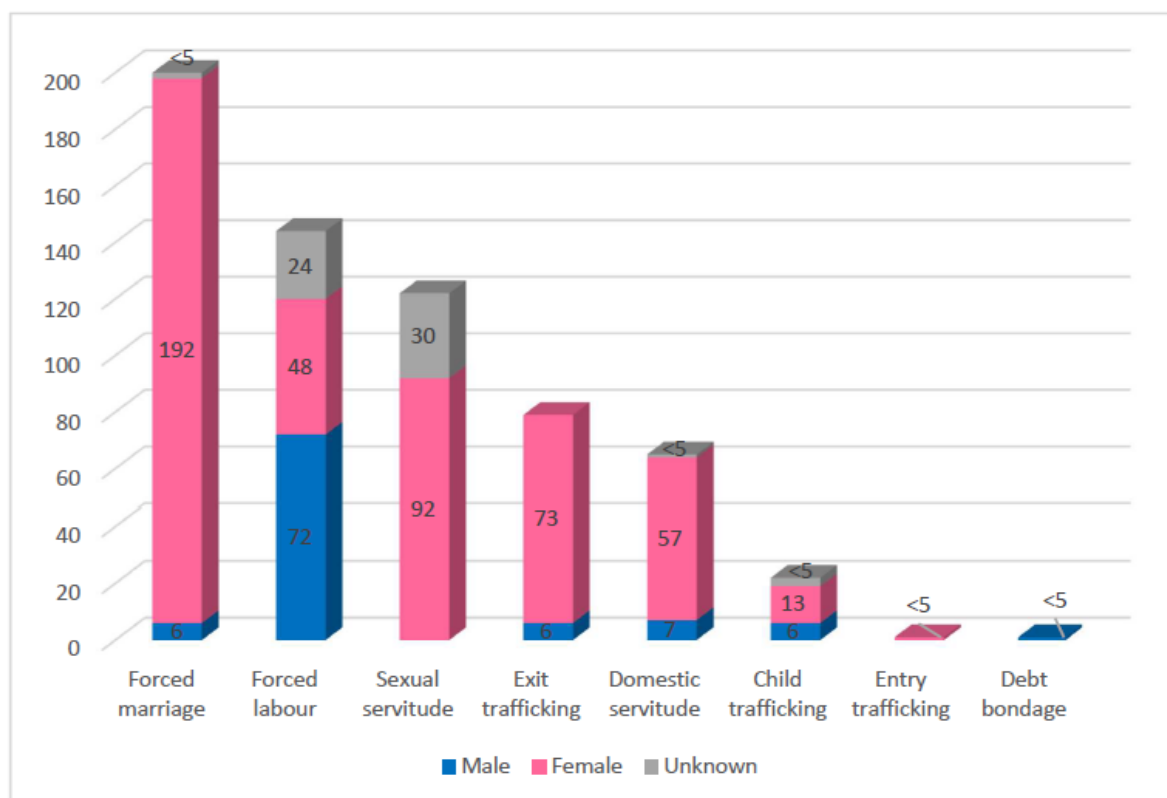
- Was the suspected offender charged and convicted?
- Was the victim able to escape or avoid the situation of human trafficking and/or modern slavery?

As a result, tables and charts do not identify *all* victims of human trafficking and modern slavery (particularly when considering the results of **Table 01**), but is an account of the Department's identification of cases of human trafficking and modern slavery. Further, at the "lower" end of the spectrum, matters relating to (for example) worker exploitation, fall under the auspices of the Fair Work Ombudsman. As such, the Department's referrals can be viewed as indicative (but not entirely representative) of how victims and survivors of human trafficking and modern slavery interact with the migration and visa systems in Australia.

### 10.3. Trafficking type & Gender

As is consistent with reports from other Government and non-government stakeholders, the overwhelming numbers of reported victims and survivors of human trafficking and modern slavery identify as female.

**Table 04: Trafficking Type & Gender (2015-2022)**



As noted earlier, the limitations of this dataset has resulted in an “unknown” element (as a frailty of information provided by the reporting entity). However, in the trafficking type of sexual servitude, the “unknown” element is most likely to be female. The same level of confidence in likelihood for predicting gender for the “unknown” element in other trafficking types cannot be applied.

It should be noted that the reflection and division of genders in **Table 05** is consistent with:

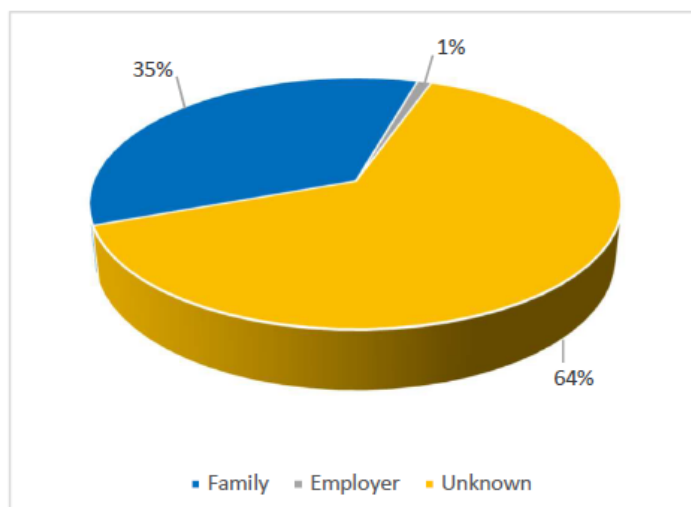
- Anti-Slavery Australia website
- “The Global Slavery Index” (2023), produced by Walk Free
- “Countering Human Trafficking” (2023), produced by U.S. Department of Homeland Security
- “Global Estimates of Modern Slavery Forced Labour and Forced Marriage” (2022), produced by International Labour Organisation (ILO), Walk Free and International Organisation for Migration (IOM)
- “Global Estimates of Modern Slavery” (2017), produced by Walk free, International Labour Organisation (ILO), International Organisation for Migration (IOM).

The international reports noted above consistently reflect the genders of male/female and men/women in their documented statistics.

#### 10.4. Declared relationships

It should be noted that the relationship between the victim of modern slavery and the suspected offender is an important consideration in the context of this review. For the program years 2015-2022, an identified 35% of suspected offenders were family members of the victim, with only 1% being identified as employers (only 8, from a dataset of 634).

**Table 05: Declared relationship with suspected offender (%) (2015-2022)**



While the largest proportion of relationships is documented as “unknown”, further investigation of departmental information systems subsequently indicate that it is highly likely that failure to declare the relationship with the suspected offender (and so noted as unknown), may be a result of the victim wanting, or being compelled to:

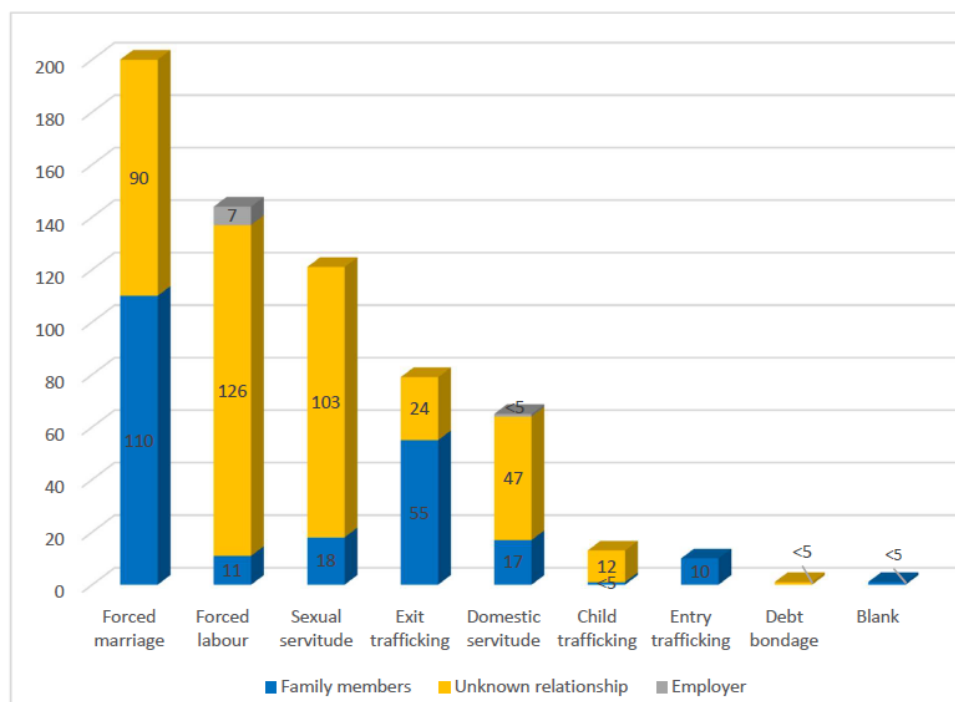
- maintain and protect their family unit in Australia, and/or protect their family outside Australia;
  - for example, in those situations of forced marriage (the highest trafficking type);
    - it is highly likely the victim knows the person arranging their marriage,
    - further, it is highly likely that the person arranging the forced marriage is a family member (parent or relative carer) of the victim<sup>38</sup>,
    - this is reflected with 90 of the 200 forced marriage cases noting the relationship with the suspected offender as being “unknown”, with other trafficking type cohorts being similarly affected (**Table 07** below).
- maintain their visa status, as their sponsor may be the suspected offender; and/or
- continue their stay or employment in Australia.

In the program years 2015-2022, the following trafficking type cohorts (in **Table 07** below) with associated declared relationships were identified by the Department.

<sup>38</sup> **Note:** The Australian Red Cross has identified a strong link between cultures of migrants and the continued practice of forced marriage of family members in the report “[Forced Marriage: Community Voices, Stories and Strategies](#)”.



**Table 06:** Declared relationship with suspected offender & trafficking type (2015-2022)



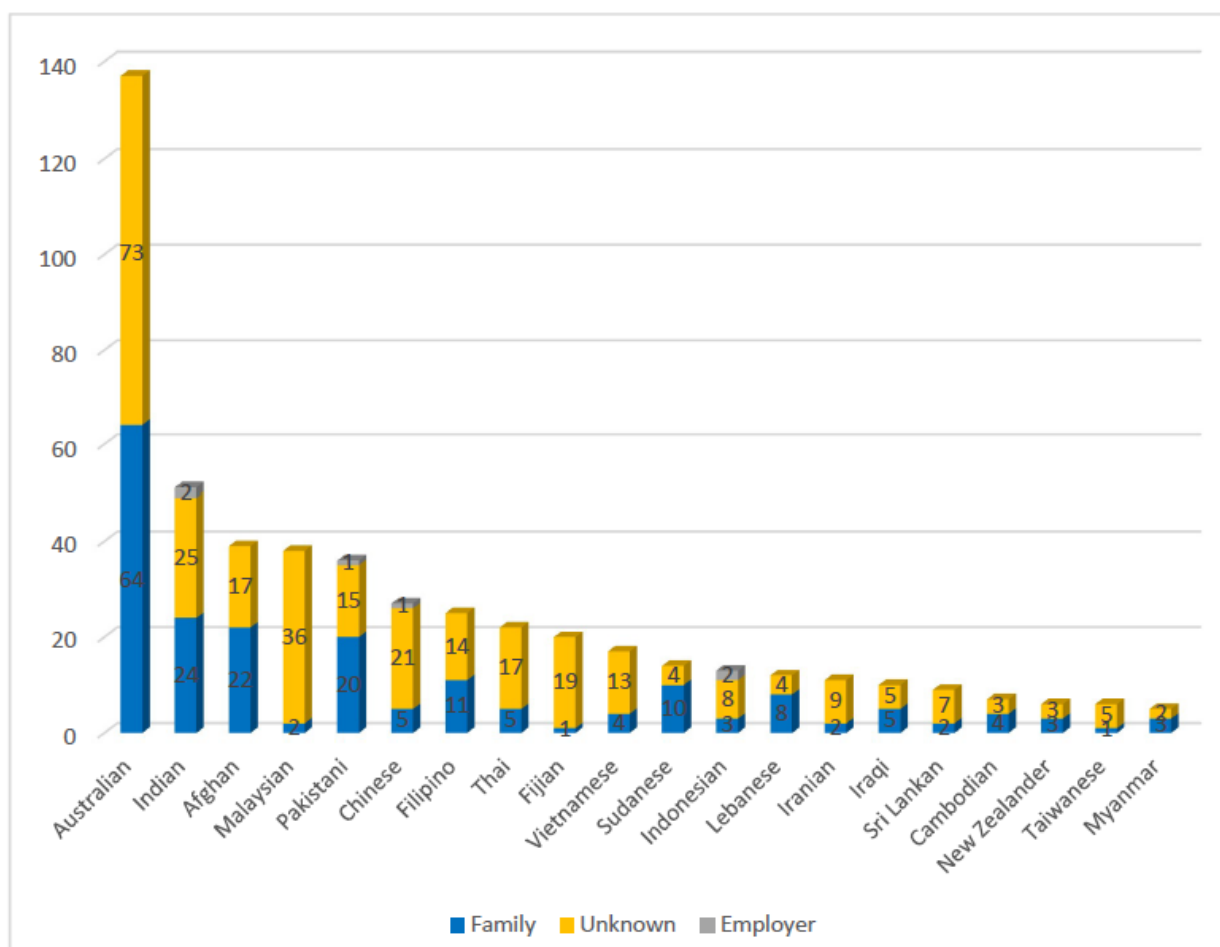
As raised earlier, the “unknown” relationships status are provided by the suspected victim / reporting entity, and in cases where the victim has not wanted to disclose this information, it is likely due to wanting to protect their intentions and/or family members, or as compelled by a third party. As can be seen, the influence of family members (inclusive of immediate and extended family members) features across most trafficking types where these intersect with Australia's visa system.

This specific aspect presents particularly difficult challenges when considering proposed changes to immigration legislation, policy and enforcement practices to reduce or prevent human trafficking and modern slavery through the Department’s visa framework. Any legislative changes addressing familial relationships may need to take into account cultures, traditions and customs that relate to familial obligations relating to marriage, work or other community activities that may have found their way into Australia. As demonstrated by the anti-domestic violence campaign in Australia, these family based issues are difficult to resolve, and are ongoing.

## 10.5. Nationalities

From the data set used in this review, there were 59 nationalities recorded as being suspected victims of human trafficking and modern slavery in Australia recorded, with an additional 62 persons without a nationality recorded in the departmental dataset.

**Table 07: AFP - Top 20 Nationalities of victims (2015-2022)**



The cohort of suspected victims of human trafficking and modern slavery identified as Australian citizens by the AFP, contain some proportion of former migrants who have subsequently acquired Australian citizenship during their time in Australia. Upon further investigation, this number has grown to a likely 175, as citizenship applicants (by conferral, descent or evidence) acquiring Australian citizenship after their referral to the AFP.

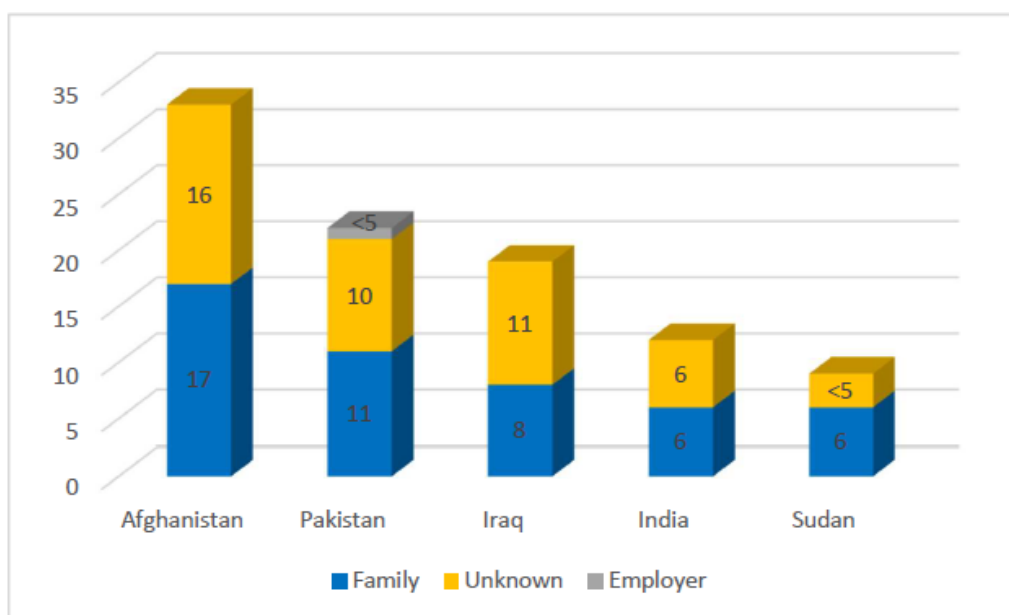
## 10.6. Australian citizens

Upon further research into the circumstances of the victims of human trafficking and/or modern slavery contained in the dataset who had acquired Australian citizenship, *prior* to their referral to the AFP, it was found that the following nationalities were most prevalent:

- Second generation Australians (whose parents had acquired Australian citizenship)
- Iraqi
- Indian
- Lebanese, and
- Afghan.

**Table 08** (below) documents the country of origin for those victims who acquired Australian citizenship *after* their arrival in Australia. Within this table, the declared relationships of the Australian citizens with the suspected offender is also highlighted. Of note is the high rate of familial influence from parents, siblings or extended family members as the suspected offender. This is consistent with the data gathered by the Counter-Trafficking Data Collaborative (CTDC) initiated by IOM.<sup>39</sup>

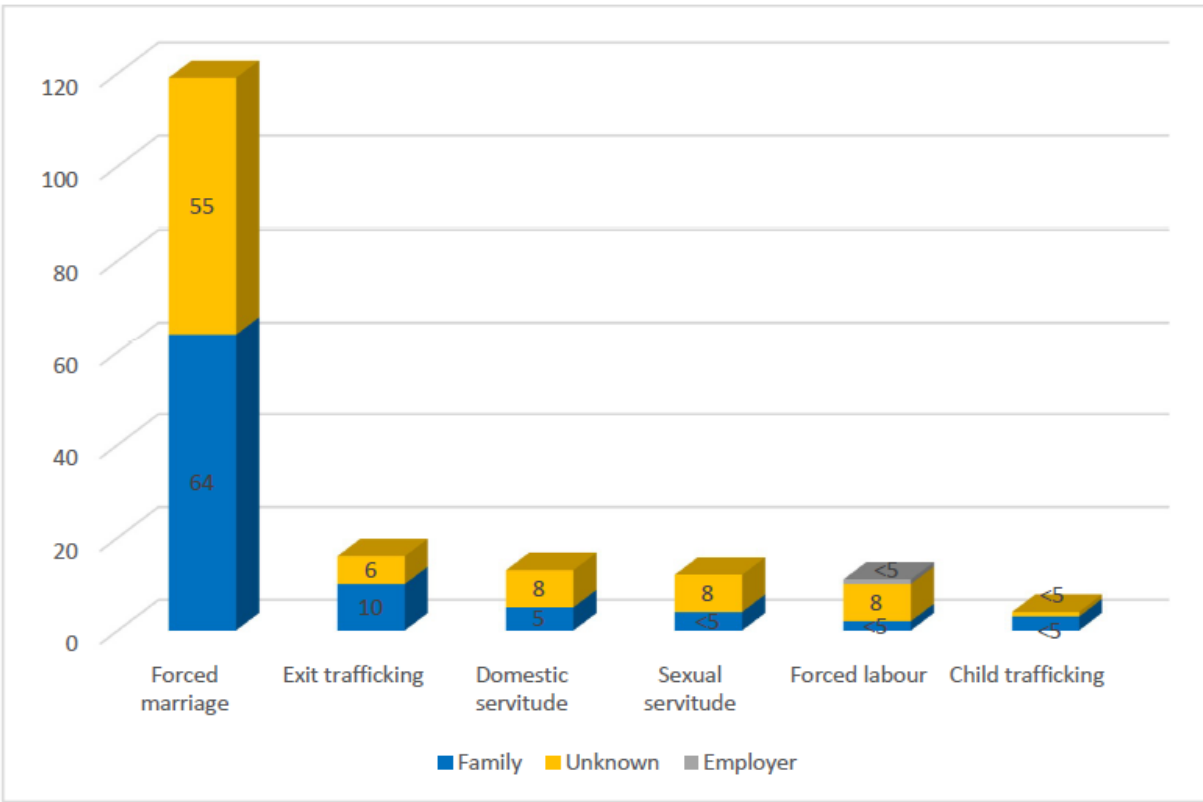
**Table 08: Top 5 countries of origin - victims who acquired Australian Citizenship post arrival (2015-2022)**



<sup>39</sup> Counter-trafficking Data Brief

It is important to consider these cohorts in the context of human trafficking and modern slavery, as this demonstrates the continued strong influence cultural norms, customs, and familial linkages outside Australia may have on established and new Australian citizens<sup>40</sup>. This is particularly important when considering the strong representation of family members (and the proportion of “Unknown” relationships) declared as suspected offenders.

**Table 09: Australian Citizen trafficking status & declared relationships (2015-2022)**



Upon further research into the 175 victims who had acquired Australian citizenship post arrival, 88 (approximately 50%) of these cases involved a suspected offender who was a close family member. These statistics for the Department are lower than that documented by the Australian Institute of Health and Welfare, who states globally, “*parents (73%) and other relatives (16%) were responsible for the majority of forced marriages*”<sup>41</sup>.

<sup>40</sup> **Note:** The International Labour Organization and Walk Free Foundation report from “[Global estimates of modern slavery: Forced labour and forced marriage](#)” identifies the influence culture, tradition and religion have on victims of forced marriage in the context of migration.

<sup>41</sup> [Modern slavery - Australian Institute of Health and Welfare](#)

Victims of forced marriages feature strongly (when compared to the other trafficking groups), which is likely partly a result of traditional culturally arranged marriage practices<sup>42</sup> conducted in Australia resulting in the need to further engage with Australia’s visa system when prospective partners reside overseas. Forced marriage is a criminal offence in Australia, and conflicts with community expectations, liberties and freedom of choice afforded to Australian citizens<sup>43</sup>.

It should be noted that the migration pathway for migrants who ultimately acquire Australian citizenship is generally considered to come to an end upon acquisition of citizenship. Generally, there is no further need for the Department to engage with an individual once they have become an Australian citizen, unless they are involved in the sponsorship of, or with other migration-related activity relating to, another non-citizen.

## 10.7. Trafficking type and visa groups

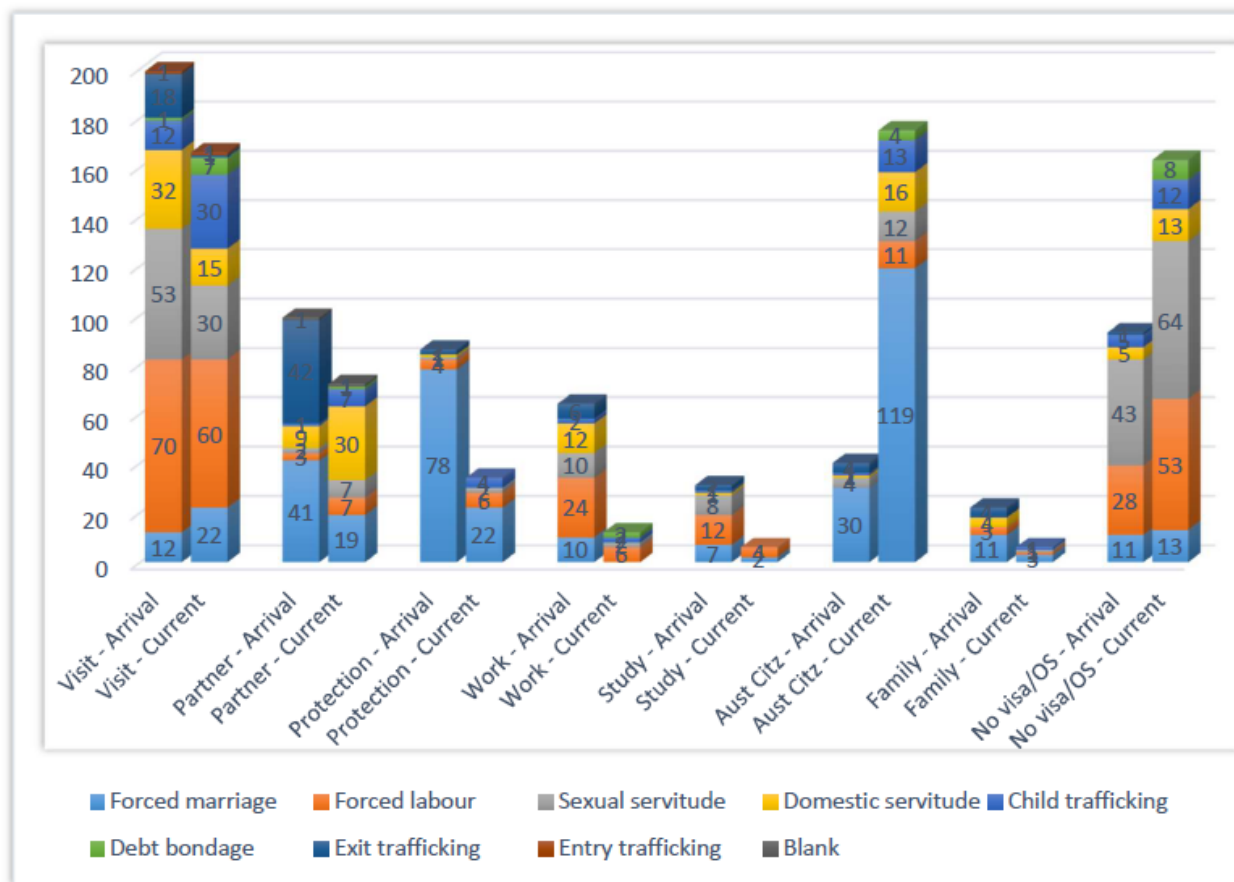
**Table 10** (below) compares the type of visa (visa/status) of the victim at the time of their first entry (“**arrival**”) into Australia, when compared to their “**current**” visa/status as at the end of the 2022 program year.

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<sup>42</sup> **Note:** This is consistent with the finding in the Federation of Ethnic Communities’ Councils of Australia in the review “[Forced Marriage In Australia: A Literature Review](#)”

<sup>43</sup> **Note:** All relevant temporary and provisional visa applicants must agree to uphold the Australian Values Statement as part of their application. This includes commitment to the rule of Australian law that overrides any other inconsistent religious or secular “laws”. In this way, visa applicants must comply with all Australian human trafficking and modern slavery laws. ([Australian values](#)) Further, successful completion of the Australian Citizenship Test demonstrates that citizenship applicants are aware of, and agree to (during the citizenship ceremony), uphold the expectations of the Australian community. These expectations are based on Australian legislated protections, privileges and obligations relating to behaviours, and personal choices of Australian citizens. ([Learn about being an Australian citizen](#))

**Table 10: Trafficking Type (Arrival / Current) vs Visa group (2015-2022)**



The general trend of significance that can be drawn from this table is:

- most victims do not remain on the visa type that they initially used to enter Australia
- many victims either;
  - acquired Australian citizenship, or
  - remained on subsequent temporary visas, or
  - departed Australia.

From **Table 10**, it can be seen that the three (3) most prominent visa groups in the program years 2015-2022 that make up approximately 52% of the visa types are:

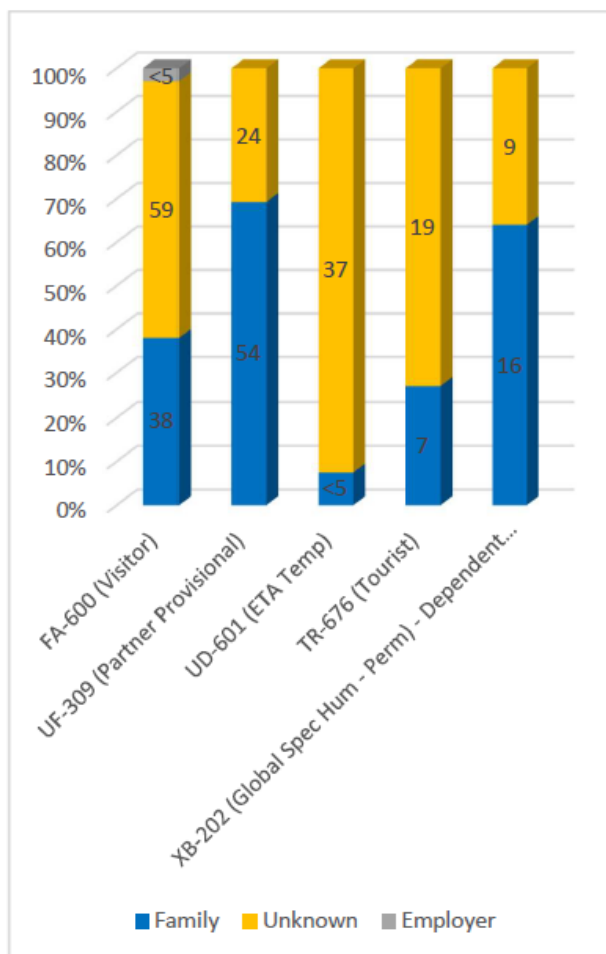
- Visitor related visas;
  - Victims of forced labour and sexual servitude are the two largest trafficking cohorts that arrived on, or continue to hold a visitor related visa.
- Partner related visas;

- Partner related visas feature trafficking cohorts of forced marriage, exit trafficking and domestic servitude. Other family oriented trafficking cohorts also include sexual servitude and forced labour.
- Protection related visas;
  - Forced marriage trafficking cohort featured prominently in this visa group.

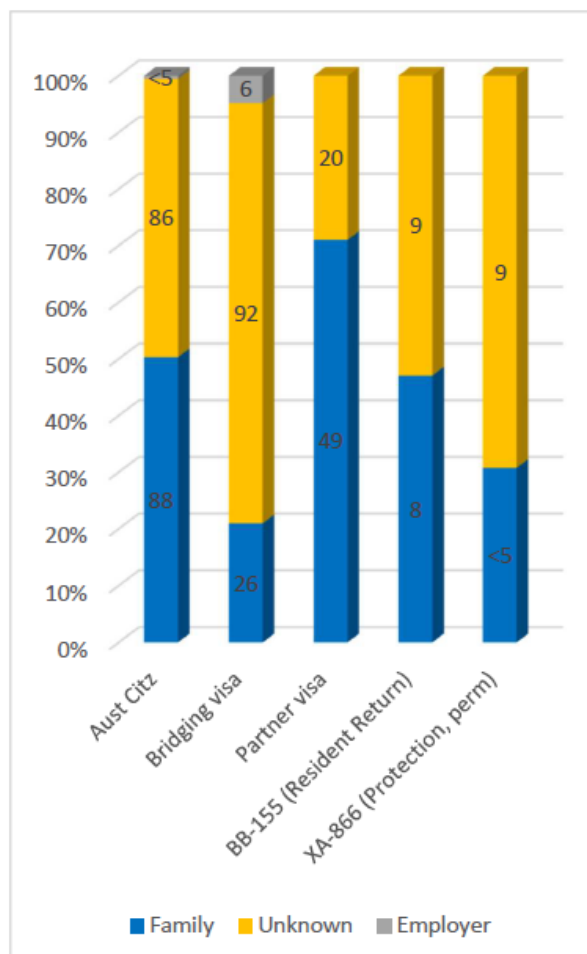
From further analysis of the Department's dataset and the circumstances of victims as recorded in departmental systems, it has been determined that up to 80 percent of suspected offenders are highly likely to be a close or extended family member to the victim of modern slavery across all visa subclasses and nationalities.

**Table 11** and **Table 12** (below) provide further visibility on the top five (5) visa types held by victims of modern slavery upon entry into Australia, compared to what is currently held.

**Table 11: Top 5 visas on arrival with relationship to suspected offender (2015-2022)**



**Table 12: Top 5 current visas/status with relationship to suspected offender (2015-2022)**



## 11. Risks to the victim and the migration program / visa system

It can be observed that certain visa types are favoured by suspected offenders to commit and perpetuate offences relating to human trafficking and modern slavery.

Visa applicants (unknowing, complicit or compelled), may be managed by unscrupulous sponsors and/or other third parties turning them into victims of human trafficking and/or modern slavery while adversely impacting the integrity of the migration program and visa system.

Of particular note are those instances where the victim is also the formal sponsor of (e.g. a partner) another visa applicant, or is being compelled by immediate or extended family members (likely as part of a traditionally-arranged marriage<sup>44</sup>). In these circumstances, arrival of the partner in Australia is likely to lead to other modern slavery indicators such as forced marriage, sexual and domestic servitude, and exit trafficking of the victim and their Australian citizen children.

The high proportion of familial links to suspected offenders remains a significant factor – unaffected by the acquisition of Australian citizenship.

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<sup>44</sup> International Centre for Criminal Law Reform and Criminal Justice Policy – Responses to Early or Forced Marriages



## 12. Unscrupulous third parties

It is widely accepted that the vast majority of third parties who provide assistance and support to visa applicants and sponsors operate with integrity and within the law. However, a minority of unscrupulous third-parties were identified taking advantage of migrants, including through the facilitation of human trafficking and modern slavery for other unscrupulous actors. While difficult to quantify, instances of unscrupulous third-parties are evident from media reporting and findings contained in other Portfolio reviews. Such third parties use various strategies to encourage, coerce or compel migrants to either:

- apply for a visa that is not appropriate for their intended stay and activities, or
- not comply with the conditions and expectations of the visa granted to them.

Victims of human trafficking and modern slavery are likely to feel there is no other option but to comply with the instructions of the unscrupulous third party for a range of reasons, which may include:

- maintaining the status/honour, cohesion or safety of family members (either in Australia or outside Australia) – obligation to family
- being compelled to repay a debt
- fear of being made destitute and without support in Australia, and/or
- fear of prosecution, and/or having a visa cancelled and being detained and removed from Australia.

### 12.1. Family members

From the departmental victim dataset, the statistics indicate that family members are likely to be key perpetrators of human trafficking and modern slavery as it manifests within the visa system. These family members include parents, siblings, carers, parents-in-law, and other extended family members who have a power imbalance over the victim.

The largest trafficking type where family members hold the greatest influence is that of forced marriage. These statistics are supported by multiple external agencies and organisations, including the Australian Institute of Criminology<sup>45</sup>, National Domestic and Family Violence Bench Book<sup>46</sup>,

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<sup>45</sup> When saying no is not an option: Forced marriage in Australia and New Zealand

<sup>46</sup> Forced marriage - National Domestic and Family Violence Bench Book

and the ASIAN Pacific Institute on Gender Based Violence<sup>47</sup>, where the significant influence of family members (particularly parents) is recognised in initiating and compelling victims of forced marriage. The other human trafficking and modern slavery groups that have strong familial influence include; exit trafficking, domestic servitude, sexual servitude, forced labour and child trafficking.

The top five countries identified where victims have familial links are Afghanistan, Pakistan, India, Sudan and Iraq.

Strong cultural influence<sup>48</sup> maintained within family structures is most likely the reason why the dataset records Australian citizens (acquired post-arrival in Australia) and second generation Australians (by birth), continue to be subject to human trafficking and modern slavery offences.

## 12.2. Migration agents

While most migration agents operate with integrity, under the requirements of the Office of the Migration Agents Registration Authority (OMARA), and within Australian law, there are a small number of identified unscrupulous migration agents and other unlawful providers of immigration assistance, who continue to play a significant role in the facilitation of human trafficking and modern slavery.

These unscrupulous actions are further documented by the OMARA through the maintenance of a public record of reasons for disciplinary decisions taken against registered migration agents.<sup>49</sup> The activities of unscrupulous migration agents include (but are not limited to); assisting non-citizens to lodge unmeritorious/inappropriate visa applications, and lodgement of subsequent unmeritorious applications for judicial/merits reviews for visa refusals/cancellations as a way to protract a visa holder's stay in Australia.

The additional strain on visa processing, cancellation and review teams through the lodgement of vexatious/unmeritorious applications necessarily protracts processing timeframes, and excessively consumes Commonwealth resources and public monies. More time and resources are needed to determine the scope and depth of these unscrupulous methods that adversely affect the integrity and efficiency of the visa program in multiple ways. It is noted that other reviews mentioned at the

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<sup>47</sup> [Forced Marriage - Asian Pacific Institute on Gender Based Violence](#)

<sup>48</sup> Federation of Ethnic Communities' Councils of Australia in the review "Forced Marriage In Australia: A Literature Review" International Labour Organization and Walk Free Foundation report "[Global estimates of modern slavery: Forced labour and forced marriage](#)".

Australian Red Cross report "[Forced Marriage: Community Voices, Stories and Strategies](#)"

<sup>49</sup> [Disciplinary decisions-- OMARA Self-Service Portal](#)

beginning of this report are investigating the role of the migration advice industry in exploiting Australia's visa system.

### 12.3. Employers

It is generally accepted that the vast majority of employers in Australia operate lawfully and with integrity. However, there is a small proportion of unscrupulous employers who seek financial (or other) gains through applying practices of human trafficking and modern slavery. These unscrupulous employers take advantage of the power imbalance over employees, which can be further amplified where the employee is formally sponsored for a visa by the employer<sup>50</sup>.

The 2019 "Report of the Migrant Worker's Taskforce"<sup>51</sup> identified that unscrupulous employers are able to exert pressure on migrant workers to conduct themselves in ways that are not consistent or compliant with (as a minimum) the Migration Act and the *Fair Work Act 2009*. Examples include compelling the victim to work more than their permitted hours, underpayment, or unsafe working conditions. Unscrupulous employers are often able to exploit migrant workers to accept modern slavery working conditions because:

- the victim could be compelled directly by family members or family debt
- employers could withdraw their visa sponsorship of the victim, and report them to the Department resulting in the victim believing that the only option available to them is departing Australia, or
- employers confiscating passports and other personal items.

In recognition of this, the Fair Work Ombudsman has a dedicated resource page in order to assist victims of human trafficking and modern slavery in linking their visa with entitlements to working in Australia, and what protections are available to them<sup>52</sup>.

### 12.4. Labour hire intermediaries

Labour hire intermediaries assist with the engagement of migrant employment in Australia. While most intermediaries operate with integrity, there are those unscrupulous labour hire intermediaries

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<sup>50</sup> [Review of the Migration System](#)

<sup>51</sup> [Migrant Workers' Taskforce - Department of Employment and Workplace Relations](#)

<sup>52</sup> [Visa holders and migrants - Fair Work Ombudsman](#)

who directly facilitate human trafficking and modern slavery in Australia by linking with other unscrupulous actors.

Similar to unscrupulous migration agents and employers, labour hire intermediaries can be complicit in activities such as:

- facilitating the placement of the victim into situations where they are exploited by an employer
- compelling victims to contravene their visa conditions, or
- acting in a manner that is not consistent with the intent and expectations of the type of visa granted to them.

The 2019 “Report on the Migrant Workers’ Taskforce” noted that some unscrupulous labour hire intermediaries create complex operating environments that make it harder to ensure compliance with the law<sup>53</sup>. In response to Recommendation 19 of the Report, the Department of Employment and Workplace Relations’ consultation paper “National Labour Hire Regulation: Towards a single national scheme”<sup>54</sup> seeks to establish a system for the national regulation of labour hire.

In terms of enforcement, the ABF established Operation Battenrun with the intention of targeting labour hire intermediaries<sup>55</sup> who profit from the facilitation of migration fraud and illegal work.

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<sup>53</sup> Migrant Workers' Taskforce - Department of Employment and Workplace Relations

<sup>54</sup> National Labour Hire Regulation consultation paper - Department of Employment and Workplace Relations

<sup>55</sup> Australian Government response to the PJCLE report: An inquiry into human trafficking, slavery and slavery-like practices

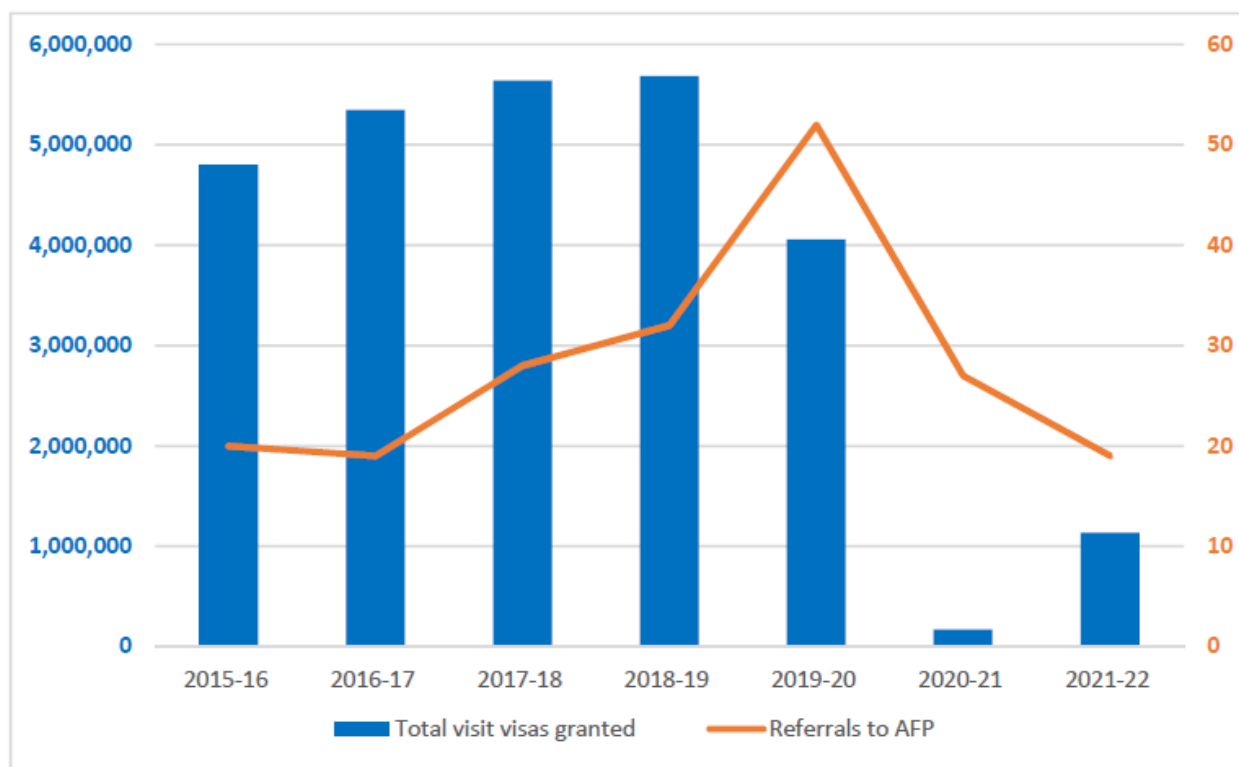
## 13. A closer look

A closer look at relevant factors of the two largest visa groups within Australia's visa system that contain the highest amount of victims of human trafficking and modern slavery is provided below:

### 13.1. Visitor visas

The visitor visa is the most commonly held visa amongst victims across the majority of human trafficking and/or modern slavery cohorts (as reflected in **Table 10**). To gain additional appreciation of the results of exploitation of Australia's visa framework by unscrupulous persons, statistics of annual visitor based visa grants and corresponding identification of victims (from the dataset used in this review) are illustrated in **Table 13** (below).

**Table 13: Visitor visas granted vs Department identified victims (2015-2022)** <sup>51</sup>



**Table 13** (above) demonstrates that, within the confines of the available statistical period of the dataset, there is not a direct or proportional correlation between the changes in total number of visitor visas granted when compared to the number of Department identified human trafficking and

modern slavery victims (other than the apparent influence of border closures resulting from the COVID-19 pandemic for 2020-2021). This is consistent with data in **Table 02**, and the corresponding view that incidents of human trafficking and modern slavery are specific to the individual and their personal circumstances, and not directly linked to general visa trends.

The highest percentage of Department identified victims compared to visitor visas granted was in the program year 2020-21, recording 0.016112 percent of all visitor visa grants for this period. This equates to approximately one (1) in every 10,000 visitor visas granted having resulted in the identification of suspected case of human trafficking and/or modern slavery. The lowest percentage of Department identified cases to visitor visas granted was in the program year 2016-17, with 0.000355 percent. This equates to approximately one (1) case for every 100,000 visitor visas granted.

It should be noted that many of the visitor visa subclasses are subject to automated analytical tools. Several visitor visa subclasses enable rapid grants to those applicants who satisfy objective criteria. Complex applications are referred to a decision maker for further consideration – which may include requests for additional information and/or evidentiary documentation.

For context, in the program year of 2018-2019 (immediately before global COVID-19 restrictions were implemented), approximately 5.7 million visitor based visas were granted<sup>56</sup>. Of this, 2,739,290 Electronic Travel Authority (subclass 601) visas were granted, with 2,721,001 being auto granted<sup>57</sup>. As identified in **Table 13** (above), just over 30 suspected cases of human trafficking and/or modern slavery were identified by the Department.

There are limited opportunities to determine whether an applicant may be a victim of human trafficking and/or modern slavery at the point of visa application. The next opportunity for the Department to identify whether any indicators of human trafficking and/or modern slavery are present is the visa holder's next point of contact with the Department – as part of travel to and entry into Australia, another visa application, the visa holder seeking assistance and support, as part of departmental compliance activity, or not at all.

For migrants holding a visitor-based visa, further opportunities for the Department to consider AFP trafficking indicators generally occurs on subsequent visa application(s) after arrival in Australia. It should be noted that legislative levers held by the Department to refuse an application or cancel a visitor visa relate to the:

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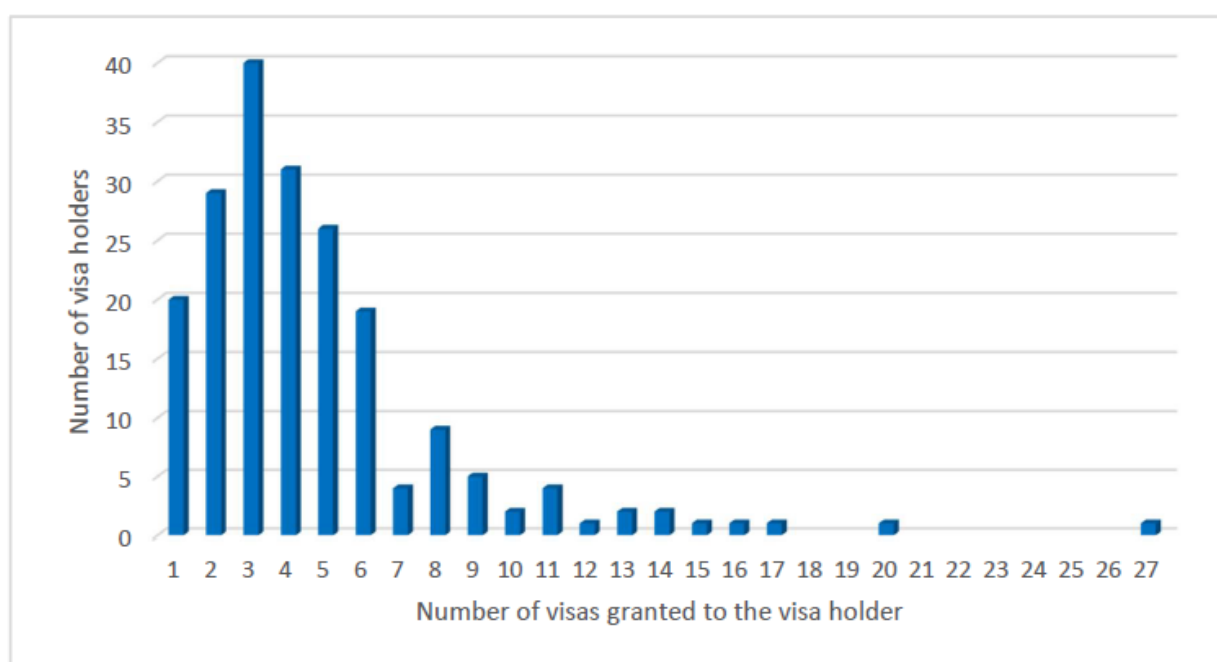
<sup>56</sup> Annual Reports - Department of Home Affairs

<sup>57</sup> The number of visa applications decided by computer (auto-grant) between 1 January 2010 and 23 July 2021

- failure of the applicant to meet visa criteria including financial, health or character requirements, and/or
- failure to satisfy the delegate that the applicant is a genuine visitor.

It is at these subsequent points of contact that the Department may identify the indicators of human trafficking and/or modern slavery for referral to the AFP, and whether the visa program is at risk of exploitation.

**Table 14:** Total number visas granted to victims who arrived on a visitor based visa (2015-2020)



Of the 199 migrants in the Department's dataset who were initially granted and entered Australia on a visitor based visa, 45 percent of victims had been granted no more than three (3) visas in total. It is not clear if there is a direct correlation between the number of subsequent visas granted and the influence of migration agents, labour hire intermediaries or other third parties. This information would be useful in determining the level of agency and independence the visa holder/applicant may have had at point of application – and whether it can be inferred that the trafficking and slavery was pre-meditated by the third party, or if it was the result of a change in circumstances, subsequent misfortune or opportunistic offenders.

On the available Department dataset, it is difficult to draw any statistically significant indicators in order to build a reliable automated profile of a likely victim requiring referral to the AFP for further assessment/investigation.

Given the low victim identification numbers/percentages when compared to the total number of visitor based visas granted, there is little statistical weight that can be used to support risk profiling of visa applicants/holders in relation to the possibility of identifying, through the visa application assessment process, a victim of either forced labour or sexual servitude. As a result, the use of AFP trafficking indicators provides greater assistance and value in identifying possible victims.

In recognition of this, the Department continues to deploy risk and threat based profiles and effects in response to entities of concern, allegations, and confirmed law enforcement referrals.

## 13.2. Partner visas

The second largest visa group that are identified in the Department's victim dataset is that of the partner visa group.

A majority of partner visas are considered through a desk-top assessment, based on the information and evidence provided by the applicant. Often, the decision maker requests additional information and documentation from the applicant in order to be satisfied that visa criteria are met. For those applicants with particularly complex circumstances, decision makers may request the applicant to attend one or more interviews.

The 2021-2022 Annual Report<sup>58</sup> contains information relating to the magnitude of partner visa applications in **Table 15** (below):

<b>Table 15: 2021-2022 Annual Report: Partner visas – lodgement, on-hand and granted<sup>59</sup></b>			
	2021-2022	2020-2021	2019-2020
Number of lodgements	44,408	44,325	52,479
Number of on-hand applications	56,169	64,111	96,361
Visas granted	46,288	72,376	37,118
Numbers of referrals of victims to AFP <sup>60</sup>	13	8	13

<sup>58</sup> Annual Reports - Department of Home Affairs

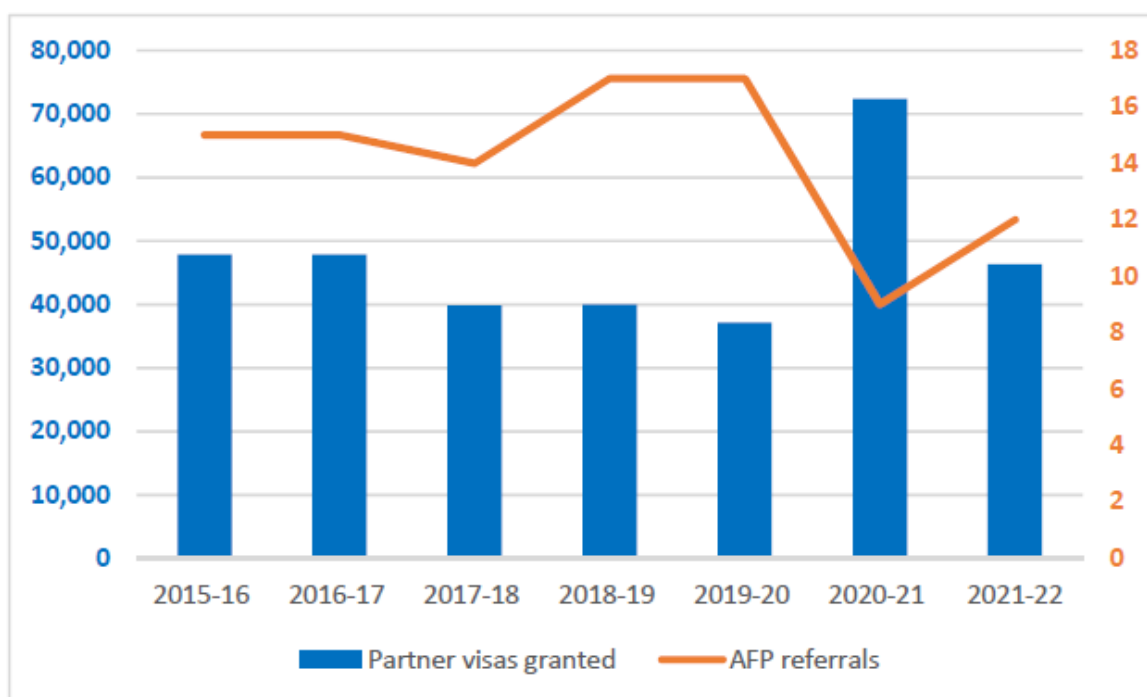
<sup>59</sup> Annual Reports - Department of Home Affairs

<sup>60</sup> **Note:** The "Numbers of referrals of victims to AFP" is not found within the Annual Report.



According to the Department's dataset, forced marriage, exit trafficking and domestic servitude are the largest AFP trafficking indicator groups of concern for victims who hold partner visas. It should be noted that the AFP trafficking type of sexual servitude only applies in the commercial context (as prescribed in the AFP Human Trafficking and Slavery Indicators table<sup>61</sup>). Whereas domestic sexual assault falls within the domestic servitude cohort.

**Table 16: Partner visas granted vs Referrals to AFP (2015-2022)**



**Table 16** (above) demonstrates the lack of a direct correlation between partner visa grant rates and numbers of victims identified. It can be inferred that individual (non-visa centric) circumstances of the victim are not reflective of visa grant trends. Further support of this view is demonstrated by the COVID-19 pandemic, with the inverse relationship between decreasing victim identification rates with increasing partner visa grants (in 2020-2021). During the pandemic lock-down, the number of partner visas granted in 2020-21 almost doubled, while victim identification almost halved when compared to the previous year – an inverse relationship.

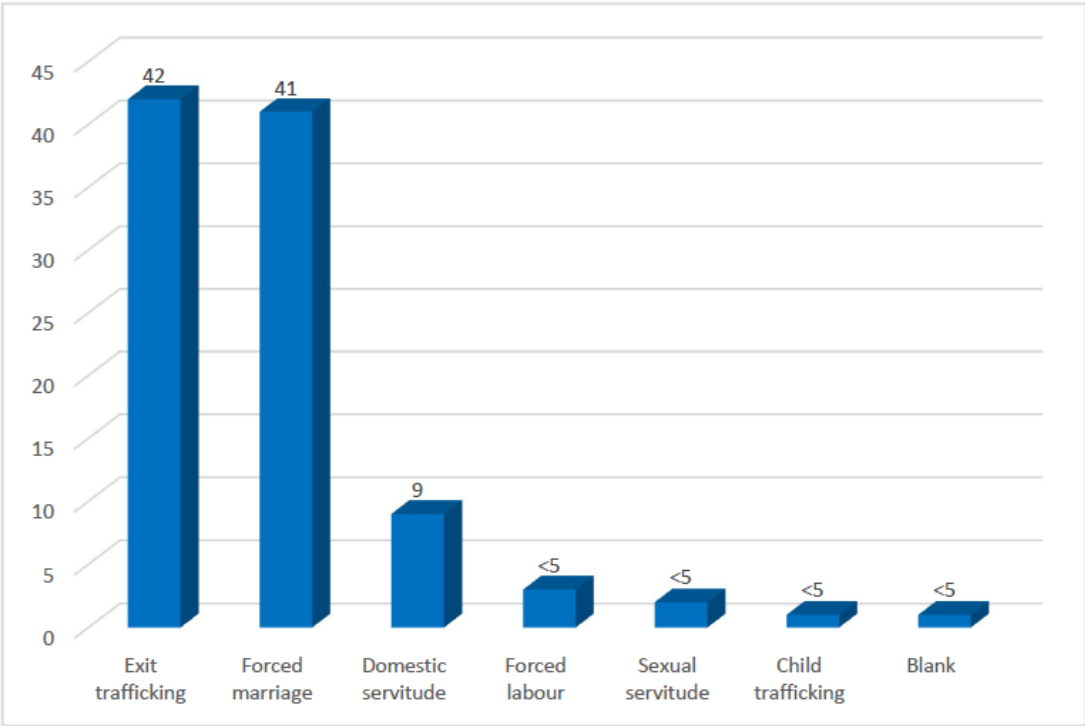
As raised earlier, it is highly likely that most of the suspected offenders are family members within this visa group. It is highly likely that a victim of planned forced marriage or exit trafficking is linked

<sup>61</sup> [Human Trafficking & Slavery Indicators - Australian Federal Police](#)

to the suspected offender either biologically or through marriage (directly, or through extended family members).

As a result of these familial connections, almost half of those victims who entered on a partner visa were exit trafficked, inclusive of 9 victims who had acquired Australian citizenship while they were in Australia. Anecdotally, most of the exit trafficked victims appear to have been victims of forced marriage overseas.

**Table 17:** AFP trafficking types for partner based visas (2015-2022)

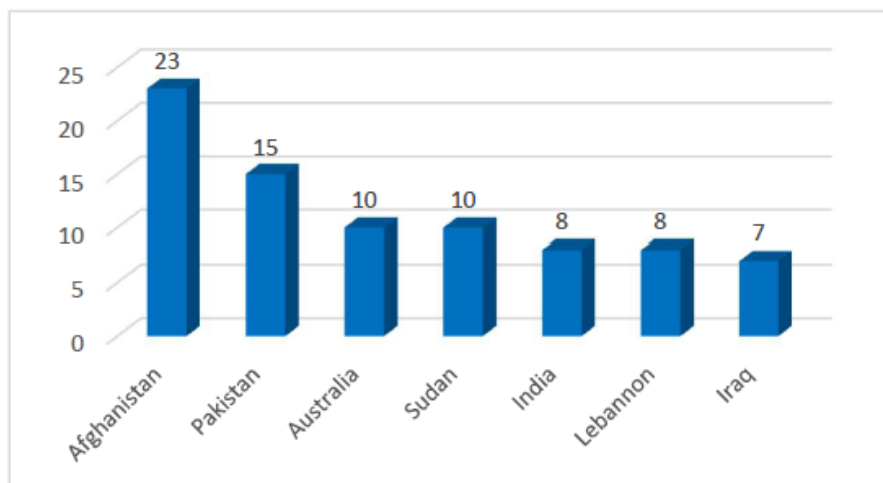


Upon further research into departmental systems on this cohort, it was found that almost a third (29 victims) of those partner visa arrivals subsequently supported the visa applications of other individuals – through being sponsors, third party declarants or nominated personal contacts in Australia. Without looking further into the individual circumstances of the 29 victims, it can be inferred that most were compelled by family members or third parties to engage with Australia's visa framework to facilitate further migration outcomes for relatives. The level of risk this presents to the integrity of the visa program is unable to be ascertained.

As with the visitor visa group, there are no statistically significant data elements that can be drawn upon to create a reliable or practical risk profile or predictor by which partner visa applicants, holders of partner visas, or Australian citizens (by conferral – who originally arrived on a partner

visa), could be identified as more likely to be victims of human trafficking or modern slavery. Victims continue to best be identified through consideration of the AFP Human Trafficking and Slavery Indicators table.

**Table 18: Country of origin – top 80 percent of partner based visas (2015-2022)**



Approximately 38 percent of victims who held partner visas on arrival in Australia self-identified as citizens of Afghanistan or Pakistan. Further research identified approximately half of these victims were involved with supporting the visa applications of others (as a sponsor, third party declarant or nominated contact in Australia). It is unknown whether the victims were compelled by others, or if they voluntarily assisted others with their visa applications.

The following is noted about the Australian citizen cohort within this group:

- 10 Australian citizens noted in the table above were either second generation Australians (born in Australia to Australian citizen by conferral parents), or acquired Australian citizenship by descent. They were victims of human trafficking or modern slavery despite the protections, privileges and obligations afforded to citizens of Australia.
- Further analysis found that 22 partner visa holders went on to acquire Australian citizenship by conferral, yet remained victims of human trafficking and modern slavery.

Given the low victim identification numbers when compared to the total numbers of partner based visas granted, little statistical weight can be used to support more targeted profiling of visa applicants/holders in relation to the possibility of identifying a victim or survivor of forced marriage, exit trafficking or domestic servitude.

## 14. Victims – visa centric indicators and predictability

As evidenced from the Department's victim identification dataset, there are three primary visa groups that are exploited by unscrupulous persons, resulting in two key trafficking types. The visa groups are visitor, partner and protection, with the most common trafficking types being forced labour and forced marriage. Despite these apparently strong correlations, it remains difficult to identify statistically significant empirical indicators that could be used to predict a person's susceptibility to human trafficking and modern slavery within the visa framework, particularly these three visa groups.

It appears that males who arrive on visitor visas are more likely to be victims of forced labour, whereas females who arrive on partner or protection based visas are more likely to be victims of forced marriage. Of particular note are the strong links to family members across all visa groups and trafficking types who are declared as (or highly likely to be) the suspected perpetrator.

The dataset for other visa subclasses and associated trafficking types do not offer any other statistically significant or meaningful observations. This is particularly important when considering changing current visa assessment processes, consideration of risk settings, time afforded to officers to consider an application, and staffing levels.

It should be pointed out that victims are more likely to present with non-visa dependent indicators such as no/poor English capability, no/low education and come from a significantly different cultural or community background (with different social, religious and economic circumstances or expectations). This is reflected in the AFP Human Trafficking & Slavery Indicators list, and associated departmental training offered to relevant Department officers who may come in contact with victims of human trafficking and modern slavery.

## 15. Proposed opportunities

On the evidence available, the migration program and visa system are largely effective in facilitating the entry and stay of non-citizens in Australia. However, there are unscrupulous actors who seek to exploit the visa system in order to perpetuate human trafficking and modern slavery offences. As demonstrated, this is a very small group within the visa system – yet there is opportunity to increase the prospects of identification and reduction of exploitation through a series of iterative enhancements to the visa system.

The application of statistical analysis in this report has given insights into the Department's interaction with victims of human trafficking and/or modern slavery, and what visa types are at higher risk of exploitation. Additional research and analysis was undertaken to identify sub-cohorts of interest that demonstrate the extensive scope of visa framework exploitation and persistence of suspected offenders in perpetuating human trafficking and modern slavery.

It has been found that the statistics offer the following considerations:

- Statistics are not predictive, but more reflective of the Department's sphere of contact and influence.
- When the numbers of victims identified are compared to the numbers of visas granted, there is little statistical significance that can be attributed to identifying likely profiles of victims through the visa application assessment process.
- The lack of statistical significance and the current legislated visa assessment requirements do not support changes to current visa assessment processes. The imposition of additional processes and work effort in visa application assessment would necessarily protract visa application timeframes across the entire visa application spectrum, and likely yield little benefit in terms of identifying possible cases of human trafficking and modern slavery.
- At this time, the application of the AFP Human Trafficking and Slavery Indicators list remains the most effective tool in identifying possible cases.

There are however a range of opportunities the Department can consider in order to increase the effectiveness of the identification and referral of possible cases of human trafficking and modern slavery to the AFP, which are highlighted below:

## 15.1. Improved Training

The Department currently conducts vocational training for officers through a tiered approach to learning and development. This training offers progressively higher levels of detail and specificity offered in training packages to empower officers to build confidence and consistency of decision making through the implementation of legislation, policy and procedures. Training is delivered through a range of fora, inclusive of self-paced on-line modules, group on-line training, classroom based training, and on the job training.

The Department currently offers human trafficking and modern slavery e-learning training packages to officers, with Human Trafficking Contact Officers receiving additional training from the AFP through their 'Look a Little Deeper' training package and Human Trafficking Investigators Course.

### Proposed opportunity 1.1

All Department officers who have direct contact with visa or citizenship applicants should complete, as a prerequisite, relevant departmental e-learning packages relating to human trafficking and modern slavery prior to engaging with clients or exercising decision-making delegations.

Department officers include those who:

- make decisions relating to visa and citizenship applications (within Australia and at overseas posts)
- are counter officers in departmental state and territory offices who regularly interact with visa and citizenship applicants
- are officers who engage with the community through enforcement or engagement activities
- are status resolution and detention service officers, and
- work at air and sea ports.

Proposed opportunity 1.2

Officers who should complete the more detailed AFP 'Look a Little Deeper' training include:

- Human Trafficking Contact Officers
- EL1s/Inspectors who have responsibility for teams who are identified in proposed opportunities 1 and 2.
- All officers selected to go on overseas postings in ABF or Immigration and Border Protection roles.

Proposed opportunity 1.3

All contracted service providers to the Department who have direct contact with visa holders/applicants or detainees should complete training that will assist in identifying suspected victims of human trafficking and modern slavery.

## 15.2. Department community outreach activities

There is no legislation or process relating to the assessment of visa and citizenship applications that would have aided in accurately identifying potential victims of human trafficking and/or modern slavery (as identified in Section 11).

The re-vitalisation of Department community outreach activities in relation to migration/visa matters is an additional opportunity to engage with migrants across the community who may raise human trafficking and/or modern slavery concerns.

More frequent and recurring community engagement and liaison activities (post visa grant/arrival in Australia) could empower victims within identified visa groups, trafficking types and nationalities through the provision of information about Australia's response to human trafficking and modern slavery.

Further, an expansion of the available network of government and community stakeholders who are able to provide support and assistance to victims would lead to an increased awareness of support programs.

Re-vitalisation of this ongoing capability by Departmental officers will assist with responses to allegations of human trafficking and modern slavery in a timely manner, with approaches tailored to specific community groups or geographical locations. This would include activities such as generating operational referrals to, and engagement with, other government and non-government

stakeholders to assist in the identification of cases and protection of suspected victims, and possible prosecution of perpetrators.

Proposed opportunity 2.1

Department to capitalise on the revitalised Community Liaison Officer network and other outreach activities relevant to migration/visa compliance with a view to identifying suspected victims of human trafficking and modern slavery in the community, in the workplace, or the domestic circumstances of specific cohorts/communities.

### 15.3. Policy & procedural changes

There is an opportunity to make changes to policy and procedures governing the work effort and assessment procedures of decision makers, status resolution officers, citizenship officers, counter and other relevant officers. The intent would be to increase awareness of the AFP indicators of human trafficking and modern slavery, and increase the protective response for potential victims.

Proposed opportunity 3.1

The provision of further education resources to visa and citizenship applicants should be a recurring feature of interactions between the Department and applicants. For example:

- Human trafficking and modern slavery fact sheets could be sent as a standard item with visa related communications (such as visa grant notifications), in an effort to inform and empower possible victims to act.
- These fact sheets should be in the preferred language of the visa applicant/holder, and available on the Department's website.

Proposed opportunity 3.2

Development of human trafficking and modern slavery risk and assurance indicators that identify entities of concern for consideration by visa and citizenship processing officers as a result of AFP human trafficking and modern slavery referrals.



Proposed opportunity 3.3

Expanding the current Assurance Protocol framework that applies to exploited migrant workers to include victims of human trafficking and modern slavery – that they will not have their visas cancelled if they are identified as being victims of human trafficking and modern slavery (as long as character, health and national security provisions are met).

Proposed opportunity 3.4

Increasing web-based resource capabilities and scope of information and links to information for victims of human trafficking and modern slavery on the Department's website, which could include:

- Fact sheets
- Links to relevant government and non-government stakeholders and providers
- Victim centric design principles to protect privacy and encourage reporting, for example, a quick exit button that closes the page, so the perpetrator does not know that the victim is researching this information.

## 15.4. Legislative change

Current legislative settings have been found to be appropriately designed for the assessment of visa and citizenship applications, focusing on objective criteria wherever possible and only relying on subjective evidence where there is no other available option. Future changes to legislation provides an opportunity to give greater effect to responses against human trafficking and modern slavery, in particular those instances where individuals known to have been involved in these practices in the past and further engage with the visa system are identified, such as instances where further sponsorship of potential victims for various types of visas.

Proposed opportunity 4.1

Undertake a review of visa conditions that could lead visa holders to become vulnerable to human trafficking and modern slavery.

Proposed opportunity 4.2

Increasing employer and employer sponsor sanctions for breaches of obligations. This could include removing an employer's ability to employ or sponsor non-citizens for a length of time reflective of the gravity of the offence.

Proposed opportunity 4.3

Introducing sanctions for non-employer sponsors (for example, family members) who breach their obligations and are identified as perpetrators of human trafficking and modern slavery by the victim in a referral to or from the AFP. Sanctions could include:

- removing the sponsor's ability to sponsor other visa applicants for a period of time reflective of the gravity of the offence
- re-assessing the viability of the perpetrator's visa (if held) against visa character requirements.

Proposed opportunity 4.4

Enhance the investigative and compliance capability of the relevant part of the Department to respond effectively to claims that a registered migration agent was involved in the conduct of human trafficking and/or modern slavery.

Proposed opportunity 4.5

Evaluate visa cancellation thresholds for those visa holders identified to be perpetrators of human trafficking and modern slavery, through referrals to or from the AFP.

## 16. Department response to human trafficking and modern slavery

This review was undertaken in response to Action Item 20 of the National Action Plan to Combat Modern Slavery 2020-25, which tasks the Department to:

- *“Undertake a targeted review of Australia’s visa framework, including to identify and reduce vulnerabilities to modern slavery.”*

It is expected that this report will be shared with the Government’s Interdepartmental Committee on Human Trafficking and Slavery, and subject to Government consideration, may be made publicly available.

The departmentally sourced statistical evidence and corresponding inferences have led to a range of proposed opportunities that seek to increase the identification of victims of human trafficking and/or modern slavery that vary in complexity, ease of application, cost of implementation, and variability in time taken to effect (where accepted). It is intended that some proposed opportunities may promote discussion and exploration of ways in which the Department can further implement changes assisting in the identification of, and response to, human trafficking and modern slavery.

This review should be considered in conjunction with other reviews that address other parts of the exploitation spectrum (inclusive of migrant worker exploitation, and domestic and family violence), and assists in a whole-of-government response to human trafficking and modern slavery.