



Australia’s partner visa program: reform needed

Bob Birrell

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Executive summary

In 2016-17 there were 47,825 partner visas issued and in 2017-18, 39,799. There were another 79,027 partner applications queued up as of June 2017.

The scale of these numbers can be appreciated by comparing them with the total number of marriages contracted in Australia in 2017. This was 112,000.

The reason why the number of partner visas dropped in 2017-18 is that the Department of Home Affairs took a harder line on assessing the bona fides of partner visa applications.

Why are the number of partner sponsors so high?

Here's a couple of clues. Australia's partner visa rules allow an Australian resident to sponsor a partner if just 18, unemployed, on a welfare benefit and still living at home. Eligible sponsors include former migrants who hold a permanent residence visa even if granted very recently, such as in 2019.

All that is required for a resident to sponsor someone on a partner visa is some (until recently) easily established evidence that the relationship between sponsor and prospective visa-holder is genuine.

Australia is alone amongst Western countries in maintaining such generous rules.

What about the willingness of persons to be sponsored for a partner visa?

There is a huge incentive for potential migrants to take up the offer of a partner visa.

There were 1.4 million persons in Australia as of June 2018 on a temporary entry visa (not counting New Zealanders) some 673,000 of whom were overseas students. Almost all are eligible for a prized permanent residence visa as a partner, if they can find a resident willing to sponsor them.

Why would prospective migrants want to pursue the partner visa option? As this report details, it is becoming increasingly difficult for a temporary resident to obtain a permanent-entry visa based on skill.

So, for the large number wanting a permanent residence visa, the partner visa is an attractive alternative option. There are no onerous English language standards or any need to find an employer. All that is required is that they be at least 18 years old and that they find a resident willing to sponsor them for a partner visa.

For prospective partners living in low income countries, an Australian partner visa offers the prospect of a huge life style gain with no entry cost, other than the visa fee.

Who is taking up the partner visa option?

Only a minority of partner visas are granted to those most casual observers think dominate the partner visa category, that is, people in relationships resulting from international travel and work. Where this does happen, some of the Australian partners move to the country of their new partner (usually the UK and the USA) and some of the partners move to Australia.

The majority of partner visas derive from two quite different pathways.

One is where a foreigner is in Australia on a temporary visa (usually a student visa) and finds an Australian resident willing to sponsor them for a partner visa. I label this 'two step' migration. The scale of the student uptake of partner visas alone, is enormous. Previously unpublished data released by Department of Home Affairs (DHA) shows that in 2016-17 some 11,048 former overseas students received a partner visa, as did 9,257 in 2017-18.

The other pathway is via chain migration links, that is, where an Australian resident (usually recently arrived and Asia-born) returns home to select a partner known to their family or community. At least a third of partner visas derive from this link.

These two routes are distinctive in that both are one way – to Australia – with little or no movement away from Australia.

Why worry? First, partner visa numbers already constitute 24.5 per cent of the permanent migration program. Since most partners locate in Sydney and Melbourne they add significantly to the migration burden in these two cities. Also, few have the job skills or English language capacity to thrive in the Australian job market.

Another reason is that the stock of Asia-born residents living in Australia is increasing rapidly thus providing a growing base for persons interested in returning home for a partner. So is the stock of temporary entrants in Australia interested in finding a resident willing to sponsor them for a partner visa. Thus the demand for partner visas is set to grow.

This is occurring in a context where DHA is under pressure from migrant communities, with the support of the Federal Labor opposition, to drop the recent tougher scrutiny of partner visa applications and turn the visa into an 'on demand' option. If this happens, the number of partner visas issued will escalate.

Australia's partner visa is long overdue for reform. A suite of proposals is offered, starting with a requirement that all those who wish to sponsor a partner establish that they are old enough (at least 21) and have the secure income and housing arrangements adequate to provide for the sponsored partner.

Australia's partner visa program: reform needed

Australia's partner visa program is large. In 2010-11 it was 41,994. By 2014-15 it had risen to 47,825 and stayed at that level until 2016-17. (These figures do not include visas issued to partners of persons granted a permanent entry visa based on skill or humanitarian grounds. Their numbers are included in the skill-based and humanitarian program outcomes)

Each year until 2017-18, Department of Home Affairs (DHA) officers dutifully issued exactly the number of partner visas specified in the program. That is, the number was administered as a firm target. Notwithstanding the scale of this target, DHA could have issued more partner visas if it had allowed demand to determine the number. By 30 June 2017 there was a backlog of 79,027 applications.¹

This situation changed for the 2017-18 program year when, despite the partner program level being again set at 47,825, the Coalition government treated this number as a ceiling rather than a target. In 2017-18 'only' 39,799 partner visas were issued. This was a result of a slow-down in the processing of partner visas.

Any way you look at it this is a big number. The 39,799 number constituted a major chunk – 24.5 per cent - of the entire permanent immigration program of 162,417 in 2017-18. Once here, most stay, thus adding significantly to the overall Net Overseas Migration (NOM) level for Australia, which was 248,446 in 2018. This level of NOM is equivalent to annual growth in Australia's population of near one per cent, a rate that is far higher than in any other Western country.

Another indicator is a comparison of partner visa outcomes to the total number of marriages recorded in Australia, which in 2017 was 112,000. (True, an unknown proportion of the partner visa number would have been issued to de facto partners rather than to married partners).

While acknowledging the limits of this comparison, the number of partner visas still appears to be very large. Its scale invites questions about why so many Australian residents are choosing overseas residents as partners rather than other Australian residents.

Casual observers may believe that the number of partner visas is high because that is the natural corollary of high levels of international travel and work. It might be expected that in such settings Australian residents are bound to enter relationships which result in the formation of partnerships that lead to settlement in Australia. Few would challenge the partner visa program if that were its main function.

Even the hard heads at the Productivity Commission, when they reviewed the partner visa as part of their 2016 evaluation of the migration program, seem to have been guided by the above assumption. The report concluded that:

In the case of long-term partners, a failure to provide permanent residency rights would force the Australian partner to move overseas, destroy the relationship or, ex ante, discourage people from forming long-term relationships with people from different nationalities. It is doubtful that many Australians would accept strictures of this kind. The currently uncapped nature of visas for partners and dependent children reflects this premise.²

The Productivity Council's conclusions are fanciful. As this report shows, only a minority of partner visas derive from international travel or work encounters and most are not issued to partners who have been in long-term relationships.

The source of partner visas

As you can see from Table 1 (on p. 10), about half of the 2017-18 partner visas were issued to persons already in Australia and the other half to partners residing in offshore locations. The two streams involve quite different processes. The onshore group is mainly two-step migration and the offshore stream is mainly chain migration. I define these concepts briefly, then provide estimates of their country of citizen make-up and overall dynamics.

Two-step migration

Two-step migration refers to the situation where a migrant, already in Australia on a temporary visa, finds an Australian-resident partner willing to sponsor them for a partner visa. While the definition should be clear, there is limited information available on the extent to which persons holding temporary visas in Australia subsequently obtain a partner visa.

The veil has been partially lifted because the DHA has recently provided unpublished data on the number of temporary visa holders who held or who had held an overseas student visa and who were granted a partner visa in 2016-17 and 2017-18. Some 11,048 of these students received a partner visa in 2016-17 and 9,257 in 2017-18 (Table 1). (The number fell because of the processing slow-down in 2017-18.)

This means that around half of those receiving a partner visa while in Australia in 2017-18 (the 18,495 onshore number listed in Table 1) were overseas students or former overseas students

It is likely that thousands more temporary residents on other visas, including temporary work visas, also obtained a partner visa (though no data on their numbers have been released).

No doubt, many of these two-step partner visas have been issued to couples where the relationships were genuine. Nonetheless, whether genuine or not, this pathway to permanent residence status is in high demand. It needs to be scrutinised carefully.

Foreigners are granted temporary visas for study or work, not to facilitate a subsequent partner visa. But this is what is happening, on a large scale. Moreover, it is becoming an increasingly attractive option as temporary residents in Australia on student or other visas find it harder procure a permanent entry visa based on skill. This is because, as documented later, access to such visas has narrowed.

Chain migration

Chain migration includes partner visas where the visa is obtained as part of chain migration links back to the home community. These are married or de facto relationships contracted between Australian residents (most of whom are of Asian origin) and partners residing in the homeland. The links are typically facilitated via relationships between Australian residents and family and community still living in the homeland, and where family and community are regarded as having a legitimate role in the marriage choices of family members.

Because of Australia's attractiveness as a migrant destination, those returning home to countries like India and China find no shortage of interested partners.

Sponsors using these links to find a partner are ignoring the option of seeking an Australian resident partner. This is notwithstanding the fact that there are plenty of potential partners within the now very large Asian migrant communities resident in Australia (to say nothing about other non-Asian Australian residents).

The share of partner visas deriving from chain migration links is large and the flow seemingly never ending. This is because in some Asian communities the sponsor base is extending to second-generation Australian residents.

Why worry about two-step or chain migration?

The concern is that with both the two-step and chain pathways, the flow is one way, that is, to Australia. In the process partner visas are adding significantly to Australia's migration burden, especially via the numbers being added to the population of Sydney and Melbourne (where most of the partners resulting from these two pathways are settling).

The benefits are all in the migrant direction. The newly visaed partner benefits from the lifestyle and employment opportunities Australia provides, and eventually, health and social welfare benefits. Yet as we will see, neither they nor their sponsors are obliged to make any upfront or ongoing contribution to the costs of their residence here. They also may not have employable skills or adequate English.

Why visit the partner visa program now?

In my view the partner program, like the other major components of Australia's very high NOM, must be subject to scrutiny given the quality of life crisis enveloping Sydney and Melbourne that is resulting from this influx.

But why embark on such evaluation now? The reason is that the size and administration of the partner visa is in play as a public issue. This is not because of any clamour to reduce the partner load. Quite the contrary. The incoming post-2019 election Morrison government is under pressure to cancel the slow-down of partner visa processing implemented in 2017-18.

The processing slow-down has come under fire from migrant community advocates. Just prior to the May 2019 federal election the Federation of Ethnic Communities' Councils of Australia (FECCA) claimed that 75 per cent of partner applications take between 14 and 21 months to process. It advocated an end to the processing slow-down.³ The ALP Shadow Minister for Citizenship and Multicultural Australia, at the time, Tony Burke, responded (again, just before the election) by supporting FECCA's concerns. He implied that the ALP, if elected, would do as FECCA recommends.⁴ In effect these interests want partner visas to be processed quickly and on demand.

The new Labor shadow DHA Minister, Kristina Keneally, in her first statement about Labor's policy stance, chimed in by endorsing these concerns. She asserted that: 'These bureaucratic bottlenecks are immensely frustrating for people caught in them.'⁵

This 'on demand' advocacy has been given vocal support by Abul Rizvi, who is a former senior immigration official. Indeed Rizvi was the senior policy officer at the time of the Coalition government's unsuccessful attempt to legislate rules capping partner visas in 1996 (detailed below).

Rizvi asserts that the current Coalition government, by slowing processing down has in effect put in place a cap on the number of partner visas being issued. This, he declares, is illegal, on account of the failure of the 1996 legislation to put such a cap in place. Rizvi concludes that the 'Government

must get back to processing partner visa applications efficiently, with integrity and according to the law. This will require making more places available in the 2019-20 Migration Program'.⁶

The subsequent analysis indicates that, should such an 'on demand' regime be implemented, partner visa numbers will balloon. This is because the partner visa is an attractive permanent residence visa option and because Australia's partner visa rules are so soft.

Background on Australia's partner visa

To appreciate why this ballooning is likely to occur requires some background. Until the 1980s, Australian authorities closely regulated the granting of partner visas. All this changed in the early 1980s when, in the last years of the Fraser Coalition government and the first years of the Hawke government, the welcome mat was laid out to partner visa applicants.

All constraints (such as those concerning the financial capacity of the sponsor to provide for the sponsored partner) were removed. The sponsored partner could access all Australia's welfare, health and educational entitlements immediately after arrival. This sparked a rise in applications from Asian-born sponsors during the 1980s, though off a low base. This was because Australia's Asian communities (whether of permanent or temporary migrants) were still fairly small at the time.⁷

As awareness grew within the Hawke/Keating and subsequent Australian Governments about the public costs of partner migration, they began to withdraw the welcome mat. The first major move was an announcement in April 1991 that, henceforth, migrant partners sponsored while in Australia on a temporary visa would only be granted a two-year temporary visa pending being able to establish that the relationship was genuine and continuing at the end of this two-year period.

Further control measures were pursued after the election of the Howard Coalition Government in 1996. In late 1996 the Coalition legislated that henceforth the two-year temporary visa rule would also apply to partner visas issued from offshore locations. This was a major reform because the requirement of an initial temporary visa removed the carrot of immediate access to Australia's entitlements, including the right to enrol in Australian universities on the same financial terms as local students.

As noted, there was also an attempt to give the government the power to cap the number of partner visas issued each year. This failed to pass in the Senate.⁸ There has since been little change to the regulations governing the granting of a partner visa. The result is that Australia's partner rules are the least demanding amongst contemporary western countries.

Australia's soft rules governing access to the partner visa

All Australian citizens can sponsor a partner. And so can Australian residents holding a permanent residence visa, even if they have only recently arrived in Australia. Some New Zealand citizens who first located in Australia before 2001 are also eligible. The sponsor and the sponsored partner only need to be 18 years of age.

The only other major requirement is that, if the applicant for a partner visa is offshore, he or she must have married the sponsor or attest to an intention to marry him or her or show that they have been in a de facto marriage for at least 12 months prior to the application. For onshore applicants the applicant must show that they are married or have been in a 12 month de facto marriage (which includes those in same sex partnerships). The de facto requirement is easily managed since under State laws they can 'register the relationship' for a fee of around \$30.

If these conditions are met, the applicant will receive a two-year temporary partner visa. They will subsequently receive a permanent residence partner visa if they can establish that they are still in the relationship after two years and that it is genuine and continuing.

This could be tough if DHA closely examined the evidence applicants provided about their claim to a genuine de facto marriage prior to the granting a partner visa or if there was a close examination of whether the relationship was genuine and continuing after two years. Until processing was slowed in 2017-18 this was not the case. Moreover, hardly any of the couples who hold a temporary partner visa are denied a permanent residence partner visa because they fail to establish that the relationship is genuine and continuing.

That's it. This is all that is needed in order to be eligible for an Australian partner visa.

There is no required period of residence in Australia before a person becomes eligible to sponsor a partner. All he or she needs is a permanent residence visa. Applicants line up in the processing queue according to the time of their partner visa application. Sponsors who just got here have the same priority as those who are citizens or residents whose families have been in Australia for generations.

Nor does the sponsor need to establish that he or she has the secure income needed to provide for the partner. Australia is unique in the western world in not insisting on this requirement.

This means that Australian residents can sponsor a partner even though they are only 18 years old and/or are unemployed and/or on welfare benefits. There is no assessment of whether the sponsor has the income or housing arrangements sufficient to provide for the partner.

As for the sponsored person, all that is required apart from being 18 years of age and being able to pass standard health and character checks, is the payment of a processing fee of \$7,160 (from July 2018). There is no assessment of whether the sponsored partner has any of the job skills or the English language capacity needed to flourish in Australia's mainstream job market.

Clearly, a partner visa is a prize for an overseas student who has invested heavily in an Australian course, hoping to stay on, but finding it difficult to obtain a permanent entry skill visa. So too, it is of great value to a sponsored partner coming from a relatively poor, unstable or low quality of life country. The advantage bestowed on him or her is enormous. They are able to relocate to Australia without any entrance fee or contribution to the future costs of the public health, transport, educational and other public investment required to provide for them.

For their part, partner sponsors who have only recently arrived and have themselves contributed little or nothing to this investment, are free to sponsor a partner.

Why would they want to do so?

In the case of those sponsoring an overseas student in Australia it increases the range of eligible partners they can draw on. Their value as a prospective partner is much enhanced by the privilege of permanent residence that they are bestowing on the sponsored partner.

In regard to sponsors involved in chain migration links, many are likely to be under pressure from family and community to select a partner from the homeland. This is partly because of anxiety to facilitate movement to a secure, affluent country and partly because of family desires that they marry someone drawn from the homeland culture.

As noted, Australian residents who do respond to these pressures, will find plenty of potential partners, given the advantages of moving to Australia.

International comparisons

The contrast with the rules operating in the UK are worth exploring because this case highlights the softness of Australia's rules. It is a relevant comparison because the UK has several million residents born in Pakistan, India and other south Asian countries where chain migration via the partner link has long been evident. Pakistan, followed by India, are by far the largest source countries for UK partner visas.⁹ As we will see, the strongest current evidence of chain links from Asian communities in Australian originates from residents who come from the Indian subcontinent.

The UK has succeeded in at least controlling this source of partner visas.

For several decades there has been a 'Primary purpose rule' in place whereby the sponsoring partner has to show that the primary purpose of the relationship is marriage rather than immigration. Further measures were implemented in 2012 when the eligible age for a partner visa (for both sponsor and sponsored partner) was raised to 21 and, more significantly, when the 'financial requirement' partner sponsors had to meet was raised sharply to 18,600 British pounds a year (roughly 34,000 Australian dollars).

According to Home Office statistics there were 32,596 non-EU partner visas issued in 2017 (a slight fall since 2011), but far below the level of 53,000 reached in 2006.¹⁰ It is hard to provide a precise comparison with the Australia partner visa numbers because the UK figure does not include partner visas issued onshore in the UK. However, in a country with 66 million residents and millions of South Asian residents, the 32,596 figure looks low compared to the 39,799 figure for partner visas issued by the Australian government in 2017-18.

Similar rules regarding partner visas are enforced across the rest of Western Europe. The Dutch require that sponsors must be 21 years of age and must have sufficient long term sources of independent income to support a spouse. In Denmark, aside from income assessments, the minimum age of the sponsor and the proposed partner is 24.

The rules are not so tough in Canada and the United States, but both require that the sponsoring partner pass a financial test regarding their capacity to provide for a migrant partner. Canada requires that the sponsor must 'be able to prove that you're not receiving social assistance' and that the sponsor can 'provide for the basic needs' of the partner. In the USA, a former migrant only gains the right to sponsor a partner after he or she has obtained US citizenship (which can only occur after five years residence in the USA).

What is driving partner visa applications?

As indicated, there are three main sources of demand for partner visas. One is where Australian residents meet a prospective partner in the course of either party's international travel or work experience.

The second source is where the partner visa functions as part of a two-step pathway from temporary residence status to permanent residence.

The third source of demand stems from the rapidly increasing size of first- and second-generation Asian communities in Australia. Those within this group do not need to confine their search for a partner to Australian residents. They can use chain links to their homeland communities to find a partner.

What is the size of each of these partner pathways?

Relationships stemming from international work and travel

If partner visas stemming from international travel and work were an important source one would expect a large number of partner visa holders would be UK or US citizens, since these two nations are favoured destinations for work and travel of young Australians and in the reverse direction for young people from the UK and the USA.

This expectation is not confirmed by the partner data. As Table 1 indicates, very few partner visas were issued in 2017-18 to persons with UK or USA citizenship. There were just 2,534 partner visas issued to UK citizens and 914 to those from the USA (Table 1). There was just a trickle of partner visas issued to persons who were citizens of countries elsewhere in Europe.

Box 1: A note on partner statistics. The partner statistics just quoted, and all others detailed subsequently are drawn from ABS, *Permanent Additions to Australia's Population: 2017-18*, pivot tables. These are reported in two streams. One is the number of partner visas issued to persons already in Australia in the reference year (the onshore stream). The other stream, which the ABS refers to as settler arrivals, is derived from counts of the number of first-entry arrivals to Australia of persons who hold a partner visa. As you will see from the total number of partner visas detailed in Table 1, which for 2017-18 was 38,396, this figure is a bit lower than the partner program number outcome for 2017-18 which was 39,799. The smaller settler arrival figure is likely to be because some of those issued a partner visa did not move to Australia in 2017-18. These partner visa figures include primary and secondary visa holders (that is any dependents of the primary visa holder – mainly children).

Two-step migration

There is no doubt that the two-step source of partner visas is large. The evidence partly derives from published DHA statistics. These indicate that thousands of persons who were holding an overseas student visa receive a partner visa each year. This number was 7,552 in 2016-17 and 6,194 in 2017-18.¹¹

However, there are many who had held a student visa and were still in Australia on some other temporary visa (such as a temporary work, Working Holiday or tourist visa), who also were granted a partner visa.

We know this because, as noted earlier, DHA has recently provided unpublished statistics which track the pathways to a permanent residence visa of all those who have held or who currently hold an overseas student visa.

When the numbers of those who 'have held' and currently hold an overseas student visa are combined, the number of partner visas granted to former overseas students in 2016-17 increased to 11,048, and, as Table 1 indicates, to 9,257 in 2017-18. For 2017-18, as highlighted earlier, they constituted half of all 18,435 partner visas issued onshore.

Unfortunately the DHA has not provided equivalent data on the number of other temporary visa holders (that is, people who have never held an overseas student visa) who are granted a partner visa each year. Given the huge stock of these temporary visa holders (including the temporary work

visa holders and others itemised above) it is highly likely that there would be thousands more in this group.

As a result, it is likely that least a third of partner visas issued annually occur via the two-step process.

Should we be surprised? No. In the case of overseas students, the stock present in Australia has been growing rapidly in recent years. They have a high propensity to stay on in Australia after completing their courses and to seek a permanent residence visa while in Australia.

In the case of those completing a higher education course at the undergraduate or Masters level, all can apply for a Post-study work visa which allows them to stay on in Australia for at least two years with full work rights. Near half of the overseas students completing higher education courses currently obtain a Post-study work visa.¹²

The high number of former overseas students who are succeeding in gaining a partner visa is one indicator of this high propensity to stay on in Australia.

Another measure of this high propensity is the large number who are obtaining a permanent entry skill visa each year.

In 2016-17, 27,838 overseas students, or former overseas students, were issued with a skill permanent-entry visa in 2016-17 (this figure includes any accompanying partners and children) and 21,775 in 2017-18.¹³ Let's be clear here. Those who received a skill visa are in addition to those issued with a partner visa.

This means that in 2017-18 former or current overseas students received a total of 31,032 partner and skill visas. This is a big chunk of the entire number of visas issued under the Migration Program in 2017-18, which was 162,417.

This outcome may surprise some who follow these issues, since they will be aware that spokespersons for the overseas student industry persistently claim that Australia is attracting students interested in our 'high quality' education who, for the most part, return home after their studies.¹⁴

I have gone into some detail on the matter because these figures lay the foundation for my argument that such is the interest on the part of overseas students to stay on in Australia, that any increase in competition for skill visas will have ramifications for interest in the partner visa.

Competition for skill visas is increasing, sharply. This is because the size of the overseas student cohort starting a higher education course continues to grow at the same time as the number of skill visas available is actually contracting. One consequence is that, in 2019, the points needed to obtain a points-tested skill visa has escalated.

The number of overseas student commencers in the higher education sector increased from 125,372 in 2014 to 168,985 in 2017.¹⁵ No information on the number of such commencers has been published so far for 2018. But it is certain to have increased because the number of higher education visas granted continues to increase. Meanwhile the number of permanent residence skill visas issued is declining. This number fell from 128,550 in 2016-17 to 111,099 in 2017-18 and is likely to decline again in 2018-19 – with no prospect of any increase in 2019-20.

Another factor, also likely to increase interest on the part of some overseas students to stay on in Australia is that the main source of higher education student growth has swung from China to the

sub-continent of India. By 2017-18 the number of higher education visas issued to students from the sub-continent substantially exceeded that from China.

The significance of this development is that students from the subcontinent of India mainly enrol in non-Group of Eight (Go8) universities where they pay fees of around \$20,000 a year (half the level that the Go8 charges). They come from relatively modest income families (compared with the Chinese) and thus have a greater motivation to take up the opportunities to stay on and work in Australia (and obtain a permanent residence visa) than do the Chinese.¹⁶

With the number of skill entry point visas contracting, interest in a partner visa will increase accordingly, as it is the only realistic alternative access point to a permanent residence visa. There are plenty of opportunities for overseas students to explore this option because, as noted, the Australian government offers many opportunities for them to stay on in Australia, including via the Post-study work visa.

It is highly likely that the numbers succeeding via this two-step pathway will increase, especially if the Australian government moves to treat partner applications on an 'on demand' basis as the migrant communities and the Labor party favour.

Who is taking up the two-step option?

Table 1 lists the main countries of origin of students or former students who are currently obtaining a partner visa. China is by far the largest, with 1,624 partner visas being issued to a former or current Chinese overseas student visa holder in 2017-18. This is no surprise, given that China has until recently been the largest source country for overseas students. It is a realistic option because for Chinese students interested in pursuing the partner visa pathway there is now a large stock of recently arrived migrants of Chinese origin resident in Australia who are eligible to sponsor a partner.

Current or former overseas students from Vietnam are the next largest source of those being sponsoring as a partner, with 982 in this category in 2017-18. This too, is no surprise given that Vietnam is a significant source of overseas students in Australia, and the relatively large community of first- and second-generation Vietnamese now living in Australia who could act as sponsors.

These observations presume that former Chinese and Vietnamese students are partnering with Australian residents who were born in China or Vietnam respectively. Unfortunately, there is no publicly available data on the birthplace of sponsors. The problem is that, though the partner sponsor provides his/her birthplace when filling out the application, the DHA does not record this information in its electronic records on partner visas.

Nevertheless, it is highly likely that Chinese born persons are the dominant source of the sponsors in question because almost all marriages that involve a Chinese partner in Australia are with another Chinese born person.

We can be reasonably confident about this assertion because the Australian Bureau of Statistics (ABS) provides information on the major country of birth of those who marry in Australia by the country of birth of their marriage partner. These data show a very high level of marital endogamy amongst Asian-born partners.¹⁷

For the Chinese, the level of in-marriage is extreme. The ABS data indicate that 4,191 Chinese-born males got married in Australia in 2017. Of these 3,870, or 91 per cent married a Chinese-born female and another 473 married a female from another overseas country. Just 110 Chinese males, or three per cent, married a female born in Australia. In the case of the Vietnamese, only 168 Vietnamese

born males married a female born in Australia. 1,751 married a female born in Vietnam and another 326 married a female born in another country. In both cases, though still small, the share of Chinese and Vietnamese born females who married an Australian-born male was a higher than for their male counterparts.

In contrast to the Chinese and Vietnamese cases, Table 1 indicates that the number of former overseas students from the Indian subcontinent using the two step pathway was surprisingly low. There were just 526 recipients of partner visas who were former overseas students and who were citizens of India, 102 from Pakistan and 76 from Sri Lanka. This was a surprise given the argument spelled out above that subcontinent students are likely to have a relatively high interest in pursuing the partner visa option.

This situation may change as the number of subcontinent students who complete their studies increases, especially if the partner visa becomes available on an ‘on demand’ basis.

This should not be allowed to happen. The partner visa was never intended to facilitate a two-step pathway. That it has come to perform this role is an unintended consequence of Australia’s success in attracting overseas student enrolments and other temporary-entry visa holders. This, combined with the most generous rules on partner visas in Western countries, has made the partner visa a highly attractive two-step migration option.

Table 1: Partner visas granted in 2017-18 onshore (the onshore column) and settler arrivals holding a permanent residence partner visa in 2017-18 by major country of citizenship (the offshore column) and partner visas granted to current or former overseas students in Australia in 2017-18

Country of citizenship	All partner visas			Partner visas issued to current or former overseas students
	Onshore	Offshore	Total	
China	2,546	1,956	4,502	1,624
India	534	3,253	3,787	526
Pakistan	80	1,184	1264	102
Philippines	2,085	913	2,998	205
Afghanistan	6	1,939	1995	5
UK	1,706	828	2,534	336
USA	661	253	914	139
Vietnam	1,081	1,050	2,131	982
Sri Lanka	62	544	606	76
Thailand	717	989	1,706	591
Italy	300	59	359	154
Greece	117	55	172	47
Others	8,600	6,878	15,428	4,470
Total	18,495	19,901	38,396	9,257

Sources: For partner visas, Australian Bureau of Statistics, BP024 Permanent Additions *Pivot Tables*, 2017-18, Extracted January 2019: For partner visas issued to persons previously holding a student visa over the years 2008 to 2019, DHA, unpublished

Chain migration

Like two-step partnering, links via chain migration are distinctive in that they are one way – they flow to Australia, with hardly any reverse flow from Australia.

In this analysis, partnering via chain links is defined to include those where first or second generation migrants living in Australia choose to return home to their country of origin to find a partner. As noted earlier, there are two major influencing factors. One is where there is a gulf in the quality of life in Australia and that of the major source countries. The other is where there are strong family and community cultural expectations about who it is appropriate to marry.

Both these influences apply, though to varying degrees, amongst Australia's Asian communities. Given that these communities are large and rapidly growing, the potential for chain migration links involving partners is high.

Most of the 19,901 people receiving a partner visa offshore in 2017-18 (see the offshore column in Table 1) are likely to have obtained this as part of a chain migration process. The numbers for India and other subcontinent citizens and for Afghanistan are striking. Almost all partner visas for citizens of these countries are currently being issued offshore. Given the marital endogamy patterns described above, the Australian based sponsors are virtually certain to have been born in these countries.

By contrast there are few partner visas issued offshore to persons who are citizens of the UK and the USA. Likewise, the once potent chain links between Australia based sponsors born in southern European countries and citizens of these countries have largely been severed. Just 59 persons who were citizens of Italy and 55 from Greece received a partner visa offshore in 2017-18 (Table 1).

One exception to the generalisation about Asian chain migration concerns female partners sponsored offshore from Thailand and The Philippines. Many of these partners appear to be sponsored by non-Asian residents. Marriage agencies heavily advertise both countries as prospective sites for Australian residents of any ethnicity looking for an Asian female partner.

Another partial exception concerns partner visas issued to female citizens of Vietnam. The Vietnamese case is significant. This is because, unlike the other major Asia-born communities in Australia, large scale late teen and adult migration of Vietnam-born persons to Australia peaked several decades ago. Yet partner visas issued to Vietnamese citizens have remained high. They were around 2,000 a decade ago and have continued at this level since. There were 2,131 partner visas issued to Vietnamese citizens in 2017-18 (column 3 of Table 1).

Some of these sponsorships, as noted, are likely to involve two-step migrants drawn from the relatively high number of Vietnamese-born overseas students in Australia. However there is a continuing high offshore number (1,050 in 2017-18 - column 2 of Table 1). Again, given the high level of marital endogamy amongst Vietnamese born partners, it is probable that most of the sponsors are second-generation Vietnamese (born in Australia) who are returning to their parents' homeland for a partner.

The Vietnamese experience is significant because, to the extent that the growing number of Australian born young people of Asian origin return home for a partner, it implies that chain migration is extending into the second generation. This is the issue that the UK has been dealing with, particularly in regard to chain links with Indian subcontinent countries.

Again, this does not mean that there are no romantic links between sponsor and partner. Rather, to the extent that there is, the relationship is assumed to have occurred within the context of social connections between the Australian and overseas based family and community.

Whatever the basis for the partner relationship, the fact is that the process is still one way. There is little reverse flow of Australian partners to Asian countries. For those worried about the contribution of partner migration to Sydney and Melbourne's quality of life crisis it is this one-way flow that matters. That is why the rules on partner visas should be strict but fair, as outlined shortly.

Conclusion

Australia faces a stark choice with the management of partner visas.

There is the position of the ethnic communities and the Labor party that it is unjust to carefully manage the issuance of partner visas. This position is suffused with a halo of entitlement. It ignores the evidence that I have presented, that most partner visas are being issued as part of a two-step and/or chain migration process. Because Australia's rules on partner visas are so soft, indeed softer than in any other Western country, demand for the visa will continue at a high level. How could it be otherwise given the generous transfer of benefits from the Australian nation to the sponsored partners?

Then there is the position of the Coalition government, which has largely left the soft rules on partner visas intact.

The partner visa rules need reform, as do most of the rules on Australia's other temporary and permanent migration visa subclasses. Otherwise, Australia's huge NOM will continue unabated.

In the case of the partner visa, reform that reduces the numbers does not require the removal of the right of Australian residents to sponsor a partner who is a non-resident. Rather it requires a much more careful assessment of whether the sponsor is capable of providing for the intended partner and whether the relationship is genuine and continuing.

Far from being a draconian impingement on Australia's human rights, as some will assert, the following reform proposals will merely bring Australia into line with the rules imposed on partner visas that exist in most other Western countries.

Reform proposals

Before listing some obvious changes to the conditions that partner visa applications must meet in order to bring them into line with international practice, there are some procedural issues regarding the processing of partner applications that are begging to be revisited.

Currently, reflecting the huge backlog of partner applications, when a sponsor files a partner visa application for someone who is in Australia on a temporary visa there is a long delay while the application is processed. Then, if DHA turns down the application, the sponsored partner can appeal the decision to the Administrative Appeals Tribunal (AAT).

As matters now stand, the onshore applicant can stay on in Australia on a bridging visa while the application is assessed and/or the appeal process is pursued. This is a highly attractive and inexpensive option from the point of view of the applicant, which can deliver many months, if not years of additional stay in Australia. I can't specify the number of such bridging visas issued because

DHA has not released any data on the matter. In the case of the appeals process, such is the number of partner appeals that they are overloading the AAT's capacity and thus delivering further delays, and time in Australia, while the appeal is adjudicated.

DHA has made one significant reform move. Until June 2019, those holding an overseas student visa or a temporary work visa whose visa is about to expire could apply for a partner visa, at which point DHA would issue a bridging visa that allowed the applicant to stay on for another year or two while DHA evaluated the application. The bridging visa allowed the holder full work rights and access to Medicare. This situation changed in mid-2019, when DHA removed the bridging visa option while the partner application is being processed. From this date, if partner visa applicants can't obtain another substantive visa (like another student visa) they will have to return overseas, pending the outcome of the partner application.

There is a strong case for additional measures of this type.

One is to not allow an onshore partner visa application to proceed where the applicant has been turned down for another visa. This would require an amendment to Regulation 2.12 of the Migration Regulations.

Another, would be to deny prospective partners the right to apply for a partner visa and a merits review with the AAT if refused, where there is reasonable evidence that the applicant is using the process to extend their stay in Australia. This would require wider use of Condition 8503 (no further stay) in the Migration Regulations. Such a change would not deny the prospective partner access to the visa if they are bona fide. However, the application would have to be pursued while the applicant was offshore.

In my opinion there is one decisive way to prevent the gaming of the system now evident with onshore partner visa processing. This is to preclude application for a partner visa for prospective partners who are in Australia on temporary visas, including overseas students, visitors or any other temporary visa.

Such persons could still be sponsored for a partner visa, but the application would have to be processed while the sponsored partner is offshore. This would at one stroke remove much of the current gaming of the system and save the taxpayer the millions of dollars currently spent in paying for the AAT processing of appeals against DHA rulings.

It is true, that if refused, the applicant could access the AAT process offshore, as is currently the case with some other offshore visa subclasses. However, a requirement that the visa be processed offshore would remove a major incentive on the part of those non-genuine partner visa applicants whose main concern is to stay on in Australia while the application is processed.

Partners whose relationships are genuine would be eligible for approval as long as they meet the conditions required for all partner visa applications. These, as argued above, need to be reformed.

Proposals to strengthen Australian partner visa rules

Australia's partner visa rules, as indicated, are the weakest in the developed world. Here's a suite of reform proposals:

*Raise the minimum age of partner sponsors and the sponsored partner to 21. Some might object, given that in Australia one can vote at age 18. However, being ready to vote at 18 is quite different from being able to provide for a partner at this age, especially if the sponsor has just finished school and has no reliable source of income.

*Ensure that the sponsor can provide for the partner without imposing on the public purse. Require evidence that the sponsor has a secure annual income sufficient to provide for the partner, much as is the case across Europe and Canada. The amount required for a British sponsor (noted above) of around 18,000 pounds or \$34,000 Australian could be a minimum starting point.

*In order to ensure that the partner does not need public support in the first few years of residence here, the sponsor should provide an Assurance of Support covering any such expenditure, where it does arise.

*Put in place a rule that, in return for the privilege of sponsoring a partner, the sponsor must show some attachment to Australia and some evidence that he or she is making a contribution to the Australian community. This, at a minimum, should require a period of residence of at least four years during which the sponsor proves that he or she has not been a burden on the public purse. I favour a requirement, as in the USA, that the privilege of partner sponsorship should be limited to Australian citizens. This currently requires a minimum of four years stay in Australia while holding a permanent residence visa.

*Require proof that the sponsor and partner are in a genuine and continuing relationship both before the initial partner visa is issued and after two years of residence in Australia has elapsed. It was only during 2017-18 that DHA took this requirement seriously, hence the slow-down in partner visa processing at this time.

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