

**PARLIAMENTARY JOINT COMMITTEE ON FOREIGN AFFAIRS, DEFENCE
AND TRADE:
INQUIRY INTO ESTABLISHING A MODERN SLAVERY ACT IN AUSTRALIA**

Question No. 1

Senator Gallacher asked the following question at the hearing on 22 June 2017:

Provide detail about the 20 convictions for human trafficking, slavery and slavery-like offences since 2004 and the difficulty of prosecutions in relation to these offences.

The answer to the honourable senator's question is as follows:

There were 20 convictions for human trafficking, slavery and slavery-like offences in Australia between 2004 and 30 June 2017. Below is a breakdown of convictions by offence type and by state and territory.

Convictions by <i>Criminal Code</i> (Cth) provision	270.3(1) Slavery	270.5(1) Servitude	Previously 270.6(2) Sexual servitude*	271.2(1B) Trafficking in persons	271.2(2B) Trafficking in persons	271.4(1) Trafficking in children	State/ Territory
DOBIE, Keith							Qld
DS							Vic
HO, Ho Kam							Vic
HO, Kam Tin							Vic
K							Qld (QDPP)
KOVACS, Melita							Qld
KOVACS,Zoltan							Qld
LEECH, Sarisa							Vic
McIVOR, Trevor							NSW
NANTAHKHUM,Wat charaporn							ACT
NETTHIP,Namthip							NSW
SEIDERS, Johan							NSW
TANG, Wei							Vic
TANUCHIT,Kanokpo rn							NSW
TRIVEDI, Divye							NSW
WONG,Chee Mei							NSW
YOTCHOMCHIN(KE NT), Somsri							NSW
McINTOSH (a pseudonym)							Vic
Yu-Hao HUANG							Qld
Bo-Syun CHEN							Qld

* In 2013, amendments to the Commonwealth *Criminal Code* broadened the existing offence of sexual servitude to apply to servitude in all industries.

It can be difficult to secure convictions in human trafficking and slavery-related prosecutions because the cooperation of suspected victims is essential. In some cases, victims may be unable or unwilling to contribute to a criminal justice process due to trauma or threats by the alleged offenders. It can also be difficult to corroborate victims' evidence to the high standard required in criminal prosecutions.

While securing successful prosecutions is a key objective of Australia's *National Action Plan to Combat Human Trafficking and Slavery 2015-19*, the prevention and disruption of these offences, as well as victim support and protection, are equally important objectives of Australia's approach to human trafficking and slavery.

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Question No. 2

Mr Crewther MP (Chair) and Senator Gallacher asked the following questions at the hearing on 22 June 2017:

1. In which areas, and in which industries, in Australia are modern slavery practices most prevalent?
2. What are the geographical instances of the 750 human trafficking and slavery-related referrals to the Australian Federal Police since 2004?

The answer to the honourable minister's and senator's questions is as follows:

Referrals

In 2013, the Australian Government substantially amended the human trafficking and slavery-related offences set out in the *Criminal Code* to ensure that these offences can capture exploitation irrespective of the industry where it occurs. Prior to these amendments the *Criminal Code* offences were focused primarily on exploitation in the sex industry. Key changes made by the amendments entered into force on 1 July 2013 and included: creating a standalone offence of forced labour; broadening the existing offence of sexual servitude to apply to servitude in any industry; and criminalising forced marriage.

Below is a breakdown by state and territory of human trafficking and slavery-related referrals received by the Australian Federal Police (AFP) since the 2013 amendments to the *Criminal Code*. Note: The breakdown does not include referrals attributed as offshore.

REFERRALS TO AFP IN AUSTRALIAN CAPITAL TERRITORY				
	2013-14 FY	2014-15 FY	2015-16 FY	2016-17 FY
Forced marriage	1	0	0	0
Sexual exploitation	1	2	0	0
Labour exploitation	4	2	1	0
Child trafficking	0	3	0	0
Trafficking	0	0	0	0
Other	1	0	0	1
Total	7	7	1	1

REFERRALS TO AFP IN NEW SOUTH WALES

	2013-14 FY	2014-15 FY	2015-16 FY	2016-17 FY
Forced marriage	5	19	36	38
Sexual exploitation	12	8	19	8
Labour exploitation	10	9	14	7
Child trafficking	0	3	7	5
Trafficking	1	0	3	3
Other	1	0	0	13
Total	29	39	79	74

REFERRALS TO AFP IN VICTORIA

	2013-14 FY	2014-15 FY	2015-16 FY	2016-17 FY
Forced marriage	3	10	19	10
Sexual exploitation	6	12	12	7
Labour exploitation	4	11	16	4
Child trafficking	0	0	2	0
Trafficking	1	3	8	3
Other	0	3	0	5
Total	14	39	57	29

REFERRALS TO AFP IN QUEENSLAND

	2013-14 FY	2014-15 FY	2015-16 FY	2016-17 FY
Forced marriage	0	4	5	1
Sexual exploitation	2	3	4	3
Labour exploitation	2	4	3	1
Child trafficking	2	5	1	0
Trafficking	0	1	2	2
Other	0	0	2	4
Total	6	17	17	11

REFERRALS TO AFP IN SOUTH AUSTRALIA

	2013-14 FY	2014-15 FY	2015-16 FY	2016-17 FY
Forced marriage	1	0	4	8
Sexual exploitation	3	0	1	0
Labour exploitation	0	2	1	3
Child trafficking	0	0	0	0
Trafficking	0	0	0	0
Other	0	0	0	1
Total	4	2	6	12

REFERRALS TO AFP IN NORTHERN TERRITORY				
	2013-14 FY	2014-15 FY	2015-16 FY	2016-17 FY
Forced marriage	0	0	0	0
Sexual exploitation	1	0	0	1
Labour exploitation	0	0	0	0
Child trafficking	0	0	0	0
Trafficking	0	0	0	0
Other	0	0	0	0
Total	1	0	0	1

REFERRALS TO AFP IN WESTERN AUSTRALIA				
	2013-14 FY	2014-15 FY	2015-16 FY	2016-17 FY
Forced marriage	1	0	1	3
Sexual exploitation	6	9	2	0
Labour exploitation	2	5	1	4
Child trafficking	0	0	0	1
Trafficking	0	0	0	1
Other	0	1	0	0
Total	9	15	4	9

REFERRALS TO AFP IN TASMANIA				
	2013-14 FY	2014-15 FY	2015-16 FY	2016-17 FY
Forced marriage	0	0	0	0
Sexual exploitation	0	0	0	0
Labour exploitation	0	0	0	0
Child trafficking	0	0	0	0
Trafficking	0	0	0	0
Other	0	0	0	1
Total	0	0	0	1

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Question No. 3

Senator Reynolds asked the following question at the hearing on 22 June 2017:

Provide information on the two cases currently before the courts in Western Australia involving labour gangs, including details of how victims were identified.

The answer to the honourable senator's question is as follows:

Carabooda

Between 3 and 11 May 2014, the Western Australian Police (WAPOL) led a joint agency operation in Carabooda in conjunction with the Australian Federal Police (AFP), the Department of Immigration and Border Protection (DIBP), the Australian Securities and Investment Commission (ASIC), the Australian Taxation Office (ATO), and Customs. The operation was primarily focussed on a money laundering syndicate operating out of farms and WA's market garden industry.

A total of 122 non-citizens were located during the operation, and subsequently detained under section 189 of the *Migration Act 1958* (Cth). Of these, 49 were females and 73 were males (including one male minor). The identification of human trafficking indicators was a key operational priority for the AFP, and was considered from the outset. No victims of human trafficking were identified.

Contrary to media reporting, 119 of the 122 detainees were removed from Australia by 23 May 2014 – with the fastest removal occurring within five days of detention (not 48 hours as reported in the media).

The Carabooda operation occurred prior to the formation of Taskforce Cadena.

A number of individuals were charged with harbouring unlawful non-citizens and dealing in proceeds of crime. The majority of these matters are currently ongoing.

Pemberton

In early March 2017, DIBP (including the Australian Border Force (ABF)), AFP, WAPOL, and FWO participated in joint operational activity in Pemberton, Western Australia, following intelligence and investigation of illegal labour hire activity being facilitated within the area.

The sole objective of this activity was to gather evidence of organised visa fraud and the exploitation of foreign workers. While Taskforce Cadena does not undertake operational activity for the purpose of targeting and detaining unlawful non-citizens, unlawful

non-citizens and others working in breach of visa conditions were identified during this operation.

ABF officers provided all individuals located during this activity the opportunity to discuss their current circumstances. In line with the *National Action Plan to Combat Human Trafficking and Slavery 2015-19*, if a person claims to have been exploited, or indicators of human trafficking and/or exploitation are identified by an ABF officer, the person is referred to the AFP for further assessment. In this case, no victims of human trafficking were identified.

ABF officers are trained in identifying human trafficking indicators, including labour exploitation, and are aware of the protocols for referring potential victims to the AFP in accordance with the *DIBP-AFP Human Trafficking Referral Protocol*. Additionally, there is a network of specialist Human Trafficking Contact Officers (HTCOs) embedded within the ABF whose role it is to assess and refer suspected trafficking cases to the AFP and provide guidance to other frontline officers.

To assist on the ground in Pemberton, FWO inspectors were present to collect information about suspected underpayment of wages by labour hire intermediaries. All persons located were assessed individually on a case-by-case basis and encouraged to report any exploitation to the FWO.

Operational activity conducted under the Taskforce Cadena banner not only impacts the target premises, but is also a significant disruption and deterrent to the labour hire intermediaries that facilitate the exploitation of foreign workers.

Investigations are ongoing.

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Question No. 4

Senator Reynolds asked the following question at the hearing on 22 June 2017:

Provide information on the implications of legislating a criminal offence for an organisation to facilitate an Australian travelling overseas to engage in child sexual exploitation, or to support facilities that are engaging in child exploitation.

The answer to the honourable senator's question is as follows:

The Australian Government is committed to holding Australians accountable for child sexual exploitation they commit overseas, including in relation to sham orphanages. Child sexual exploitation outside Australia is criminalised under Division 272 of the Commonwealth *Criminal Code*. Division 272 provides that it is a criminal offence for an Australian citizen or resident to:

- engage in sexual intercourse or sexual activity with a child outside Australia
- cause a child to engage in sexual intercourse or sexual activity outside Australia in that person's presence
- engage in persistent sexual abuse of a child outside Australia
- procure or groom a child to engage in sexual activity outside Australia; and
- benefit from, encourage, prepare for, or plan, sexual offences against children outside Australia.

These offences also apply to a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; or any other body corporate that carries on its activities principally in Australia.

Pursuant to subdivisions 272.18 and 272.19 of the *Criminal Code*, the Australian Federal Police has the ability to investigate allegations of Australian individuals or relevant bodies corporate who intend to benefit from, or encourage, a child sex offence overseas. 'Benefit' includes financial benefit and 'encourage' has a broad meaning encompassing incite to, urge, aid, facilitate, or contribute to, in any way or by any means whatsoever.

Subdivisions 272.18 and 272.19 of the *Criminal Code* provide that a body corporate would be criminally liable where it intends to facilitate an Australian travelling overseas to engage in child sexual exploitation (including in orphanages). A body corporate would also be criminally liable where it intends to support an Australian body corporate, or any other body corporate with principal activities in Australia, which engages in child sexual exploitation overseas. Subdivision 272.20 of the *Criminal Code* provides that a body corporate would be criminally liable where it intentionally prepares for, or plans to, benefit from an Australian

individual or relevant body corporate committing a child sex offence overseas. These offences apply whether or not the child sex offence overseas is in fact committed. These offences carry serious penalties of up to 20 years' imprisonment.

The Minister for Justice has asked the *National Roundtable on Human Trafficking and Slavery* to further consider the issue of sham orphanages at its next senior officials' meeting on 30 August 2017.

As part of the *National Action Plan to Combat Human Trafficking and Slavery 2015-19*, the Australian Government trains officials posted overseas to recognise the indicators of human trafficking and slavery and to respond appropriately. Officers are required to report information, which relates to the possible or attempted commission of serious extraterritorial offences under Australian law, including child sex offences.

The Department of Foreign Affairs and Trade (DFAT) also works with international counterparts to address child exploitation overseas. There are several victim-centred activities under our regional human trafficking program, the Australia-Asia Program to Combat Trafficking in Persons (AAPTIP). Activities seek to improve the treatment by duty bearers of vulnerable victims, including children, in the criminal justice system. For example, AAPTIP has delivered improved victim-sensitive facilities in Lao PDR courts. AAPTIP also sub-grants World Vision and Save the Children in Myanmar to provide services to victims participating in the criminal justice process, including children.

Australia's TRIANGLE in ASEAN program supports safe and legal migration in South-East Asia. It works with ASEAN countries to reform labour migration policies and legislation; and provides legal and financial advice to prospective migrant workers through Migrant Resource Centres (MRCs). Some of this involves children, including through MRCs, and building the capacity of labour officers and employers to withdraw children from hazardous occupations and child labour.

The Australian Government also provides \$21 million a year in core funding to UNICEF's regular resources. Funding is used to support UNICEF's core priorities, one of which is child protection, including issues related to child trafficking. UNICEF works with development partners, governments and non-governmental organisations on all aspects of anti-trafficking responses (prevention, protection and prosecution).

DFAT also works bilaterally to address child exploitation. For example, DFAT encourages the Cambodian Government's efforts to implement appropriate community-based care options for vulnerable children. Particular programs in Cambodia include providing \$425,000 (2013-2017) through the aid budget to Hagar Cambodia. Hagar Cambodia provides assistance and aftercare programs (including shelter) for women and children who have experienced human trafficking, gender-based violence and extreme human rights abuse. We also support Save the Children to strengthen community systems for child protection under the Australian NGO Cooperation Program. This program [in ten communes in Prey Veng province] increases knowledge and application of positive parenting techniques; provides social work support to children and families; and strengthens child protection mechanisms.

As part of its zero-tolerance approach to child exploitation overseas, DFAT also has a Child Protection Policy, which sets out the expectations of its staff, and DFAT funded partners in the management of child protection risks.

Finally, in response to concerns about the sexual abuse of vulnerable children overseas, the Government developed measures to prevent registered Australian child sex offenders from committing offences overseas. The *Passports Legislation Amendment (Overseas Travel by Child Sex Offenders) Act 2017*, passed by Parliament on 20 June 2017, gives the Minister for Foreign Affairs the power to deny passports to registered Australian child sex offenders with reporting obligations upon request by a competent authority (usually state or territory law enforcement agencies). It also makes it an offence for registered Australian child sex offenders with reporting obligations to travel, or attempt to travel, overseas without permission from a competent authority. These measures are unique in the world and make Australia a world leader in protecting vulnerable children overseas.

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Question No. 5

Senator Singh asked the following questions at the hearing on 22 June 2017:

1. Why was funding for specialist anti-trafficking NGOs not included in the recent Budget?
2. Where was the decision made to renew funding and make the NGOs compete for funding and what was the date advice was provided to Government?
3. Provide timelines for funding processes, in particular when funding will start, and when funding will be provided to the NGOs.

The answer to the honourable senator's question is as follows:

The Australian Government remains committed to providing practical support to specialist non-government organisations (NGOs) working to prevent and address human trafficking and slavery in Australia.

On 31 March 2017, the Minister for Justice agreed to commit further funding to support anti-trafficking NGOs beyond 2016-17. On 2 June 2017, the Minister for Justice agreed that the Attorney-General's Department invite selected anti-trafficking NGOs to apply for funding through a targeted competitive grants round. This approach is consistent with the *Commonwealth Grants Rules and Guidelines*, the *Public Governance, Performance and Accountability Act 2013* and best-practice grants administration.

On 6 June 2017, a Forecast Opportunity was published on GrantConnect (www.grants.gov.au) advising of the intention to conduct a 2017-18 grants round. The Human Trafficking and Slavery Prevention Grant Opportunity officially opened on 19 June 2017 and closed at 11:59PM on 3 July 2017. Decisions regarding the allocation of funding are a matter for the Minister for Justice.

The Grant Opportunity sits within the *National Community Crime Prevention Program*, an existing grants program under the *Financial Framework (Supplementary Powers) Regulations 1997* with funding already allocated to it by Government. The 2017-18 Budget provides comprehensive information on all Australian Government decisions that involve changes to its revenue, expense and investing activities since the last budget cycle. As the Grant Opportunity did not constitute a change to expenses, it was not included in the Budget Papers.

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Question No. 6

Senator Reynolds asked the following question at the hearing on 22 June 2017:

What is the Australian Government's view of the UK referral system for suspected trafficking victims (involving a contract with the Salvation Army as primary contractor who tenders out services as appropriate) and would it be a worthwhile system for Australia?

The answer to the honourable senator's question is as follows:

Australia already has a comprehensive and best-practice dedicated support program for suspected victims of human trafficking and slavery which is comparable to the UK system.

The Australian Government's Support for Trafficked People Program (STPP) is administered by the Department of Social Services and delivered by the Australian Red Cross. Clients receive a range of wrap-around services through the STPP, including individual case management, safe and secure accommodation, medical and social care, counselling, skills development training and referral to legal and migration advice.

Trafficked people may be identified through a number of avenues, including the general public, immigration officials, law enforcement agencies, non-government organisations, hospitals, medical practitioners, consulates, and government agencies. Once identified, trafficked people are referred to the Australian Federal Police (AFP) for assessment and, where appropriate, entry to the STPP. Eligibility for the STPP is determined by the AFP and is based on whether a person is, or may have been, the victim of a human trafficking or slavery-related offence. The AFP's role in this process is similar to the role of the UK Government's National Referral Mechanism. The National Referral Mechanism provides a framework for the UK Government to determine if an individual is a potential victim of human trafficking or slavery.

All suspected trafficking victims referred to the STPP by the AFP receive up to 45 days of support under the STPP. This is consistent with the 45 day reflection and recovery period provided in the UK and is not dependent on assistance with an investigation or prosecution. Unlike the UK, the STPP provides access to a further 45 days (equalling 90 days) of support for trafficked people who are willing but temporarily unable to assist with the investigation or prosecution of a human trafficking or slavery-related offence. Children are automatically entitled to access 90 days of support, if it is in their best interests. All clients exiting the STPP are entitled to a further 20 day transition period, which may be extended on a case-by-case basis.

Suspected victims assisting with the investigation and/or prosecution are provided ongoing support under the STPP until the matter is finalised. This entitles them to additional benefits

such as long-term accommodation, welfare benefits, access to Medicare and legal services, English-language training and assistance to obtain employment and training. Unlike Australia, the UK does not provide ongoing support for victims who assist with the investigation and/or prosecution of a human trafficking or slavery-related offence.

A suspected trafficking victim who is not an Australian citizen and does not hold a valid visa can also have their visa status regularised under the Australian Government's Human Trafficking Visa Framework. This includes a Bridging F Visa to allow the suspected victim to remain in Australia for the initial 45 or 90 day support under the STPP. Bridging visas can also be provided to ensure a person can remain legally in Australia during a criminal justice process. A trafficked person who has made a contribution to an investigation or prosecution, and would be in danger if returned to their home country, is eligible to apply for a permanent visa to remain in Australia.

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Question No. 7

Mr Feeney MP asked the following question at the hearing on 22 June 2017:

How often are temporary visas granted to suspected trafficked people?

The answer to the honourable minister's question is as follows:

The Australian Government's comprehensive Human Trafficking Visa Framework enables foreign nationals, who do not already hold a valid visa and are suspected victims of human trafficking or slavery, to remain lawfully in Australia. Like Australian citizens and other valid visa holders who are suspected trafficked people, they are then able to access support through the Support Program.

The Human Trafficking Visa Framework comprises two visas:

1. Bridging F visa (BVF) – a person assessed by the Australian Federal Police as a suspected trafficked person may be eligible for a BVF for up to 45 days. A BVF can also be granted to the trafficked person's immediate family members in Australia. A second BVF may also be granted for a further 45 days (making up to 90 days available). Access to a second BVF is assessed on a case-by-case basis. Trafficked people on BVFs have work rights and are eligible to receive support through the Support Program. The BVF also allows trafficked people to remain in Australia while they assist with the administration of the criminal justice process.
2. Referred Stay (Permanent) visa – a trafficked person who has made a contribution to an investigation or prosecution of an alleged offender and would be in danger if they returned to their home country may be eligible for a Referred Stay (Permanent) visa. This visa allows the holder to remain in Australia permanently, and immediate family members may be included in the visa application.

A Referred Stay (Permanent) visa may be granted to a trafficked person if the criteria prescribed in the *Migration Regulations 1994* are met. These include, but are not limited to:

- the Attorney-General certifies that the person has made a contribution to, and cooperated closely with, an investigation in relation to another person who was alleged to have engaged in human trafficking, slavery or slavery-like practices

- the person is not the subject of a prosecution for an offence that is directly connected to the prosecution mentioned in the Attorney-General's certificate, and
- the Minister for Immigration and Border Protection is satisfied that the person would be in danger if he or she returned to his or her home country.

On 1 July 2015, the Australian Government introduced regulatory reforms to the Human Trafficking Visa Framework, which were fully implemented in January 2016. Key reforms included:

- Redesigning the BVF, which supports the temporary stay of trafficked people, to enable it to both:
 - facilitate an initial period of rest and recovery, and
 - permit trafficked people to remain on a BVF while assisting in the criminal justice process, eliminating the use of a Criminal Justice Stay Visa (CJSV) and removing the perceived stigma associated with that visa.
- Renaming the Witness Protection (Trafficking) (Permanent) visa with the title Referred Stay (Permanent) visa (RSV). The neutral title of the RSV addresses the perceived stigma associated with the former visa title, affording greater privacy to trafficked people.
- Broadening the circumstances under which the Attorney-General can issue a Referred Stay certificate for trafficked people who have assisted in a human trafficking and slavery-related investigation which has not resulted in a brief of evidence to the Commonwealth Director of Public Prosecutions.
- Facilitating targeted support and access to Australian Government services, including:
 - extending eligibility for up to 510 hours of free, high-quality English language tuition through the Adult Migrant English Program to BVF holders, and
 - waiving the two year Newly Arrived Resident's Waiting Period for trafficked people on permanent visas, allowing immediate access to a broad range of social security payments and educational opportunities.
- Broadening the definition of human trafficking in the *Migration Act 1958* (Cth), to include trafficking in persons, organ trafficking and debt bondage, and to capture a range of offences under state, territory or Commonwealth criminal codes.

The table below includes Human Trafficking Visa grant statistics from 2004 until 30 June 2017. Following the 2015 visa reforms, the Criminal Justice Stay Visa is no longer issued to suspected victims of human trafficking.

VISA GRANTS BY FINANCIAL YEAR	2004- 05 FY	2005- 06 FY	2006- 07 FY	2007- 08 FY	2008- 09 FY	2009- 10 FY	2010- 11 FY	2011- 12 FY	2012- 13 FY	2013- 14 FY	2014- 15 FY	2015- 16 FY	2016- 17 FY
Bridging F visa (BVF)*	31	11	16	34	39	33	24	12	16	8	17	11	6
Bridging F visa (BVF) ("Assistance BVF")**	-	-	-	-	-	-	-	-	-	-	-	20	7
Criminal Justice Stay visa (CJSV)	23	8	18	18	30	23	29	17	21	15	9	The CJSV is no longer granted to STPP clients.	
Witness Protection (Trafficking) (Temporary) visa (WPTTV)	-	-	4	13	-	The Witness Protection (Trafficking) (Temporary) visa was removed by legislative change on 30 June 2009.							
Referred Stay (Permanent) visa (RSV) ***	-	-	-	-	5	21	42	26	18	7	8	6	20
Total	54	19	38	65	74	77	95	55	55	30	34	37	33

Note: The number of visas cited includes those granted to both suspected victims of trafficking and their immediate family members.

* More than one Bridging F visa may be granted to the same person. (Some are granted to allow re-entry after a short visit overseas).

** As a result of Australian Government reforms to the Human Trafficking Visa Framework in 2015, trafficked people are no longer placed on CJSVs. In January 2016, STPP clients on a CJSV were transitioned to the new, longer term BVF (termed the "Assistance BVF" as holders are assisting with an investigation in the same way CJSV holders have previously).

*** The Referred Stay (Permanent) visa was formerly titled the Witness Protection (Trafficking) (Permanent) visa (WPTV).