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The Impact of Covid-19 on the Identification of Victims of Modern Slavery and their Access to Support Services in Australia

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Abstract

This article examines how COVID-19 impacted the identification and access to support of modern slavery victims in Australia during 2020. It is the first comprehensive analysis of the pandemic's impact on modern slavery victimisation in Australia. The key finding of the research is that COVID-19 exacerbated existing barriers to identifying victims of modern slavery in Australia and referring them to government funded support, related to the linkage of the provision of support with criminal justice processes. The reliance on policing capacity to identify and refer victims meant that when police and other government resources were diverted into the large-scale COVID-19 emergency response, there was less capacity for police to undertake this vital function, resulting in the under-identification and referral to support of victims of modern slavery.

Keywords

Modern slavery, human trafficking, COVID-19, victim support, policing

Introduction

Modern slavery is a hidden phenomenon. Crimes such as human trafficking for sexual exploitation, forced marriage, and forced labour rely on the coercion and exploitation of vulnerable people and often occur behind closed doors¹. As such, detecting modern slavery crimes and providing support to victims can be difficult². This is evidenced by a 2019 Australian Institute of Criminology study which estimates that for every person identified as a victim of human trafficking and modern slavery, there are at least four other unidentified victims³. One of the main barriers to identifying and supporting victims in Australia is the linkage of the formal government funded victim support program to criminal justice processes⁴. This linkage has resulted in the Australian Federal Police (AFP) as the sole referring agency to the Support for Trafficked People Program (STPP), run by the Australian Red Cross (Red Cross) and funded by the Department of Social Services. Given that barriers victims may face in voluntarily engaging with policing agencies to disclose their experience of modern slavery are well acknowledged⁵, the identification of victims is therefore often heavily dependent on pro-active policing practices or reactive police responses to information reported by government or community stakeholders. This over-reliance on policing agencies means that in times of emergencies or when political pressure diverts policing resources elsewhere, police are often under resourced to identify modern slavery victims and refer them to appropriate support⁶.

This article explores this issue by examining how COVID-19 impacted the identification and access to support of modern slavery victims in Australia during 2020. It is the first comprehensive analysis of the pandemic's impact on modern slavery victims in Australia. The article uses data from the AFP and the Red Cross to trace the impact of COVID-19 on the identification of victims and their access to the STPP. The research finds that there was a drop in the number of reports the AFP received of suspected instances of modern slavery and also the number of victims the AFP consequently identified and referred to the STPP during the early months of COVID-19 in Australia (April to June 2020). To better understand this decline, the

¹ Deanna Davy, "Justice for Victims of Human Trafficking in Australia? Issues associated with Australia's Criminal Justice Responses to Trafficking in Persons," *Contemporary Justice Review* 20, no1 (2017): 115.

² Marie Segrave and Sanja Milivojević, "Auditing the Australian Response to Trafficking," *Current Issues in Criminal Justice* 22, no.1 (2010): 63.

³ Samantha Lyneham, Christopher Dowling and Samantha Bricknell, "Estimating the Dark Figure of Human Trafficking and Slavery Victimisation in Australia," *Australian Institute of Criminology Statistical Bulletin* 16 (2019).

⁴ Davy, "Justice for Victims of Human Trafficking," 115-131.

⁵ The Joint Standing Committee on Foreign Affairs, Defence and Trade has previously identified that "many victims of modern slavery may be unwilling or unable to approach AFP officers". Joint Standing Committee on Foreign Affairs, Defence and Trade. Inquiry into establishing a Modern Slavery Act in Australia. *Hidden in Plain Sight Report*, December 2017. Par 6.70

⁶ Yvon Dandurand, "Human Trafficking and Police Governance," *Police, Practice & Research* 18, no. 3 (2017): 322-336.

research draws on data from semi-structured interviews with key service providers working in the modern slavery space in Australia.

This article begins by giving an overview of the methodology used in the study before exploring how reports of modern slavery made to the AFP were impacted by COVID-19. Although many individuals and groups can report suspected instances of modern slavery to the AFP, the designated policing agency responsible for investigating and prosecuting human trafficking and slavery offences in Australia, there is only one pathway to referring a reported victim to the official government funded support program, the STPP, and that is through the AFP. The AFP are the only agency who can determine if there is appropriate indicators and evidence of modern slavery to constitute status as a ‘victim’ and eligibility for referral. This paper then examines how the diversion of resources during COVID-19 impacted the number of victims the AFP referred to the STPP, highlighting that the ratio of reports (to AFP) to referred victims (by the AFP to the STPP) was significantly impacted by COVID-19.

Accordingly, the discrepancy between reports and referrals can be better understood by analysing the Australian government’s framing of modern slavery victim support within a criminal justice response. As the AFP are the sole referrer to the STPP, referral of victims to official support is based on the AFP’s capacity to assess and investigate reports of modern slavery made to them. Additionally, after an initial period of 45 days on the STPP (90 days in some circumstances), continuing victim support through the STPP (for all individuals except those referred for reasons related to forced marriage) is contingent on the victim’s participation in criminal justice processes, that is their willingness and ability to be involved in the further investigation and prosecution of the modern slavery incident. The final section of the article examines the way that COVID-19 exposed the limitations of this linkage of victim support with criminal justice process by contextualising the data with the experience of service providers. The key finding is that COVID-19 exacerbated underlying barriers to identifying victims of modern slavery in Australia and referring them to government funded support. Specifically, the reliance on policing capacity to identify and refer victims meant that when policing resources were diverted into the large-scale COVID-19 response, there was less capacity for police to assess reports made to them, identify modern slavery victims and refer them to the STPP.

Methodology

The data for this project was obtained through data requests to the AFP and the Red Cross. The AFP data request asked for official data on the number of reports of suspected modern slavery crimes the AFP received between July 2019 and September 2020, broken down by month, state, and category of offence (i.e. human trafficking, forced marriage etc). Secondly, data from the Red Cross was requested for the number of referrals the AFP made to the STPP between July 2019 and September 2020, broken down by month, state, and category of offence. The data was analysed to show key trends across the quarterly periods of 2020.

To contextualise this data the project involved semi-structured interviews with seven key service providers working to support modern slavery victims in Australia. The governmental and non-governmental organisations interviewed were selected based on their roles in identifying victims and referring them to the AFP, working with victims whilst supported by the STPP, as well as their broader role in supporting victims of modern slavery outside of the STPP. The service providers remain anonymous in this paper, which helped enable open sharing of experiences. The interviews were conducted between November 2020 and January 2021. Interview participants were asked open-ended questions on the process of victim identification and support in Australia and the impact of COVID-19 on these processes. The researchers followed Charmaz's grounded theory approach⁷ when conducting and analysing the interviews. During the analysis of the interview data the researchers identified codes inductively⁸, with several overarching themes becoming apparent. For the purposes of this article, the key theme identified in the interview data was the role of the AFP in referring victims to the STPP with all interview participants discussing the linkage of victim support to criminal justice processes. As such, this is the core issue explored in this paper⁹.

Reporting Instances of Modern Slavery in Australia: The Impact of COVID-19

Modern slavery in Australia remains an under identified issue and the information captured in official police-recorded statistics is just the 'tip of the iceberg'¹⁰. In Australia, official data is captured by the AFP and the Red Cross, as the service provider of the STPP. Other data captured by non-government organisations (NGOs) working to prevent and respond to modern slavery can give much needed further context to the police-recorded statistics, although this data can vary both in quantity and comparability due to a range of factors including, varying definitions of a 'victim' of modern slavery, the broad spectrum of work undertaken by NGOs¹¹ and a lack of consistent reporting mechanisms which capture this varied work. These insights do, however, act as vital qualitative data which can add depth to existing official statistics,¹² indicating that the number of victims interacting with support services outside of the STPP as the official support program, is much higher. This observation is supported by a 2019 study using multiple systems estimation (MSE) which suggested that the number of human trafficking and

⁷ Kathy Charmaz, *Constructing Grounded Theory: A Practical Guide Through Qualitative Analysis* (London: Sage, 2006).

⁸ Ryan Gery and Russel Bernard, "Techniques to Identify Themes," *Field Methods* 15, no. 1 (2003): 85-109.

⁹ This project received ethics approval from the University of South Australian Human Research Ethics Committee.

¹⁰ Jo Goodey, "Data on Human Trafficking: Challenges and Policy Context," in *Human Trafficking: Exploring the International Nature, Concerns, and Complexities*, ed. John Winterdyk, et al (Boca Raton: CRC Press), 41.

¹¹ Jacqueline Joudo Larsen and Lauren Renshaw, "People Trafficking in Australia", *Trends & Issues in Crime and Criminal Justice* no 441 (2012) Australian Institute of Criminology.

¹² Jacqueline Joudo Larsen and Lauren Renshaw, "People Trafficking in Australia".

slavery victims in Australia in 2015-16 and 2016-17 was between 1,300 and 1,900¹³, vastly outweighing the number of reports made to the police and the number of victims identified by police and referred to support. This finding matches a similar study in the United Kingdom which found that official data captured only 20-30% of potential modern slavery victims¹⁴.

As this large ‘dark figure’ indicates, understanding the true extent of modern slavery victimisation is difficult¹⁵. Many victims of modern slavery crimes are reluctant to report perpetrators, who may be employers, family members or partners, for many reasons, including that they may be reliant on these individuals for support. Additionally, victims may be unable or unwilling to report due to distrust of people in positions of authority, fear of retaliation, or because of trauma they have experienced. These barriers can make it difficult for victims to come forward, meaning that frontline community stakeholders, NGOs and authorities play a crucial role in detecting instances of modern slavery. However, there are also numerous barriers that make modern slavery hard to detect for these groups and pose challenges for investigation by authorities. Poverty and a lack of economic opportunity are just some of many drivers of modern slavery and the intersection of racism, discrimination and disadvantage means that an individual’s experience of slavery can be vastly different, depending on their particular circumstances, presenting challenges for ‘categorising’ situations of exploitation for the purposes of identification. Some forms of modern slavery occur in personal settings and can be intertwined within complex cultural, religious, gender and generational power structures, posing challenges for understanding, identification, and investigation by actors not familiar with such dynamics. When in commercial settings, modern slavery is often deeply imbedded into complex supply chains which rely on a disconnect between tiers to avoid accountability for upholding workers’ rights and entrench a degree of worker exploitation into profit models whilst making it challenging to detect and eliminate. Some even argue modern slavery is an endemic feature of the socio-economic systems which have been instituted by business¹⁶, suggesting a degree of acceptance of exploitative practices as a normal part of the capitalist system. Finally, modern slavery practices commonly feature an international component which can mean that varying legislation, definitions of crimes and capacity of policing agencies across jurisdictions presents further challenges. The barriers to victims reporting and the challenges in detecting modern slavery mean that reliable figures on the true extent of victimisation are limited.

Reliable data on the number of suspected instances of modern slavery in Australia which are reported to the AFP by other actors is, however, recorded. This includes reports made by staff

¹³ Samantha Lyneham, Christopher Dowling and Samantha Bricknell, “Estimating the Dark Figure of Human Trafficking”.

¹⁴ Kevin, Bales, Olivia Hesketh, and Bernard Silverman. “Modern Slavery in the UK: How Many Victims?” *Significance* 12, no.3 (2015): 16-21.

¹⁵ Samantha Lyneham, Christopher Dowling and Samantha Bricknell, “Estimating the Dark Figure of Human Trafficking and Slavery Victimisation in Australia”.

¹⁶ Steve New, “Modern Slavery and the Supply Chain: The Limits of corporate social responsibility?” *Supply Chain Management* 20, no. 6 (2015): 697-707.

in various government agencies, such as immigration officials, state and territory police agencies and the Fair Work Ombudsman, as well as representatives from various embassies and diplomatic missions located in Australia¹⁷. Hospital staff and medical practitioners, industry representatives, NGOs, and community members including concerned individuals or co-workers of suspected victims are also common sources of reports made to AFP in relation to suspected instances of modern slavery¹⁸. The number of reports made to the AFP have been steadily increasing over the last decade¹⁹. Within the 13-year period from 2004 when data was first recorded until 30 June 2017, the AFP received 841 reports²⁰. Analysis of these figures shows that between 2014 and 2016, there was a notable increase in the number of reports, rising from 119 in the 2014/15 financial year to 169 in the 2015/16 financial year²¹, indicating a growing awareness of these issues in the Australian community. Continuing this trend, the number of reports made to the AFP during the 2019/20 financial year reached a record high number of 223 in a 12-month period. It is important to note that when a report is made to the AFP of a suspected instance of modern slavery, it may involve circumstances that effect multiple people and therefore each report may result in numerous victims being identified.

While the number of reports of suspected instances of modern slavery made to the AFP had initially been increasing throughout the 2019/20 financial year, the outbreak of COVID-19 in 2020 impacted the quantity of reports. The first confirmed case of COVID-19 in Australia was reported on 25 January 2020 by the Victorian Health Authorities²², and as of 1 March 2021, there had been 28,970 cases confirmed thereafter²³. The presence of COVID-19 in each state and territory in Australia to-date has varied significantly, with the most densely populated cities, Sydney, and Melbourne, seeing the highest number of cases²⁴. Late March and early August 2020 feature as key dates within the timeline of the number of new COVID-19 cases reported each day in Australia across each states and territory (see Figure 2). The former being the period in which the country saw the presence of the virus in each jurisdiction simultaneously, and the

¹⁷ Interdepartmental Committee On Human Trafficking And Slavery, *TRAFFICKING IN PERSONS The Australian Government Response 1 July 2014 – 30 June 2015*, (2016) <https://www.homeaffairs.gov.au/criminal-justice/files/report-anti-people-trafficking-interdepartmental-committee-july-2014-june-2015.pdf> viewed 5th February 2021 (accessed April 14 2021).

¹⁸ IDC Reports, 1 July 2014 – 30 June 2015, 1 July 2015 – 30 June 2016, 1 July 2016 – 30 June 2017

¹⁹ Australian Red Cross, *Support for Trafficked People Program, Data Snapshot: 2009-2019*, <https://www.redcross.org.au/getmedia/7a957782-a7a1-4b25-97c0-86930dbf0f53/ARC-Support-For-Trafficked-People-Program-Data-Snapshot-2009-to-2019-small.pdf.aspx>, (accessed February 5 2021).

²⁰ Interdepartmental Committee on Human Trafficking and Slavery, “Report 1 July 2016 – 30 June 2017”, 68.

²¹ Interdepartmental Committee on Human Trafficking And Slavery, *1 July 2016 – 30 June 2017*.

²² Greg Hunt, MP Minister for Health and Aged Care, *First confirmed case of novel coronavirus in Australia*, 2020, <https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/first-confirmed-case-of-novel-coronavirus-in-australia> (accessed February 5 2021).

²³ Department of Health, *State and Territories Report*.

²⁴ Department of Health, *State and Territories Report*.

latter being the period in which only one jurisdiction, the state of Victoria, saw the highest number of cases recorded per day²⁵. In response to the presence of community transmission of the virus, each state and territory government instituted a range of measures designed to control its spread including the temporary closure of state borders and suspension of services including medical, educational, hospitality, retail, sporting and other businesses and community functions. From March to June 2020, all individuals in Australia experienced a degree of ‘community lockdown’, however by the end of June, restrictions in each jurisdiction had started to ease and continued to do so over the coming months in all areas except Victoria. Between August and October 2020, due to a large outbreak of the virus in that particular state, residents in Victoria’s largest city, Melbourne, endured what has come to be known as one of the longest and strictest lockdowns in the world²⁶, whilst the remainder of the country adapted to ‘COVID-normal’.

The impact of COVID-19 on the number of reports of suspected instances of modern slavery made to the AFP can be better understood by breaking down the data into quarters for the year of 2020. Analysis of this data, displayed in Figure 1, shows that the three-month period between April and June 2020, when Australia’s national COVID-19 response was the most restrictive (in response to the peak in daily reported cases in late March 2020 visible in Figure 2), saw the lowest number of reports in the period recorded (n=43). However, although elements of community lockdown in place across the country may have impacted the number of reports made to AFP during this time, these reports continued at just over 70% of the average number in the three quarters prior. In the subsequent three-month period between July and September 2020, the number reports of suspected instances of modern slavery to the AFP increased to a rate higher than the previous 4 quarters (n=72). This was despite a second peak of daily reported COVID-19 cases in August 2020, however as described earlier, these cases, and therefore the associated restrictions, were contained to the state of Victoria. During this period the rest of the country saw low numbers of daily cases and lived with limited restrictions.

²⁵ Department of Health, *State and Territories Report*.

²⁶ Gavin Fernando, “Is Melbourne’s coronavirus lockdown really the longest in the world? Here’s how other countries stack up”, *SBS Australia*, September 9, 2020 (<https://www.sbs.com.au/news/is-melbourne-s-coronavirus-lockdown-really-the-longest-in-the-world-here-s-how-other-countries-stack-up>)

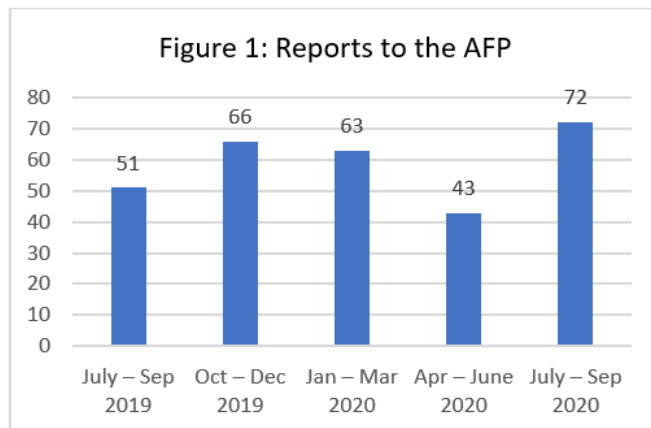


Figure 1: Reports of suspected instances of modern slavery made to the AFP between July 2019 and September 2020.

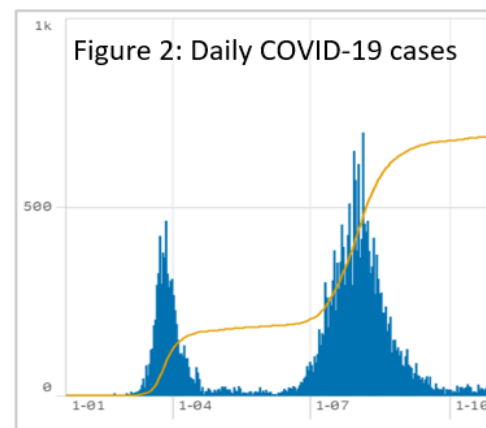


Figure 2: Daily reported COVID-19 cases in Australia between January and September 2020. Source – Australian Government, Department of Health.

Despite the impacts of the pandemic on the number of suspected instances of modern slavery reported to the AFP during April to June 2020, the total number of reports made to the AFP between July 2019 to June 2020 (the 2019/20 financial year) was also higher than any other 12-month period. Thus, while COVID-19 slightly impacted the number of reports made to AFP during the 2019/20 financial year during the period when COVID-19 restrictions were at their most widespread, there were still a steady number of reports being made. As indicated, despite restrictions affecting the major Australian city of Melbourne, data on the number of reports made to the AFP also continued to follow the general upward trend recorded in recent years during the subsequent quarter, July to September 2020.

The Department of Home Affairs (DHA)²⁷, the Commonwealth agency responsible for coordinating Australia’s domestic response to modern slavery, commented on this drop in reports stating, ‘victims of human trafficking and modern slavery have significantly decreased capacity to seek support and report crimes due to COVID-19. This has affected the capacity of law enforcement to directly engage with victims. During the period April-June 2020, the AFP observed a reduction in reports being received, as compared to the previous quarter (January-March 2020)’²⁸. In part, this decline can be explained by less proactive work undertaken by police and government agencies which can often lead to the detection of victims, due to the

²⁷ The Department of Home Affairs brings together Australia’s federal law enforcement, national and transport security, criminal justice, emergency management, multicultural affairs, settlement services, and immigration and border related functions. See Department of Home Affairs website <https://www.homeaffairs.gov.au/>

²⁸ Department of Home Affairs, *Home Affairs Portfolio Submission to the Inquiry into Criminal Activity and Enforcement during the COVID-19 Pandemic Parliamentary Joint Committee on Law Enforcement*, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Law_Enforcement/COVID-19 (accessed 1 March 2021): np.

diversion of resources elsewhere. This is discussed in more depth in the next section of this article.

Another factor that limited the number of reports of suspected instances of modern slavery to the police during the peak of COVID-19 was the widespread closure of community services which often provide informal pathways for the identification of victims. One of the service providers interviewed for the project noted this, stating:

The closure of several services also meant that victims had no options or maybe very, very limited options to actually report what was happening for them. So as a result of that, identification was very limited, if anything, because they would not really have any ways of communication.

Service closures particularly impacted the identification of forced marriage victims, with the DHA stating that for the April to June 2020 quarter ‘reports of allegations of forced marriage dropped approximately 60 percent from the previous quarter’.²⁹ The DHA cites border closures and the restriction of international travel as a major reason for this drop in reports of forced marriage³⁰. Service providers further contextualised this drop, highlighting that school closures and the limited ability to reach out to individuals at-risk of forced marriage also impacted the number of forced marriage reports made during the periods where states were most heavily impacted by COVID-19. For example, one service provider stated that this was an issue:

We haven't got the traditional reporting through the schooling system...particularly being located in Victoria where schools were closed for quite a long time. We run other programs in schools and it's where we get referrals inadvertently.

This discussion demonstrates that many of the informal measures and support services that often identify modern slavery victims were impacted by COVID-19, thus limiting the number of reports made to the AFP. Accordingly, the drop in reports from April to June 2020 coincides with the period where the most stringent community restrictions were in place across the entire country and the most intensive diversion of police resources seen in response to escalating COVID-19 daily case numbers in each state and territory of Australia.

Diversion of Resources, Decline in Support: Identification and Referral of Victims to Support During COVID-19

In order to further understand the impact of the diversion of police resources on the identification and support of victims of modern slavery, this article will now analyse data related

²⁹ Department of Home Affairs, *Home Affairs Portfolio Submission*.

³⁰ Department of Home Affairs, *Home Affairs Portfolio Submission*.

to the number of individuals referred to the official Australian government funded victim support service, the STPP. Since 2012, the Australian Red Cross has supported an increasingly higher number of individual victims of modern slavery referred to the STPP from the AFP each financial year, with this number more than doubling between 2016 and 2020 (as shown in Figure 3).

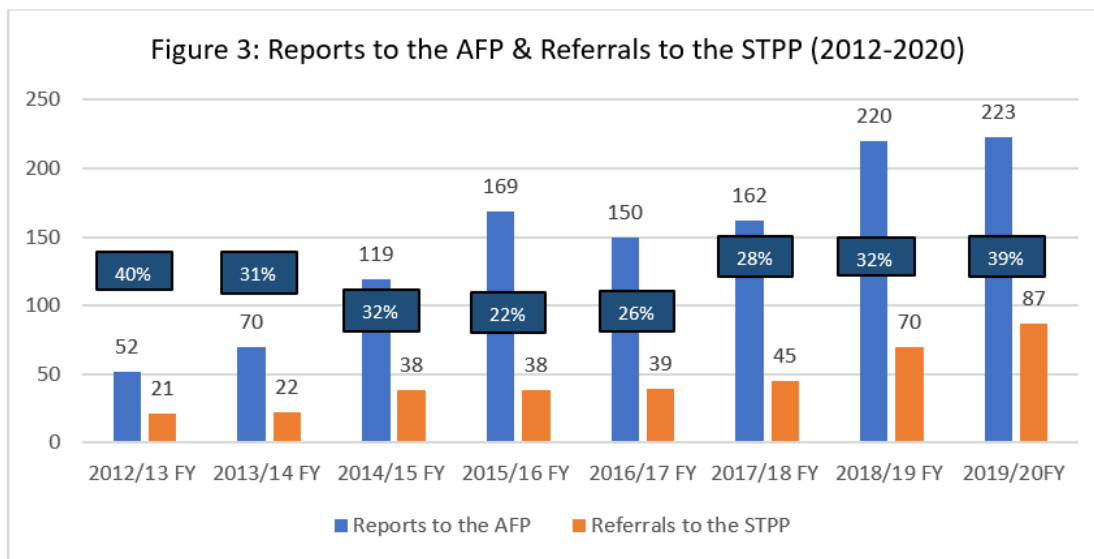


Figure 3: Comparison of reports to the AFP and referrals to the STPP between 2012 and 2020, with referrals to the STPP as a percentage of report to the AFP.

Comparison of data on the number of reports of suspected instances of modern slavery made to the AFP, and the number of victims referred by the AFP to the STPP indicate that as the number of reports made to the AFP have progressively increased during the past 8 years, so too has the number of people referred into support. This correlation appears to follow the logic that as the AFP receive more reports of matters, they undertake a higher number of investigations which results in a higher number of people being identified as victims. However, the number of referrals to the STPP as a percentage of reports to the AFP over a financial year period has fluctuated between 22% and 40% from 2012 to 2020.

As this data demonstrates, although reports to the police and referrals to the STPP have been on an upward trajectory since the 2012-2013 financial year, the percentage of referrals to the STPP resulting from the number of reports to AFP has remained at a relatively low percentage, consistently 40% or below, despite the fact that a single report may also involve multiple individuals. This highlights the central role the police play in shaping official statistics on modern slavery victimisation in Australia. Such a process of attrition in victim numbers as they progress through formal government response pathways, as seen in Figure 3, has been

described as the ‘funnelling effect’ of the criminal justice system³¹. The funnelling effect sees a small proportion of the estimated 1,300 modern slavery victims (estimated through conservative MSE studies) reported to police, and a significantly smaller number of people identified as victims (40% or below) and referred to government funded support. While attrition is a common issue in criminal justice systems³², it is particularly problematic in modern slavery crimes where the process of providing support to victims is intricately linked with prosecutorial processes. In Australia, this linkage is evident as a policing agency is the only organisation able to assess and refer victims to the STPP. This can result in a narrow legislative/prosecutorial focus when assessing victimhood and consequently referring victims to support. Extended periods of support for those referred for sexual exploitation, labour exploitation or exit trafficking through the STPP is also only available to those victims who are willing and able to assist in further investigations and prosecutions.

This discussion demonstrates that under the current structures, police act as ‘gatekeepers’ to the provision of support to people impacted by modern slavery in Australia. This poses problems when policing priorities change, which is demonstrated by the impact on police referrals to the STPP during COVID-19. The quarterly 2020 data measuring AFP referrals to the STPP corresponds with the drop in reports to the AFP within the three-month period between April and June 2020, as the same period also recorded the lowest number of referrals to the STPP. During this time only 6 individuals were identified as victims and referred to the STPP, compared to 36 individuals in the first quarter of the period from July to September 2019, 25 individuals between October to December 2019 and 20 individuals between January to March 2020. After this drop to only 6 individuals having been referred to the STPP between April to June 2020, the number of individuals referred increased again to 19 in the July-September 2020 period.

³¹ Satyanshu Mukhaerjee et al., *The Size of the Crime Problem in Australia*, Australian Institute of Criminology (1987).

³² Kathleen Daly and Bridgitte Bouhours, “Rape and Attrition in the Legal Process: A Comparative Analysis of Five Countries”, *Crime and Justice* 39 (2010).

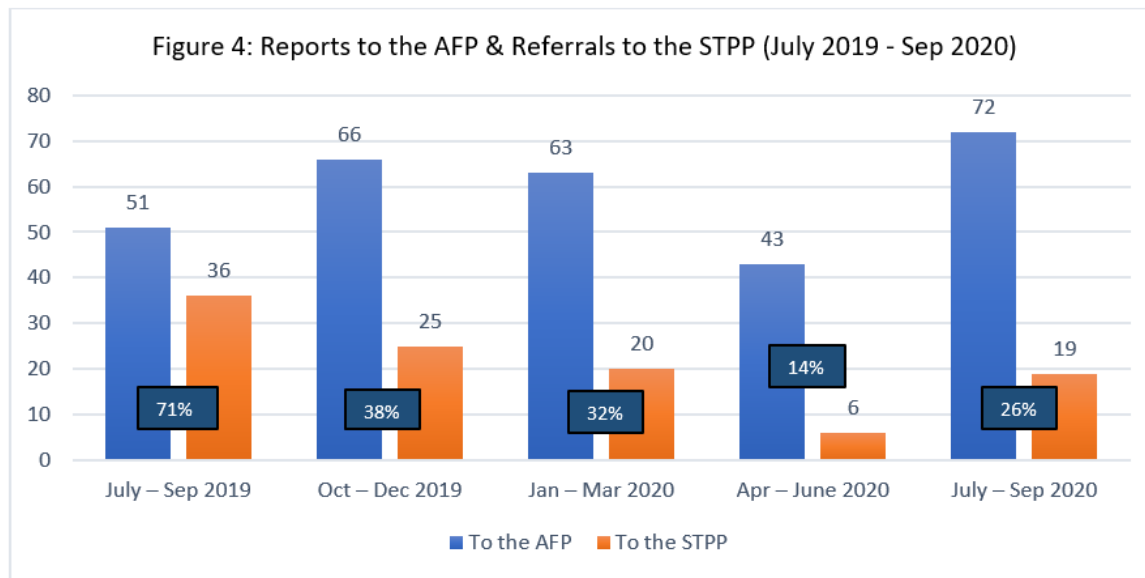


Figure 4: Comparison of reports to the AFP and referrals to the STPP from July 2019 to September 2020, with referrals to the STPP as a percentage of reports to the AFP.

However, the most substantial finding comes from comparing the number of reports of suspected instances of modern slavery made to the AFP with the number of referrals the AFP made to the support program for the COVID-19 impacted period. Comparison of quarterly figures from the 2019/20 financial year shows a significant drop in the number of referrals to the STPP as a percentage of reports to the AFP during the April to June 2020 quarter. During this period, the number of reports made to the AFP declined to 43 reports from 63 in the previous quarter, and the number of people identified as victims of modern slavery and referred to the STPP declined to only 6 individuals, from 20 in the previous quarter, meaning that only 14% of reports resulted in referrals of individuals to support, compared to the previous quarter where this was 32%. During the subsequent quarter from July to September 2020 however, the number of people identified as victims of modern slavery and referred to the STPP was 19, which is a rise back up to 26% of the 72 reports of suspected instances of modern slavery reported to the AFP. The significance of the decline in the number of referrals to the STPP as a percentage of reports to the AFP during April to June 2020 to only 14% is highlighted further when referring back to Figure 3 which shows that analysis of financial year data from 2012-2020 finds the same percentage has never dropped below 22% in this period.

This significant drop in the percentage of reports resulting in referrals during April to June 2020 coincides with the most prominent period of Australia's COVID-19 national response during which there was the most widespread restrictions in place across the country. The pandemic significantly changed the landscape of crime, justice and law enforcement in Australia. Reflecting this, the Australian Parliamentary Joint Committee on Law Enforcement established an inquiry into criminal activity and law enforcement during the COVID-19 pandemic, noting

‘the pandemic and related social distancing measures...are likely to have affected the capacity of law enforcement to combat crime and enforce the law’³³. Submissions to this inquiry by key policing bodies across Australia highlighted that the pandemic saw the rise of new types of crimes such as criminal profiteering (particularly in relation to PPE), fake medical supplies, fraud of government support initiatives, identity fraud, cyber security, and online child exploitation³⁴, all of which required increased police attention. As the Australian Institution of Policing (AiPol) noted ‘illicit economies have changed, criminal actors have adapted and policing has been so focused on reacting to the pandemic and the subsequent public emergency, that there has been little time for policing agencies to analyse and adapt to the new criminal environment’.³⁵

The pandemic meant that significant law enforcement attention and resources needed to be swiftly diverted from normal duties to support not only new criminal activities, but also the large-scale response to COVID-19. The DHA commented on this in their submission to the inquiry stating that they ‘redirected resources, shifted priorities and created specialised task forces to swiftly respond to the changing threat environment’³⁶. For the DHA, this response included activities such as the national coordination of non-health responses to COVID-19, preparedness planning as a result of social distancing measures, risk and safety measures associated with managing positive COVID-19 cases within correctional facilities, and supporting supermarkets and supply chains impacted by panic buying.

The AFP also played an essential role in the national emergency response, launching “Operation Protect” in March 2020 to help manage safety measures that were put in place to contain the spread of the virus. This included redeploying 102 staff³⁷ to COVID-19 related activities including the management of airport and cruise ship arrivals, quarantine of Australians returning from overseas, protecting remote and vulnerable Indigenous communities, the enforcement of state border checks, and patrols to monitor adherence to social distancing measures, public health orders and government instructions³⁸. The AFP commented on this in

³³ Parliamentary Joint Committee on Law Enforcement, “Inquiry into Criminal Activity and Law Enforcement During the COVID-19 Pandemic”, *Media Release*, June 24, 2020, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Law_Enforcement/COVID-19/Media_Releases (accessed 26 January 2021).

³⁴ Australasian Institute of Policing. *Parliamentary Joint Committee on Law Enforcement: Inquiry into Criminal Activity and Law Enforcement During the COVID-19 Pandemic*. Submission 19.

³⁵ Australasian Institute of Policing. *Parliamentary Joint Committee on Law Enforcement Submission*.

³⁶ Department of Home Affairs, *Home Affairs Portfolio Submission*.

³⁷ Australian Federal Police, *AFP deploys members to NT to help protect vulnerable communities from COVID-19*, April 2 2020, <https://www.afp.gov.au/news-media/media-releases/afp-deploys-members-nt-help-protect-vulnerable-communities-covid-19>, (accessed January 15 2021).

³⁸ Australian Federal Police, *Annual Report 2019-2020*, <https://www.afp.gov.au/sites/default/files/PDF/Reports/02112020-afp-annual-report-2019-20.pdf> (accessed January 15 2021): 62-63.

their submission to the inquiry stating ‘new demands have been placed on police, such as the requirement to enforce social distancing and quarantining directions’³⁹.

An integral part of Australia’s response to COVID-19 has been border closures between states, with state borders often shutting with minimal notice due to localised outbreaks. In 2020, this meant constantly shifting priorities for both the AFP and state police and the redirection of significant operational resources from other core law enforcement activities⁴⁰. Policing the borders became a very resource intensive operation⁴¹. As state and territory police forces allocated considerable resources into policing state borders, enforcing quarantine measures, and undertaking COVID-19 compliance checks⁴², they required the assistance of the AFP. For example, the AFP was deployed to 14 locations throughout the Northern Territory to implement biosecurity and border control checkpoints and assist in community policing measures⁴³. The AFP also assisted key policing counterparts in Western Australia, South Australia, New South Wales, Victoria and Queensland⁴⁴. As this highlights, COVID-19 impacted the capacity of law enforcement agencies to respond to the normal crime types as police were ‘consumed with dealing with public order issues, state border controls, quarantine measures, pandemic outbreaks, and enforcing COVID-19 restrictions’⁴⁵.

The above challenges help to explain the drop in the number of victims of modern slavery identified and referred to the STPP by the AFP. The diversion of police and other government resources during COVID-19 impacted the AFP’s capacity to undertake their vital function of investigating reports of suspected instances of modern slavery made to them, meeting with and assessing eligibility of individuals for referral to the STPP. This reduction in capacity was witnessed by service providers. For example, one interview participant stated:

Initially there was a drop in the referrals to the STPP, which obviously in itself was somewhat concerning because we're sure that the victims didn't just disappear. It was probably more to do with the fact that they're not being identified, which is obviously a concern for us....

³⁹ Australian Federal Police. *Submission by the Australian Federal Police, Parliamentary Joint Committee on Law Enforcement: Inquiry into Criminal Activity and Law Enforcement During the COVID-19 Pandemic*, (2020) [file:///C:/Users/langlenj/Downloads/Sub04_AFP%20\(3\).pdf](file:///C:/Users/langlenj/Downloads/Sub04_AFP%20(3).pdf) (accessed January 15 2021).

⁴⁰ Australasian Institute of Policing, *Parliamentary Joint Committee on Law Enforcement Submission*.

⁴¹ Police Federation of Australia, *Submission Inquiry into Criminal Activity and Law Enforcement During the COVID-19 Pandemic*, Submission 17, (2020), https://www.apf.gov.au/Parliamentary_Business/Committees/Joint/Law_Enforcement/COVID-19/Submissions (accessed January 15 2021).

⁴² Nigel Hunt, ‘Top Detective Appointed to Manage COVID-19 Police Operations,’ *The Advertiser*, August 7, 2020.

⁴³ Australian Federal Police, *Submission by the Australian Federal Police, Parliamentary Joint Committee on Law Enforcement*.

⁴⁴ Australian Federal Police. *Submission by the Australian Federal Police, Parliamentary Joint Committee on Law Enforcement*.

⁴⁵ Australasian Institute of Policing. *Parliamentary Joint Committee on Law Enforcement Submission*.

Another service provider offered observations that further contextualises the decline in the number of individuals referred to the STPP:

The AFP was just responding to the pandemic needs so their focus was not necessarily on things like identifying and referring potential people that have faced a situation of exploitation.

Service providers provided further comment on the reasoning for this reduction:

That it came through a reduction in activities from all preventative measures from authorities in one way, because they weren't doing as many investigations. Border Force weren't doing the proactive work, such as going out to agriculture farms and checking in with their operations and things like that.

As these comments highlight, when policing and other government agencies' resources were diverted into COVID-19 responses there was a reduced capacity for reporting suspected instances of modern slavery, investigating reports and pursuing prosecutions, which meant fewer victims were identified and referred to the STPP.

The Limiting Effect of the Criminal Justice Response to Modern Slavery Victims

As the above discussion shows, in Australia, as with many other jurisdictions globally, the Commonwealth Government's framework for responding to the issue of modern slavery, including the identification of victims and provision of support services, is closely linked to criminal justice processes. The positioning of trafficking as an issue of criminal justice, and a particular focus on sexual exploitation of women and children has meant that responses have been dominated by crime control models, led by policing agencies⁴⁶. Research from the United States context has found that police are not always well placed to investigate modern slavery crimes as they typically define human trafficking in a relatively narrow manner and are often reactionary in their identification of victims⁴⁷.

The limiting effect of the linkage of victim support with criminal justice processes, and in particular of the AFP as the sole referrer to the STPP, has been widely acknowledged both nationally and internationally including by Ms Joy Ngozi Ezeilo, previous Special Rapporteur on Trafficking in Persons, who noted the ongoing linkage between criminal processes and access to

⁴⁶ Alicia Jurek and William King, "Structural Responses to Gendered Social Problems: Police Agency Adaptations to Human Trafficking," *Police Quarterly* 23, no1 (2020): 25-54.

⁴⁷ Yvon Dandurand, "Human Trafficking and Police Governance," 322-336.

support services in Australia ‘imposes an additional burden on victims of trafficking’⁴⁸. Recognising that many victims of modern slavery may be unwilling or unable to approach AFP officers, the Parliament of Australia has also previously recommended that ‘the Australian Government extend the ability to refer potential victims to the Support for Trafficked People Program and the Bridging F visas beyond the Australian Federal Police’⁴⁹. All service providers interviewed for this research discussed the limiting effect of official victim support measures relying on police investigations and prosecutorial focused definitions of modern slavery. One aspect of this is the high threshold of indicators that individuals must meet to be labelled as a victim of modern slavery crimes and to have their case pursued by the AFP:

The standard of proof to make that criminal code in criminal offenses is very high and it can be difficult to meet and difficult to prove. It can mean that because it's under the criminal code, people don't necessarily recognize what a victim looks like or what their circumstances look like. So, they're not necessarily being recognized as a victim of modern slavery.

Another service provider noted that linking support to criminal justice processes can leave victims subject to strategic and practical prosecutorial decisions without access to much needed ongoing support:

The support program is linked to the criminal justice process So, if the AFP decides that they don't have enough evidence or a victim is not going to be able to provide a statement or be a witness because of the impacts of what's happened to them it's likely that they won't pursue the case. And then the person will need to transition out of support.

In addition to this, and as identified by the Parliament of Australia in their recommendation for an additional referral pathway to the STPP, stakeholders saw that the linkage of support with the criminal justice process presents a barrier for many victims to even engage with police in the first instance.

⁴⁸ Joy Ngozi Ezeilo, *UN Human Rights Council, Report of the Special Rapporteur on trafficking in persons, especially women and children*, Addendum, Mission to Australia, 18 May 2012, A/HRC/20/18/Add. 1: 14.

⁴⁹ Parliament of Australia, Joint Standing Committee on Foreign Affairs, Defence and Trade. *Inquiry into establishing a Modern Slavery Act in Australia. Hidden in Plain Sight Report*, December 2017. Par 6.70 https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ModernSlavery/Final_report (accessed April 14 2021).

...needing to be assessed by the criminal justice lens is a barrier for engagement for a lot of people. That's pretty well recognized as being around fear of authorities and people's previous experiences with authorities in other countries or just community attitudes or the fear of shame or stigma from community if they do make reports to authorities.

The Australian Institute of Criminology has identified that fear of authority as a significant factor in shaping help-seeking behaviour,⁵⁰ further evidencing the limiting impact that a reliance on the AFP as the sole referrer to the STPP has on the access of support to victims of modern slavery.

In Australia, despite the presence of several civil society stakeholders active in the anti-slavery space, there is limited support for victims of modern slavery who are not part of the official government funded victim support program. One service provider described victim support outside the STPP as 'very fragmented and inadequate'. Another service provider said that victims that fall outside the official support paradigm 'really do just fall through the gaps of the social services system'. During COVID-19, the stakeholders who were providing services to victims of modern slavery faced many challenging when forced to quickly adapt to the changing social and economic conditions presented by lockdowns to try to ensure support services for vulnerable individuals continued. One service provider explained the situation:

...we were literally just putting together a patchwork of services to meet that person's needs. And it's wholly inadequate. And it really leads to incredibly poor health and wellbeing outcomes, including...severe mental health decline because of the stress and not being safe. It puts people back into situations of risk to experience exploitation,

Given the detrimental impact of the pandemic on individuals mental health, at the same time as trying to meet basic needs with limited physical and financial resources, service providers described having to extend their support to include increased emotional support for victims in precarious situations:

[COVID-19] required a lot of additional emotional support from workers just because there was, of course, the need for covering that emotional gap.

In addition, vulnerable individuals who fell outside of the STPP faced barriers in accessing basic support from mainstream services, in particular for housing, as a service provider describes:

⁵⁰ Australian Institute of Criminology, *The nature and context of forced marriage in Australia and New Zealand*. 2018, p. 58 and 81.

really, in those first few months, we escalated into crisis response because people were just, you know, almost homeless, didn't have any money, no food, couldn't look after their children. It became very dire.

Housing shortages was a particular issue raised by many service providers who identified this was linked to a sudden drop in employment for vulnerable individuals.

These discussions highlight the key role that service providers play to support those individuals affected by modern slavery who are unable to access STPP as the official government funded victim support program, however also the vulnerability of these services themselves when under the pressures placed on them by a pandemic. The limiting effect the criminal justice response to modern slavery victims in Australia has on their identification as victims and their access to support is therefore clearly visible when analysing the COVID-19 emergency response.

Conclusion

This article has provided the first comprehensive study of the impact of COVID-19 on the identification of victims of modern slavery and their access to support in Australia. The difficulties associated with detecting victims of modern slavery in Australia and the numerous barriers that prevent victims from accessing support services is widely acknowledged⁵¹. This article found that these underlying issues were amplified during the COVID-19 pandemic, resulting in the under-identification and referral to support of victims of modern slavery. The positioning of support for modern slavery victims within a law and order framework is a common feature of global responses to modern slavery. A sole reliance on a single policing agency to identify victims and refer them to government funded support, however, is not. This over-reliance on a policing agency meant that when Australia's large-scale nation-wide emergency COVID-19 response led to policing and other government resources being diverted elsewhere, police were under resourced to undertake this vital function. The impact of this is that victims of modern slavery were either supported by other service providers who faced significant challenges meeting basic needs due to the pandemic, were unsupported, or remained unidentified in situations of exploitation.

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⁵¹ Jaqueline Joudo Larsen and Lauren Renshaw, "People Trafficking in Australia".

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