



PARLIAMENT OF AUSTRALIA

# **The pursuit of equality**

**Inquiry into the rights of women and children**

**Parliamentary Joint Committee**

**Joint Standing Committee on Foreign Affairs, Defence and Trade**

November 2023

CANBERRA

© Commonwealth of Australia 2023

ISBN 978-1-76092-576-5 (Printed version)

ISBN 978-1-76092-574-1 (HTML version)

All material in this report is provided under a Creative Commons Attribution-NonCommercial-NoDerivs 4.0 Australia licence. The material may be shared, copied and redistributed provided that:

- it is for non-commercial purposes
- the committee named on the previous page is credited as the author
- the committee is not represented as endorsing the use of the material
- any changes are clearly identified
- no additional legal or technical restrictions are applied to restrict use that complies with the licence.

If the material is remixed, transformed or built upon, the modified material may not be distributed.



Full details of this licence are available on the Creative Commons website:  
<https://creativecommons.org/licenses/by-nc-nd/4.0/>.



# Chair's Foreword

Despite efforts to enhance the rights of women and children over many decades, the world is failing its most vulnerable cohorts. Violence, exploitation, abuse, and other forms of human rights breaches remain prevalent across the globe. This situation has been evident in past inquiries conducted by this Committee.

However, the harms experienced by women and children have been amplified to staggering degrees by broader societal shifts and phenomena, including the COVID-19 pandemic, the increasingly felt impacts of climate change, and political and societal instability and conflict. It is in this context that the Minister for Foreign Affairs, Senator the Hon Penny Wong, referred this inquiry to the Committee, noting in the terms of reference that these elements have been a major disruptor in eliminating inequality.

The terms of reference broadly encapsulate the vast scope of the issues facing national governments in addressing the rights of women and children. Resultingly, the Committee received evidence on a range of issues impacting the lives of women and children, both internationally and within Australia.

Almost every stakeholder told the Committee that the rights of women and children are far from reaching parity with men; rather, they are regressing. Factors such as COVID, climate and conflict have only brought further hardship on women and children. This appears to have brought a 'new normal' to the fore: a world where it is harder to be a woman or a child by virtue of your status as such.

While this inquiry has been on foot, the Australian Government has announced a suite of measures in relation to women and children in foreign policy considerations and designs, much of which will take time to be fully implemented and to see measurable results. However, the Committee has judged that further reforms in this space are appropriate and would enhance the rights of women and children in addition to upholding Australia's obligations under international human rights law and multilateral agreements.

The Committee has made 10 recommendations that address specific issues in relation to the rights of women and children, including on matters such as gender-based violence, orphanage trafficking, acid attacks and technology-facilitated abuse. It has also made recommendations that focus on the broader strategic policy environment, including the development of a child-specific international strategy akin to the current strategy in relation to gender.

I wish to extend my thanks to the many organisations and witnesses who provided evidence to the committee, often detailing harrowing and distressing experiences. The Committee was humbled to be in the presence of those who have suffered so much while continuing to fight for improved outcomes for all, and greatly appreciates their efforts. It also appreciated the

evidence provided by many stakeholders in the aid sector who continue their efforts to protect the global community from human rights abuse.

It is incumbent on us all, as part of an Australian multicultural society and the global community, to pursue the full assertion and protection of the rights of women and children. We cannot afford anything less.

Ms Maria Vamvakinou MP  
Chair  
Human Rights Subcommittee

# Contents

<b>Chair's Foreword</b> .....	<b>iii</b>
<b>Committee Membership</b> .....	<b>vii</b>
<b>Terms of reference</b> .....	<b>xi</b>
<b>List of recommendations</b> .....	<b>xiii</b>

## Report

<b>Background</b> .....	<b>1</b>
Context .....	2
Conduct of the inquiry .....	5
<b>A snapshot in time</b> .....	<b>7</b>
A downward trajectory: Women and children's rights in 2023 .....	7
Amplifiers of the regression of women and children's rights.....	10
How does Australia currently support human rights internationally? .....	17
Committee comment.....	22
<b>Specific themes of note</b> .....	<b>23</b>
Gender-based violence.....	23
Acid Attacks .....	29
Orphanage Trafficking .....	35
Sexual and reproductive health rights .....	42
Technology-facilitated harm and abuse.....	45
Committee comment.....	50
<b>New ways forward</b> .....	<b>55</b>
Placing women and children at the heart of foreign policy .....	55
Changes for women, led by women .....	61
The rights of children .....	66
Future-proofing Australia's foreign policy .....	69
Committee comment.....	72

## Appendixes

<b>Appendix A. Submissions .....</b>	<b>77</b>
<b>Appendix B. Public hearings.....</b>	<b>81</b>



# Committee Membership

## Members of the Joint Standing Committee on Foreign Affairs, Defence and Trade

### Chair

Hon Shayne Neumann MP

### Deputy Chair

Senator the Hon David Fawcett

### Members

Senator Ralph Babet

Mr Colin Boyce MP

Mr Scott Buchholz MP (from 22 March 2023)

Mr Josh Burns MP

Senator Claire Chandler (from 21 June 2023)

Senator Raff Ciccone

Hon David Coleman MP (to 22 March 2023)

Ms Zoe Daniel MP

Senator Mehreen Faruqi (to 26 October 2022)

Mr Steve Georganas MP

Mr Luke Gosling OAM MP (to 14 September 2023)

Senator Nita Green

Mr Julian Hill MP

Mr Peter Khalil MP

Hon Michael McCormack MP

Senator Andrew McLachlan CSC (from 21 June 2023)

Mr Rob Mitchell MP

Senator Jim Molan AO DSC (to 16 January 2023)

Senator Deborah O'Neill

Senator Fatima Payman

Mr Gavin Pearce MP

Mr Graham Perrett MP

Hon Melissa Price MP

Senator the Hon Linda Reynolds CSC

Senator Tony Sheldon

Senator Dean Smith

Senator Jordon Steele-John (from 26 October 2022)

Ms Meryl Swanson MP (from 14 September 2023)

Ms Susan Templeman MP

Ms Kate Thwaites MP

Ms Maria Vamvakinou MP

Senator David Van (until 20 June 2023)

Mr Andrew Wallace MP

Mr Josh Wilson MP

Mr Terry Young MP

## **Members of the Human Rights Subcommittee**

### **Chair**

Ms Maria Vamvakinou MP

### **Deputy Chair**

Senator the Hon Linda Reynolds CSC

## **Members**

Senator Ralph Babet

Mr Josh Burns MP

Senator Claire Chandler (from 21 June 2023)

Senator the Hon David Fawcett (ex-officio)

Mr Julian Hill MP

Mr Peter Khalil MP

Hon Shayne Neumann MP (ex-officio)

Senator Fatima Payman

Senator Dean Smith





# Terms of reference

Women and children continue to experience human rights violations. Recent reports of sexual violence in war-affected areas and issues such as orphanage trafficking continue to influence the lives of women and children across the world. In addition, women and children can experience abuse specifically tied to their experiences as a migrant or refugee. In light of these ongoing concerns, the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT) will inquire into the Rights of Women and Children with a particular focus on:

- understanding the treatment of women and children internationally and the impact of this treatment on their human rights;
- the adequacy of support services, including legal services, available to affected women and children;
- the disproportionate impact on women's education and social inclusion created by global disruptions such as COVID, climate change, and the Ukraine-Russia conflict; and
- any related matters.



# List of recommendations

## Recommendation 1

---

**2.62 The Committee recommends the Australian Government:**

- **Commit to accelerating action on the Sustainable Development Goals (SDGs), particularly in relation to women and children; and**
- **Create a roadmap identifying measures which can be taken in order to improve Australia’s performance in the SDGs and in assisting our strategic partners to meet goals under the framework.**

## Recommendation 2

---

**3.97 The Committee recommends the Australian Government, when developing and implementing the new International Gender Equality Strategy, identify gender-based violence as a key strategic issue, and identify pathways and mechanisms to support its regional neighbours in addressing related issues.**

## Recommendation 3

---

**3.98 The Committee recommends the Department of Foreign Affairs and Trade investigate and implement strategies to assist in the improvement of legal frameworks and support services in the Indo-Pacific regarding gender-based violence.**

## Recommendation 4

---

**3.101 The Committee recommends the Australian Government:**

- **Work with state and territory governments in identifying potential gaps in legislation where acid attacks may not be sufficiently encapsulated, and where improvements can be made to data collection, risk assessment and screening tools;**
- **Consider the viability of the introduction of a Commonwealth offence specifically directed at violence using acid as a weapon, including models which prohibit the sale of certain corrosive substances and potential amendments to Division 271 of the Criminal Code 1995 (Cth); and**
- **Conduct research in relation to the prevalence, nature and impacts of acid attacks in Australia, particularly in relation to support services and medical assistance.**

## **Recommendation 5**

---

**3.106** The Committee recommends the Australian Government develop and implement strategies to counteract orphanage trafficking and tourism, including:

- The adoption of a whole-of-government position explicitly condemning the practice of orphanage trafficking and orphanage tourism;
- Developing stronger guidance material for travellers in relation to potential risks in relation to orphanage tourism and volunteering;
- Working with multilateral partners (including via interparliamentary working groups and the Inter-parliamentary Union) to eliminate orphanage trafficking and tourism;
- Improved regulation and oversight by the Australian Charities and Not-for-profits Commission in relation to institutions engaging in (or suspected to be engaged in) orphanage trafficking and tourism; and
- The creation of a specific offence criminalising orphanage trafficking.

## **Recommendation 6**

---

**3.110** The Committee recommends the Australian Government develop legislation addressed at the rights of the victims of child sexual abuse material, including:

- The provision of legal pathways to enable victims (including those in overseas jurisdictions) to seek civil penalties from the perpetrator, including compensation and restitution; and
- Victim access to a perpetrator notification system from law enforcement agencies.

## **Recommendation 7**

---

**4.72** The Committee recommends the Australian Government continue to use international forums, including bilateral platforms and interparliamentary networks, to emphasise the need to strengthen laws and protections regarding the human rights of women and children in conflict and crisis situations. This should include an emphasis on developing and strengthening responses to issues such as sexual and gender-based violence, children in exploitative environments and industries, and modern slavery.

## **Recommendation 8**

---

**4.73** The Committee recommends the Department of Foreign Affairs and Trade (DFAT) ensure that all activities concerning humanitarian, crisis or disaster responses involving DFAT-funded or -supported entities be:

- **Assessed upon application on the basis of local engagement with the community, including the requirement of a statement by the applicant on the basis of local engagement, particularly emphasising gender diversity and considerations of the needs of children;**
- **Monitored at appropriate intervals to determine outcomes and impact; and**
- **Reported to the Parliament as part of the DFAT annual report.**

## **Recommendation 9**

---

**4.74 The Committee recommends that the Department of Foreign Affairs and Trade allocate a specific portion of Official Development Assistance funding to projects relating to data collection on issues affecting women and children.**

## **Recommendation 10**

---

**4.75 The Committee recommends that the Australian Government develop an International Children’s Development Strategy which outlines:**

- **Australia’s commitment to upholding the rights of children internationally;**
- **Reflect commitments made via international legislation and agreements, including the Sustainable Development Goals;**
- **Identify mechanisms and approaches in which it can support neighbours and partners in enhancing their international law obligations and promote the rights of children in local and regional settings; and**
- **Provide mechanisms in which children can be involved in policy development on matters which affect their interests, lives and rights.**





# 1. Background

- 1.1 Marking International Women’s Day on 7 March 2022, Mr António Guterres, Secretary-General of the United Nations, issued a statement expressing concern that, far from progressing the rights of women and girls, the international community is leaving them behind:

On International Women’s Day, we celebrate women and girls everywhere. We celebrate their contributions to ending the COVID-19 pandemic. Their ideas, innovations and activism that are changing our world for the better. And their leadership across all walks of life.

But we also recognize that in too many areas, the clock on women’s rights is moving backwards. The pandemic has kept girls and women out of schools and workplaces. They face rising poverty and rising violence. They do the vast majority of the world’s unpaid but essential care work. They’re targets of violence and abuse, just because of their gender. In all countries, women are scandalously under-represented in the halls of power and the boardrooms of business. And as this year’s theme reminds us, they bear the brunt of climate change and environmental degradation.

Starting now, on International Women’s Day, it’s time to turn the clock forward for every woman and girl.<sup>1</sup>

- 1.2 While the Secretary-General’s comments were directed at women and female children, the issues and challenges he outlined are applicable to women and children generally across the globe. The rights of women and children are currently in danger of losing gains that have taken decades to achieve. As indicated by the United Nations’ *Gender Snapshot 2023* documenting progress on the Sustainable Development Goals, progress in all human rights and wellbeing markers has stalled, including for such basic protections as safety, access to food and resources, and human dignity.<sup>2</sup>
- 1.3 Further, recent or unfolding events, including wars, natural disasters, pandemics and a transitioning climate, have highlighted that women and children suffer disproportionate and long-lasting effects of such occurrences. Societal disruptors in recent years have had a devastating impact on the rights of women and children,

---

<sup>1</sup> António Guterres, Secretary General, United Nations, ‘Statement by UN Secretary-General António Guterres on International Women’s Day’, *UN Women*, 7 March 2022, <https://www.unwomen.org/en/news-stories/statement/2022/03/statement-by-un-secretary-general-antonio-guterres-on-international-womens-day>, viewed 12 October 2023.

<sup>2</sup> UN Women and United Nations Department of Economic and Social Affairs, Statistics Division, *Progress on the Sustainable Development Goals: The Gender Snapshot 2023*, 2023, <https://bit.ly/gender-snapshot-2023>, viewed 29 September 2023.

including the restrictions caused by the COVID-19 pandemic, natural disasters associated with climate change, and conflict around the world in warfare or other forms of unrest.

- 1.4 This situation has drawn the attention of policy-makers, prompting questions of how the international community can best address the needs of women and children. This inquiry has thus sought to address this issue from Australia's perspective as a world leader in addressing the human rights of women and children.

## Context

- 1.5 The protection of the rights of women and children forms a key element of the world's international law framework. The Department of Foreign Affairs and Trade describe human rights as being at 'the core of the international system', particularly in relation to equality between men and women.<sup>3</sup> A number of international agreements and instruments refer to the rights of women and children, including:
- The Universal Declaration of Human Rights;
  - The Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol;
  - The Convention on the Rights of the Child and its Optional Protocol;
  - The Beijing Declaration and Platform for Action;
  - Agreed Conclusions of the Commission on the Status of Women; and
  - UN Security Council resolutions on the Women, Peace and Security Agenda.<sup>4</sup>
- 1.6 Other relevant instruments that intersect with the protection of the rights of women and children include the Conventions on the Rights of Persons with Disabilities and the Elimination of All Forms of Racial Discrimination.<sup>5</sup> Australia has ratified and enacted most of these agreements into its own domestic legislation.
- 1.7 In addition, certain contexts such as conflict are covered by other forms of international law. Women and children are covered by a range of international human rights law in conflict situations, but other types of law such as international humanitarian law (otherwise known as the law of armed conflict) and international criminal law apply as well.<sup>6</sup> These areas of law are found in formal legislative instruments such as the Geneva Convention and the Rome Statute of the International Criminal Court, resolutions as determined in international forums, and ongoing case law.

---

<sup>3</sup> Department of Foreign Affairs and Trade (DFAT), Submission 8, p. 2.

<sup>4</sup> DFAT, Submission 8, p. 3.

<sup>5</sup> DFAT, Submission 8, p. 3.

<sup>6</sup> Ms Marie-Charlotte McKenna, Assistant Secretary, International Law Branch, Legal Division, DFAT, Canberra, *Committee Hansard*, 24 March 2023, p. 4.

## Related inquiries and reviews

1.8 Aspects of the rights of women and children have been examined in a range of settings, both within parliamentary committees and in the broader public sector. In previous parliaments, this committee conducted a number of inquiries in relation to issues relating to women and children:

- *First periodic report on Human Rights: Final report into certain aspects of the Department of Foreign Affairs and Trade Annual Report 2019-20* (March 2022), which provided a broad overview of human rights issues considered by the Committee in the 46<sup>th</sup> Parliament and made six recommendations;<sup>7</sup>
- *Advocating for the elimination of child and forced marriage: Interim report for the inquiry into certain aspects of the Department of Foreign Affairs and Trade Annual Report 2019-20* (December 2021), which made nine recommendations in relation to matters such as data collection and bilateral engagement in relation to child and forced marriage;<sup>8</sup>
- *Inquiry into the human rights of women and girls in the Pacific* (November 2021), which made 14 recommendations to the Australian Government in relation to a range of topics such as female representation in leading disaster response and building local responsiveness in Pacific nations;<sup>9</sup> and
- *Empowering women and girls: The human rights issues confronting women and girls in the Indian Ocean-Asia Pacific region* (December 2015), which provided a detailed analysis of these matters and made 29 recommendations to the Australian Government.<sup>10</sup>

1.9 Other notable parliamentary inquiries that refer to the rights of women and children include three recent reports by the Senate Standing Committee on Foreign Affairs, Defence and Trade:

- The inquiry into human rights implications of recent violence in Iran. This inquiry focused particularly on the rights of women in Iran and potential breaches on

---

<sup>7</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT), 'Inquiry into certain aspects of the Department of Foreign Affairs and Trade Annual Report 2019-20', *Parliament of Australia*, 2022, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Foreign\\_Affairs\\_Defence\\_and\\_Trade/AR1920DFAT](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/AR1920DFAT), viewed 30 October 2023.

<sup>8</sup> JSCFADT, 'Inquiry into certain aspects of the Department of Foreign Affairs and Trade Annual Report 2019-20 - child and forced marriage', *Parliament of Australia*, 2021, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Foreign\\_Affairs\\_Defence\\_and\\_Trade/ForeignAffAR19-20CFM](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ForeignAffAR19-20CFM), viewed 30 October 2023.

<sup>9</sup> JSCFADT, 'Inquiry into the human rights of women and girls in the Pacific', *Parliament of Australia*, 2021, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Foreign\\_Affairs\\_Defence\\_and\\_Trade/womenandgirlsPacific](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/womenandgirlsPacific), viewed 30 October 2023.

<sup>10</sup> JSCFADT, 'Human rights issues confronting women and girls in the Indian Ocean – Asia Pacific region', *Parliament of Australia*, 2015, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Foreign\\_Affairs\\_Defence\\_and\\_Trade/Human\\_Rights](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/Human_Rights), viewed 30 October 2023.

international law. The final report was tabled in February 2023, with 12 recommendations.<sup>11</sup>

- The inquiry into Australia's engagement with Afghanistan, which referred to the rights of women and children as part of its consideration of the broader issues of bilateral engagement. The Committee issued a number of interim or progress reports, and the final report was tabled in April 2022 with six recommendations to Australian Government agencies.<sup>12</sup>
- The inquiry into issues facing diaspora communities in Australia. The final report, tabled in February 2021, detailed particular issues affecting women in diaspora communities which pose human rights concerns.<sup>13</sup>

1.10 In addition, broader policy reviews by the public sector on matters relating to the human rights of women and children are either in progress or have been completed in recent years. These include:

- The Department of Foreign Affairs and Trade's review of Australia's International Development Policy in 2022. The new International Development Policy was publicly released and announced on 8 August 2023 by the Minister for Foreign Affairs.<sup>14</sup>
- An independent statutory review of the *Modern Slavery Act 2018* (Cth), which examined the operation of the Act's impact three years after its enactment. The review was conducted by Professor John McMillan, AO and tabled on 25 May 2023, making 30 recommendations to the Australian Government.<sup>15</sup>
- The 2022 Rapid Review of Australia's visa system commissioned by the Australian Government, led by Ms Christine Nixon, AO, APM. It reported to Government on 31 March 2023, and was declassified for public release on 4 October 2023.<sup>16</sup>

---

<sup>11</sup> Senate Standing Committee on Foreign Affairs, Defence and Trade, 'Human rights implications of recent violence in Iran', *Parliament of Australia*, 2022, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Foreign\\_Affairs\\_Defence\\_and\\_Trade/HumanRightsinIran](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/HumanRightsinIran), viewed 30 October 2023.

<sup>12</sup> Senate Standing Committee on Foreign Affairs, Defence and Trade, 'Australia's engagement in Afghanistan', *Parliament of Australia*, 2021, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Foreign\\_Affairs\\_Defence\\_and\\_Trade/Afghanistanengagement](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/Afghanistanengagement), viewed 30 October 2023.

<sup>13</sup> Senate Standing Committee on Foreign Affairs, Defence and Trade, 'Human rights implications of recent violence in Iran', *Parliament of Australia*, 2020, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Foreign\\_Affairs\\_Defence\\_and\\_Trade/Diasporacomunities](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/Diasporacomunities), viewed 30 October 2023.

<sup>14</sup> DFAT, *Australia's International Development Policy*, August 2023, <https://www.dfat.gov.au/sites/default/files/international-development-policy.pdf>, viewed 20 September 2023.

<sup>15</sup> Professor John McMillan, AO, 'Report of the statutory review of the *Modern Slavery Act 2018* (Cth): The first three years', *Attorney-General's Department*, 25 May 2023, <https://www.ag.gov.au/sites/default/files/2023-05/Report%20-%20Statutory%20Review%20of%20the%20Modern%20Slavery%20Act%202018.PDF>, viewed 19 October 2023.

<sup>16</sup> Ms Christine Nixon, AO, APM, 'Rapid Review into the Exploitation of Australia's Visa System', *Department of Home Affairs*, 31 March 2023, <https://www.homeaffairs.gov.au/reports-and-pubs/files/nixon-review/nixon-review-exploitation-australia-visa-system.pdf>, viewed 19 October 2023.

## Conduct of the inquiry

- 1.11 The inquiry was requested by the Minister for Foreign Affairs, Senator the Hon Penny Wong (the Minister), who asked the Committee to inquire into the rights of women and children. Upon consideration of the Minister's request, the Committee resolved to refer the inquiry to the Human Rights Subcommittee.
- 1.12 The terms of reference contained in the Minister's referral were:
- understanding the treatment of women and children internationally and the impact of this treatment on their human rights;
  - the adequacy of support services, including legal services, available to affected women and children;
  - the disproportionate impact on women's education and social inclusion created by global disruptions such as COVID, climate change, and the Ukraine-Russia conflict; and
  - any related matters.
- 1.13 Given the breadth of the Terms of Reference, the Committee received evidence regarding human rights issues on a broad range of topics. Given limitations of resourcing and time, the Committee was unable to pursue every topic in detail.
- 1.14 Further, as the Terms of Reference do not make reference to jurisdictional limits, the Committee has broadly interpreted the request to reflect domestic matters in addition to international considerations. This is in part due to the globalised nature of Australian society and the presence of diaspora communities with strong links to their originating nations and cultures, which will be discussed in later parts of the report.
- 1.15 The Committee issued a media release on 26 October 2022, announcing the inquiry and inviting submissions by 16 December 2022. Accepting submissions beyond this date, the Committee received 49 submissions and 18 supplementary submissions. A list of submissions can be found at Appendix A.
- 1.16 In undertaking to adopt the inquiry, the Committee recognised the sensitivity of the material that it would likely receive. The Committee thus resolved that material containing graphic images of alleged human rights abuses would not be accepted to the inquiry. The inquiry website also emphasised that material that identified individuals in relation to human rights abuses would potentially be accepted confidentially by the Committee or be redacted prior to publication.
- 1.17 The Committee held nine public hearings, including interstate hearings in Melbourne and Sydney. Details of witnesses who provided evidence at the hearings can be found at Appendix C. The Committee also received multiple private briefings in relation to the inquiry. Submissions and transcripts of the public hearings can be found at the inquiry website.

## About the report

- 1.18 The report is divided into four chapters:
- Chapter 1 details the background, context and conduct of the inquiry;
  - Chapter 2 provides a ‘snapshot in time’ of women and children’s rights in 2023, detailing evidence in relation to the current challenges and issues globally and domestically;
  - Chapter 3 examines specific issues in further detail which are considered to be key areas requiring policy development; and
  - Chapter 4 sets out a roadmap in relation to policy development within the context of addressing the human rights of women and children.
- 1.19 The Committee was cognisant of the multiple inquiries conducted in previous parliaments in relation to various aspects of the rights of women and children, both in this Committee and in others. Rather than revisit material which has already been well-established and accepted in previous inquiries, the Committee instead chose to focus on key topics elucidated during the inquiry and practical means of addressing these issues.
- 1.20 Much of the evidence gathered during the inquiry contained sensitive or distressing content, including testimony provided by victims of gender-specific violence. The Committee understands the challenges experienced by those who recount their stories, and particularly thanks these witnesses for their contributions. Further, readers are advised that the report and its associated materials on the inquiry website contain sensitive and distressing content.
- 1.21 While the report does not intend to single out particular countries or governments, much of the evidence received by the Committee referred to specific examples of alleged human rights violations in certain jurisdictions. For example, the Iranian Women’s Association raised concerns regarding the treatment of women and children by the current regime.



## 2. A snapshot in time

### **The current state of the human rights of women and children**

- 2.1 As detailed in Chapter 1, the Joint Standing Committee on Foreign Affairs, Defence and Trade has conducted a number of inquiries in past parliaments which have investigated the human rights of women and children. Many of the themes identified in those inquiries were present in the current inquiry; the threats and violations of women and children's rights around the world remain repugnant, ever-present, and pervasive.
- 2.2 However, the world's geopolitical environment has shifted in recent years, causing what is widely understood as a shift away from the pursuit of gender equality and universal human rights. Global disruptions have stymied and even reversed the progress achieved in safeguarding women and children's rights, in unanticipated and complex ways.
- 2.3 This chapter provides an outline of the current 'state of play' regarding the rights of women and children in the world of 2023. It sets out:
- The overall trajectory of human rights as observed by stakeholders, including the key human rights under threat;
  - How these have been impacted by broader trends and events, including the COVID-19 pandemic, climate change, and conflict;
  - The current international law governing the rights of women and children and its intersection with Australian domestic law; and
  - A broad overview of how Australian foreign policy currently responds to issues regarding the rights of women and children internationally.

### **A downward trajectory: Women and children's rights in 2023**

- 2.4 There is a universal acceptance by stakeholders that the rights of women and children, far from improving, are internationally in regression. The Department of Foreign Affairs and Trade (DFAT) observed that the regression of women and children's rights has been recognised by high-level international bodies such as the United Nations. Secretary-General of the United Nations, Mr António Guterres, stated

at the opening of the 63<sup>rd</sup> Session of the United Nations (UN) Commission on the Status of Women in March 2019 that:

Around the world, there is a pushback on women’s rights. That pushback is deep, pervasive and relentless... We have a fight on our hands. And it is a fight we must win – together.<sup>1</sup>

2.5 This is reflected in the broader international relations and aid community. For instance, Save the Children’s *Global Girlhood Report 2022* indicated that despite ten years’ passage since the introduction of the International Day of the Girl and the corresponding commitment by governments to improve girls’ wellbeing, progress has instead reversed.<sup>2</sup>

2.6 Despite broad recognition that a cohesive approach is required to address inequality, the international community was argued to be fractured in their views and approaches to improving the rights of women and children. DFAT explained that in international fora such as the United Nations General Assembly, individual Member States have expressed opposition in matters relating to women and children’s rights:

Some Member States oppose references to gender and diversity, multiple and intersecting forms of discrimination, sexual and reproductive health and rights (SRHR), sexual orientation and gender identity, and women human rights defenders. This opposition occurs in relation to debates and resolutions that focus on gender equality and those that address other issues, like poverty, security, and trade.<sup>3</sup>

2.7 If current trends continue, the UN predicts that very few if any of the benchmarks set by the Sustainable Development Goals (SDGs) in relation to gender equality will not be met by 2030:

With only seven years remaining, a mere 15.4 per cent of Goal 5 indicators with data are “on track”, 61.5 per cent are at a moderate distance and 23.1 per cent are far or very far off track from 2030 targets.

In many areas, progress has been too slow. At the current rate, it will take an estimated 300 years to end child marriage, 286 years to close gaps in legal protection and remove discriminatory laws, 140 years for women to be represented equally in positions of power and leadership in the workplace, and 47 years to achieve equal representation in national parliaments.<sup>4</sup>

---

<sup>1</sup> Cited in Department of Foreign Affairs and Trade (DFAT), Submission 8, p. 3.

<sup>2</sup> Save the Children, *Executive Summary – Global Girlhood Report 2022: Girls on the Frontline*, 2022, [https://resourcecentre.savethechildren.net/pdf/Global-Girlhood-Report-2022\\_Executive-Summary-English.pdf](https://resourcecentre.savethechildren.net/pdf/Global-Girlhood-Report-2022_Executive-Summary-English.pdf), viewed 5 September 2023, p. 2.

<sup>3</sup> DFAT, Submission 8, p. 3.

<sup>4</sup> United Nations, *The Sustainable Development Goals Report 2023: Special edition – Towards a Rescue Plan for People and Planet*, 2023, <https://unstats.un.org/sdgs/report/2023/The-Sustainable-Development-Goals-Report-2023.pdf>, viewed 12 September 2023, p. 22.

- 2.8 The UN suggests that reasons for continuing inaction on gender equality primarily relate to '[d]eeply rooted biases against women', which have flow-on social, political and economic effects to the detriment of women and girls.<sup>5</sup>

## The distinction between women's rights and children's rights

- 2.9 While women and children share similar human rights, and thus similar violations of their human rights, it is important to reflect that they are distinct groups with differing needs and associated risks. Women and children were confirmed by multiple stakeholders to be particularly vulnerable groups who experience significant human rights violations. However, each group has unique needs and characteristics which shape their life progression. The International Women's Development Agency (IWDA) explained this point further:

It is important not to conflate the issues facing women with those facing children and young people, as they represent distinct and unique experiences. When treated as a single unit, there is a significant risk that women's rights and agency are undermined through a paternalistic lens of "protection." While protection is an important first step, especially where human rights are under attack and in conflict and crisis settings, it can play into a patriarchal model where women's agency and autonomy is denied.<sup>6</sup>

- 2.10 Children face specific forms of human rights violation linked to their developmental stages and consequential vulnerability. These include:
- Child sexual abuse and exploitation-related crimes, including trafficking and grooming;<sup>7</sup>
  - Early and forced marriage, which is linked to marital rape and early pregnancy;<sup>8</sup>
  - Lack of access to appropriate nutrition, healthcare or education;<sup>9</sup>
  - Recruitment as child soldiers by armed forces and non-state armed groups;<sup>10</sup> and
  - Involvement in exploitative schemes such as orphanage trafficking and tourism.<sup>11</sup>
- 2.11 Many of these forms of human rights violation surpass state borders and require significant international cooperation to address. For example, child sexual exploitation involves a number of perpetrators, often from a range of jurisdictions,

---

<sup>5</sup> UN Women and United Nations Department of Economic and Social Affairs, Statistics Division, *Progress on the Sustainable Development Goals – The Gender Snapshot 2023*, 2023, <https://www.unwomen.org/sites/default/files/2023-09/progress-on-the-sustainable-development-goals-the-gender-snapshot-2023-en.pdf>, viewed 12 September 2023, p. 12.

<sup>6</sup> International Women's Development Agency, Submission 12, p. 1.

<sup>7</sup> ReThink Orphanages Australia, Submission 10, p. 3.

<sup>8</sup> DFAT, Submission 8, pages 3-4.

<sup>9</sup> DFAT, Submission 8, p. 7.

<sup>10</sup> Embassy of Morocco, Submission 1, p. 6.

<sup>11</sup> ReThink Orphanages Australia, Submission 10, pages 1-2.

and is distributed via online channels, further extending the harm to transnational platforms.<sup>12</sup>

## **Amplifiers of the regression of women and children's rights**

2.12 Recent events and trends in past years have been widely recognised by the international community to have significantly impacted the rights of women and children. Three key factors have been particularly identified as amplifying the regression of rights for women and children:

- COVID-19's initial outbreak and its continuing influence on states and communities;
- Climate change's increasingly evident impacts; and
- Conflict between nation-states.

2.13 These factors are broadly recognised by stakeholders not only to have impacted women and children's human rights but also to have had a disproportionate effect on these groups in comparison to others.<sup>13</sup>

2.14 This section reviews how these factors have contributed to the decline in women and children's rights.

### **The COVID-19 pandemic**

2.15 The widespread international impact of the outbreak of COVID is broadly recognised as a key amplifier of regressing human rights for women and children.

2.16 The COVID pandemic has previously been viewed as a method in which authoritarian governments can further strengthen powers. As noted in a previous report of this Committee into the international response to the pandemic, human rights organisations raised concerns in 2020 that repressive governments were using COVID as a 'cover ... to erode civil liberties'.<sup>14</sup>

2.17 DFAT observed that COVID had a disproportionate impact on the lives of women and children and 'reversed the progress towards gender equality'.<sup>15</sup> While COVID unquestionably impacted all groups and communities, women and children bore a greater share of the negative impacts in comparison with men.

---

<sup>12</sup> Australian Federal Police, Submission 37, pages 1-2.

<sup>13</sup> DFAT, Submission 8, p. 5.

<sup>14</sup> International Women's Development Agency cited in Joint Standing Committee on Foreign Affairs, Defence and Trade, *Inquiry into the implications of the COVID-19 pandemic for Australia's foreign affairs, defence and trade*, December 2020, p. 15.

<sup>15</sup> DFAT, Submission 8, p. 5.

- 2.18 DFAT stated that, in the Asia-Pacific region, direct human rights-related impacts on women and children relating to COVID-19 include:<sup>16</sup>
- Increased rates of gender-based violence, often as a result of social isolation due to COVID-related lockdowns, school closures, and social distancing requirements. DFAT observed that social isolation in particular increased risk in relation to sexual, domestic and family violence.
  - Increases in specific practices, such as female genital mutilation, child, early and forced marriage, and consequential increased adolescent pregnancy.
  - Vaccine access and vaccination rates, with women having lower rates of COVID vaccination compared to men.
  - Higher rates of job loss in addition to increased unpaid working hours, often due to reduced employment opportunities due to COVID restrictions and caring responsibilities. Rates of workforce participation have yet to recover to pre-pandemic levels amongst women.
  - Higher rates of girls and young women delaying their return to or ceasing their formal education due to the closure of schools or insufficient options to attend remotely.
- 2.19 However, stakeholders observed that the COVID pandemic contributed to the regression of women and children's rights in less direct ways. DFAT noted a range of areas where the rights of women and children had been affected indirectly, including:<sup>17</sup>
- Increased rates of online recruitment by traffickers during the pandemic;
  - Disruption and closure of health services, particularly in relation to sexual and reproductive health; and
  - Difficulties in accessing resources, including financial resources, aid and technology.
- 2.20 Plan International Australia (Plan) expanded on the impact of COVID on women and children's rights using the example of the increased incidence of child marriage. Plan noted that the rate of child marriage increases during times of conflict or crisis; an 'additional 13 million child marriages [took] place that otherwise would not have occurred between 2020 and 2030' which is attributed to the COVID pandemic.<sup>18</sup> This trend was primarily linked to the need for families to 'marry off' their daughters to reduce financial and resource burdens on the household or ensure their safety. Plan observed that, alternatively, girls may initiate marriage themselves in order to escape violence within their family home and secure their own access to resources.<sup>19</sup>
- 2.21 Women and children with intersectional identities, such as those living with disability, also experienced new risks during the COVID pandemic in addition to existing ones

---

<sup>16</sup> DFAT, Submission 8, p. 5.

<sup>17</sup> DFAT, Submission 8, pages 4-5.

<sup>18</sup> Plan International Australia, Submission 22, p. 4.

<sup>19</sup> Plan International Australia, Submission 22, p. 4.

being amplified.<sup>20</sup> People with disabilities were argued to be disproportionately impacted by COVID-19 in relation to their health; as elucidated by CBM Australia and the Australian Disability and Development Consortium, people with disabilities experienced 'higher rates of infection and death from COVID-19, less access to health care and information, worsened mental health and lack of involvement in response planning'.<sup>21</sup>

- 2.22 Indigenous women and children around the world also faced additional and more complex barriers during the pandemic in comparison to men. The Indigenous People with Disabilities Global Network & International Disability Alliance (IPDGNIDA) explained that women and children in Latin America and Africa suffered from information poverty during the pandemic, not having access to key information in relation to the virus and related events. In these communities, women and children were also isolated in their homes and lacked support services to gain information and remain engaged with their local communities.<sup>22</sup>
- 2.23 The Australian Red Cross (the Red Cross), providing evidence observed from its international partners, stated that pre-existing inequalities and harms were extremified by the pandemic. The Red Cross pointed to sexual and gender-based violence as an example of this trend, observing that there were widespread and significant increases in the reports of sexual and gender-based violence during the pandemic.<sup>23</sup> This was coupled with reduced field presence by humanitarian actors and reduced services responding to sexual and gender-based violence, which resulted in victim/survivors having limited access to support.<sup>24</sup> The Red Cross illustrated this point with examples from the international community, noting that 'In Asia, for example, reports to police of violence increased by 30 percent, and reports to family violence hotlines increased by 137 percent in Singapore and 150 percent in Samoa'.<sup>25</sup>

## Climate change

- 2.24 As the impacts of climate change are increasingly felt across the world, stakeholders observed that women and children disproportionately experience the consequences. DFAT explained that women and girls in particular, as some of the groups in society who experience structural disadvantage, are impacted by climate change disproportionately:

As women and girls are subjected to systemic discrimination and intersecting inequalities, they are disproportionately affected by disasters and climate change, including exclusion from decision-making processes and leadership roles. Women are more likely to be killed by disasters, than are men. Women and girls

---

<sup>20</sup> DFAT, Submission 8, p. 6.

<sup>21</sup> CBM Australia and the Australian Disability and Development Consortium, Submission 18, p. 3.

<sup>22</sup> CBM Australia and the Australian Disability and Development Consortium, Submission 18 (Attachment 1), p. 9.

<sup>23</sup> Australian Red Cross, Submission 16, p. 6.

<sup>24</sup> Australian Red Cross, Submission 16, p. 6.

<sup>25</sup> Australian Red Cross, Submission 16, p. 6.

who survive bear a greater workload, than do men and boys, in obtaining clean water, fuel and food, as well as meeting the health and wellbeing needs of household and community members. The increase in unpaid care and domestic work can mean that girls miss or drop out of school and women do not benefit from livelihood opportunities during recovery. Rates of food insecurity are higher among women and girls, than men and boys.<sup>26</sup>

- 2.25 Submitters put the view that climate change is intensifying inequality in societies with traditional views of the role of women. Caroline Porteous, Kath Marsh and Dr Naomi Joy Godden from the Centre for People, Place and Planet, Edith Cowan University (Edith Cowan University) suggested that women's traditional roles linked to their gender (such as carers, food production and distribution, and custodians of traditional practices) can be placed under heightened demand in changing environments.<sup>27</sup> They explained that climate change impacts women and children in profound ways. They stated that this could be felt directly (such as displacement due to natural disaster) or indirectly (such as experiencing water insecurity due to decreased rainfall).<sup>28</sup> This was highlighted in reference to the health impacts of climate change, which Porteous, Marsh and Godden argued were significantly more likely to affect women and children:

Social and cultural norms mean women are more likely to experience famine and poverty, making them more susceptible to malnutrition and subsequent diseases (Dimitrov, 2019). Due to their increased risk of poverty, women are more likely to reside in substandard accommodation or slums where disease is more likely to occur due to poor sanitation (Abid, 2018). Women are also more likely to be in contact with waste, either directly or indirectly by working in contaminated environments, again making them more susceptible to disease (Abid, 2018). UNICEF (2021) notes that approximately 90% of the climate change associated global burden of disease is borne by children aged under 5 years old.<sup>29</sup>

- 2.26 They also note that the mental health effects of climate change significantly impact on children due to their 'immature development and adaptive capacity, sensitivity, and dependence on adults'.<sup>30</sup>
- 2.27 Porteous, Marsh and Godden pointed to the following findings from the Asia Pacific Forum on Women, Law and Development's climate justice program, identifying the following impacts on women which are connected to climate change:<sup>31</sup>
- Malnutrition-caused health issues (including body/stomach pains, menstrual irregularity and eye health problems) due to decreased agricultural production and increased poverty in parts of India;

---

<sup>26</sup> DFAT, Submission 8, p. 6.

<sup>27</sup> Centre for People, Place and Planet, Edith Cowan University, Submission 24, pages 4-5.

<sup>28</sup> Centre for People, Place and Planet, Edith Cowan University, Submission 24, p. 4.

<sup>29</sup> Centre for People, Place and Planet, Edith Cowan University, Submission 24, pages 4-5.

<sup>30</sup> Palinkas and Wong cited in Centre for People, Place and Planet, Edith Cowan University, Submission 24, p. 5.

<sup>31</sup> Centre for People, Place and Planet, Edith Cowan University, Submission 24, pages 5-6.

- Lack of appropriate medical facilities for women (particularly displaced Indigenous groups) in Myanmar and India;
- The introduction of previously absent diseases in Pakistan, such as tuberculosis, malaria and hepatitis, particularly in pregnant women and children; and
- Health conditions associated with natural disasters, such as stomach ailments and respiratory and skin diseases as a result of frequent cyclones and increased salinity in parts of Bangladesh.

2.28 Access to education for women and children has also been linked to climate change. Lack of access can be due to a range of broader issues, including disruption resulting from natural disaster, workforce participation for children, forced marriage, and resource diversion.<sup>32</sup>

## Conflict and crisis

2.29 Women and children have long been recognised as experiencing war, conflict and crisis through the prism of pre-existing inequities, resulting in unique risks and challenges. This situation applies particularly to women as either victims or community leaders in conflict situations. However, some witnesses suggested that the situation of women and children is deteriorating even in the context of conflict situations.<sup>33</sup> DFAT noted that women and children face the following challenges in the context of war, conflict and crisis:<sup>34</sup>

- Sexual and gender-based violence in the context of war and conflict, including forms of violence such as rape, sexual slavery, forced pregnancy, trafficking and intentional spread of sexually transmitted diseases.
- Closure of social services such as medical and educational facilities, resulting in restriction of movement.
- Unequal representation in peace negotiations and recovery management, with most participants generally tending to be men and thus lacking insight into the needs of particular groups in society.
- Barriers in accessing justice, including discriminatory legal systems and insufficient victim-survivor support services.

2.30 DFAT highlighted regions such as Afghanistan, Ukraine and Myanmar as sites where human rights breaches have been reported within the context of conflict zones.<sup>35</sup>

2.31 The Australian Council for International Development (ACFID) confirmed DFAT's observations, noting that women and their human rights are being 'impacted by social norms and systems of power that perpetrate marginalisation and inequality for

<sup>32</sup> Centre for People, Place and Planet, Edith Cowan University, Submission 24, p. 6.

<sup>33</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 1.

<sup>34</sup> DFAT, Submission 8, pages 6-7.

<sup>35</sup> DFAT, Submission 8, p. 7.

women and people of diverse sexual orientation, gender identity, and expression'.<sup>36</sup> This was argued to be heightened during times of crisis and emergency, such as natural disaster and conflict situations.

- 2.32 Emergency scenarios increase the threat of gender-specific human rights violations, such as gender-based violence and harassment, forced marriage and human trafficking.<sup>37</sup> Plan International Australia confirmed this finding, highlighting the strong correlation between rates of child marriage and situations of humanitarian crisis, observing that countries with high child marriage statistics also tend to be among the most unstable.<sup>38</sup> ACFID noted that this trend had been seen in the Taliban's recent return to power in Afghanistan, causing a humanitarian crisis which resulted in a spike in the rate of early and forced marriage.<sup>39</sup>
- 2.33 Adolescent girls were argued to be particularly vulnerable in times of conflict and crisis. Plan International Australia outlined the human rights impacts on girls in such situations:

During times of humanitarian crisis, including in situations of armed conflict, girls experience unique risks and challenges distinct from those affecting younger children, boys and women; inter alia: large-scale exclusion from education; child, early and forced marriage; female genital mutilation; early pregnancy; period poverty; and sexual violence by family members and armed groups.<sup>40</sup>

## The war in Ukraine

- 2.34 The invasion of Ukraine in 2022 by the Russian Federation has raised concerns regarding human rights, with reports of Ukrainian authorities investigating almost 100,000 reports of war crimes in relation to the invasion and commencing proceedings against 220 suspects in domestic courts.<sup>41</sup> In this context, the rights of women and children caught in the conflict have been reportedly breached. Allegations have been specifically raised in relation to:
- The forced deportation and adoption of Ukrainian children by Russians; and
  - Accounts of sexual violence perpetrated by Russian military personnel against Ukrainian women, men and children.
- 2.35 Allegations of Ukrainian children being forcibly deported and transferred from occupied areas of Ukraine into the Russian Federation have been substantiated by a range of international bodies. These actions have been judged to be conducted with the intention of permanently rehoming the Ukrainian children into Russian families. These allegations have been investigated by the International Criminal Court, which

---

<sup>36</sup> Australian Council for International Development, Submission 25, pages 2-3.

<sup>37</sup> ACFID, Submission 25, p. 3.

<sup>38</sup> Plan International Australia, Submission 22, pages 3-4.

<sup>39</sup> ACFID, Submission 25, p. 3.

<sup>40</sup> Plan International Australia, Submission 22, p. 2.

<sup>41</sup> Anthony Deutsch, 'Torture, sexual violence commonly used by Russian forces in Ukraine, say experts', *Reuters*, 2 August 2023, <https://www.reuters.com/world/europe/torture-sexual-violence-commonly-used-by-russian-forces-ukraine-say-experts-2023-08-01/>, viewed 25 October 2023.

has issued arrest warrants for war crimes for Russian President Vladimir Putin and the Russian Commissioner for Children's Rights Maria Lvova-Belova. Further, the Organization for Security and Co-operation in Europe have investigated the matter which confirmed that a 'large number' of Ukrainian children have been subject to 'numerous and overlapping' human rights violations, including forced deportation, military training and targeted re-education.<sup>42</sup>

- 2.36 In addition, DFAT noted reports of other human rights abuses relating specifically to children. These include instances of low-yield land mines being placed in areas in Ukraine where children are more likely to be exposed, such as playgrounds.<sup>43</sup>
- 2.37 In relation to sexual violence against Ukrainian civilians, there have been reports alleging sexual violence directed at Ukrainian women, men and children by Russian military personnel. Allegations of sexual violence by Russian military personnel were documented early in the conflict, which have been subject to ongoing investigations. Such incidents include the torture and sexual violation of prisoners held in detention camps, and rape of Ukrainian civilians in the initial invasion.<sup>44</sup>
- 2.38 While efforts remain ongoing to verify the allegations, there have been actions worldwide to condemn any instances of sexual violence amidst the conflict and respond to human rights issues alongside the Ukrainian government. For instance, a global coalition of aid organisations were said to be assisting the Ukrainian government with issues such as human trafficking.<sup>45</sup> In addition, at a recent Assembly of States Parties of the International Criminal Court, Australia supported a side offence in relation to conflict-related sexual violence in relation to the Ukraine war.<sup>46</sup> The ICC investigation remains ongoing.
- 2.39 Other human rights issues impacting women were also raised in relation to the war. Ms Michelle Higelin, Executive Director of ActionAid Australia, explained that the conflict in Ukraine was prompting other human rights violations for women and children, including increased human trafficking due to the large number of people travelling across borders in risky situations.<sup>47</sup>

---

<sup>42</sup> DFAT, Submission 8: 3, Answer to Question on Notice, p. 1.

<sup>43</sup> DFAT, Submission 8: 1, Answer to Question on Notice, p. 1.

<sup>44</sup> Liz Cookman, "I just want justice": Ukrainians struggle with hidden war crime of sexual violence', *The Guardian*, 26 September 2023, <https://www.theguardian.com/world/2023/sep/26/i-just-want-justice-ukrainians-struggle-with-hidden-war-of-sexual-violence>, viewed 20 October 2023.

<sup>45</sup> Mrs Rebecca Nhep, Senior Technical Adviser, Better Care Network; and Co-Founder and Co-Chair, ReThink Orphanages Australia, *Committee Hansard*, Sydney, 12 April 2023, p. 35.

<sup>46</sup> Ms Marie-Charlotte McKenna, Assistant Secretary, International Law Branch, Legal Division, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 5.

<sup>47</sup> Ms Michelle Higelin, Executive Director, ActionAid Australia, *Committee Hansard*, Sydney, 12 April 2023, p. 18.

## How does Australia currently support human rights internationally?

2.40 This section provides an overview of the current international legal and strategic context as it relates to the rights of women and children, and how Australia responds to women and children's human rights in foreign policy initiatives.

### International law governing the rights of women and children

2.41 As briefly detailed in Chapter 1, the key international human rights instrument is *the Universal Declaration of Human Rights* (UDHR), which asserts the fundamental importance of human rights for all human beings and their critical role in promoting peace and security. Further, it provides a framework to monitor human rights abuses and encourage nation-states to make efforts to address any infringements on human rights.

2.42 Australia is currently party to seven key international treaties or agreements relating to human rights:<sup>48</sup>

- the UN *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW)<sup>49</sup>
- the International Covenant on Civil and Political Rights (ICCPR)
- the International Covenant on Economic, Social and Cultural Rights (ICESCR)
- the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- the Convention on the Rights of the Child (CRC) and
- the Convention on the Rights of Persons with Disabilities (CRPD).

2.43 CEDAW is the central international agreement pertaining specifically to women's human rights. A detailed overview of CEDAW was provided in the Committee's previous report, *Empowering Women and Girls*.<sup>50</sup> Amongst the most pertinent features of CEDAW include requirements on state parties to:

- Eliminate discrimination against women, including implementing equality measures in legislation (Article 2);
- Take measures to eliminate trafficking and exploitation of women (Article 6);

---

<sup>48</sup> DFAT, *International Human Rights System*, undated, <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/international-human-rights-system>, viewed 7 September 2023.

<sup>49</sup> Australia has two reservations to CEDAW in relation to women in the armed forces and the provision of paid maternity leave.

<sup>50</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT), 'Empowering Women and Girls', *Parliament of Australia*, 2015, pages 15-16.

- Ensure that women have equal opportunity with men in relation to political and public life, including participation in the formulation of policy (Article 7);
- Provide equal access to education (Article 10), employment (Article 11), and healthcare (Article 12); and
- Ensure equal access to marriage rights, including the principle of full and free consent to marriage (Article 16).

2.44 In addition, Australia is a party to a number of Optional Protocols, including:

- the Optional Protocol to the International Covenant on Civil and Political Rights establishing an individual communication mechanism
- the Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty
- the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
- the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
- the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women establishing an individual communication mechanism
- the Optional Protocol to the Convention on the Rights of Persons with Disabilities establishing an individual communication mechanism
- the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>51</sup>

2.45 A full list of treaties and agreements pertaining to human rights for women was listed in *Empowering Women and Children*.<sup>52</sup>

2.46 Other relevant international agreements, administered domestically by the Attorney-General's Department, include:

- The 1980 Hague Convention on the Civil Aspects of International Child Abduction and
- The 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children.<sup>53</sup>

2.47 In addition, Australia participates in the Universal Periodic Review (UPR) process, a UN Human Rights Council peer-review which occurs once every five years. The last

---

<sup>51</sup> Attorney-General's Department (AGD), *International Human Rights System*, undated, <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/international-human-rights-system>, viewed 7 September 2023.

<sup>52</sup> JSCFADT, *Empowering Women and Girls, Parliament of Australia*, 2015, pages 16-18.

<sup>53</sup> AGD, Submission 35, p. 2.

UPR national report was submitted by Australia in 2020, and national representatives participated at the subsequent dialogue in 2021.<sup>54</sup>

## Sustainable Development Goals

- 2.48 The Sustainable Development Goals (SDGs) form part of the 2030 Agenda for Sustainable Development (the 2030 Agenda) which ‘provides a shared blueprint for peace and prosperity for people and the planet, now and into the future’.<sup>55</sup> The 2030 Agenda was agreed to by all UN Member States as a replacement framework for the Millennium Development Goals, which drew to a close in 2015. In 2017, a United Nations General Assembly resolution was passed that resolved to identify measurable targets under each goal and markers to monitor progress.
- 2.49 The SDGs comprise 17 goals with 169 specific targets for all nations to achieve in order to end poverty and inequality. Particular SDGs relevant to the human rights of women and children include:
- Goal 5: Achieve gender equality and empower all women and girls (including ending all forms of discrimination for women and girls, eliminating all forms of violence against women, and ending harmful practices such as child, early and forced marriage and genital mutilation);
  - Goal 3: Ensure healthy lives and promote well-being for all at all ages (including specific targets in relation to maternal mortality rates, preventable neonatal mortality, and access to sexual and reproductive healthcare services);
  - Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all (including specific targets which stipulate that all girls and boys are able to access and complete equitable primary and secondary education, equal access to higher education, and the elimination of gender disparities in education);
  - Goal 10: Reduce inequality within and among countries (including promoting the social and political inclusion of all peoples, and eliminating discriminatory laws);
  - Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels (including the significant reduction of all forms of violence and related death rates, ending abuse, exploitation, trafficking and all forms of violence against and torture of children);
  - Goal 13: Take urgent action to combat climate change and its impacts.
- 2.50 DFAT noted that the 2030 Agenda for Sustainable Development, agreed to in 2015, elucidated UN Member States’ commitment to women and girls’ human rights. Goal 5 in particular refers to gender equality and the empowerment of women and girls.

---

<sup>54</sup> AGD, *Australia’s Universal Periodic Review*, undated, <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/international-human-rights-system>, viewed 7 September 2023.

<sup>55</sup> United Nations Department of Economic and Social Affairs, ‘The 17 Goals’, *United Nations*, <https://sdgs.un.org/goals>, viewed 8 October 2023.

includes specific targets relating to violence, unpaid care and work, leadership, sexual and reproductive health and other markers.<sup>56</sup>

- 2.51 While Australia remains committed to the SDGs, the United Nations has indicated that the vast majority of Goal 5 indicators are unlikely to be met by 2030. According to the UN's Sustainable Development Goals Report 2022 (the SDG Report 2022), progress on gender equality measures has stalled if not regressed:

Progress in many areas, including time spent on unpaid care and domestic work, decision-making regarding sexual and reproductive health, and gender-responsive budgeting, is falling behind. Women's health services, already poorly funded, have faced major disruptions. Violence against women remains endemic. And despite women's leadership in responding to COVID-19, they still trail men in securing the decision-making positions they deserve.<sup>57</sup>

- 2.52 Further, the SDG Report 2022 observed that the regression in women's rights, evident prior to the COVID-19 pandemic, had significantly deteriorated since, often due to resources being reallocated away from services for women and children.<sup>58</sup>

- 2.53 DFAT indicated that there were signs of regression in states' commitment to women and children's rights in broader international forums. They explained:

In United Nations forums such as the Human Rights Council and General Assembly, gender equality and women's rights commitments are questioned, with attempts to erase agreed language and restrict women's and girls' human rights and roles. Some Member States oppose references to gender and diversity, multiple and intersecting forms of discrimination, sexual and reproductive health and rights (SRHR), sexual orientation and gender identity, and women human rights defenders. This opposition occurs in relation to debates and resolutions that focus on gender equality and those that address other issues, like poverty, security, and trade.<sup>59</sup>

## Australia's foreign policy response

- 2.54 Australia responds to the human rights of women and children beyond its borders via a multilateral approach. DFAT explained that Australia's human rights engagement in the international context is focused on three key areas:

- Multilateral engagement;
- International humanitarian and development assistance; and

---

<sup>56</sup> DFAT, Submission 8, p. 3.

<sup>57</sup> United Nations, *The Sustainable Development Goals Report 2022*, <https://unstats.un.org/sdgs/report/2022/The-Sustainable-Development-Goals-Report-2022.pdf>, p. 38.

<sup>58</sup> United Nations, *The Sustainable Development Goals Report 2022*, <https://unstats.un.org/sdgs/report/2022/The-Sustainable-Development-Goals-Report-2022.pdf>, p. 38.

<sup>59</sup> DFAT, Submission 8, p. 3.

- Cooperation with partners to respond to particular issues, including sexual and gender-based violence, women’s reproductive health, and responding to conflict and crisis.<sup>60</sup>
- 2.55 Australia contributes to a range of multilateral forums in order to promote human rights for women and children, including:
- ...United Nations bodies (e.g. General Assembly, Human Rights Council, Security Council, Economic and Social Council, Commission on the Status of Women), economic entities (e.g. APEC, G20, OECD, WTO), and regional groupings (e.g. ASEAN, IORA, PIF).<sup>61</sup>
- 2.56 In advancing human rights across the world, DFAT stated that it works with a range of nation-states, including traditional and non-traditional allies in addition to civil society, in order to advocate Australia’s human rights agenda.<sup>62</sup> It emphasised the importance in particular of multilateral and bilateral partnerships in ‘advancing gender equality, with dialogues and cooperation promoting understanding, strengthening capacities, and informing plans to counter anti-rights movements’.<sup>63</sup>
- 2.57 Australia supports a range of programs to assist its neighbours in relation to the human rights of women and children, including:<sup>64</sup>
- Pacific Women Lead, the regional gender program which focuses on women’s rights, leadership and enhancing equality efforts in the Pacific, and is funded for \$170 million from 2021 to 2026;
  - Partnerships for Recovery, aimed at addressing the negative effects of the COVID pandemic on vulnerable groups, particularly women and girls in the Indo-Pacific region;
  - The Gender Equality Fund, which aims to enhance work in the aid program in relation to gender equality and women’s empowerment, which has had an earmarked fund of \$65 million per year since the 2021-2022 budget year;
  - Participation in regional and bilateral projects and partnerships aimed at ending gender-based violence via the development and humanitarian programs;
  - Supporting UN Women, particularly in relation to gender-based violence, including providing funding since its establishment in 2010;
  - Supporting initiatives to collect gender-related data, including UNFPA’s kNOwVAWdata program, which aims to measure violence against women in Asia and the Pacific, including providing training and support to enable neighbours to undertake their own studies;

---

<sup>60</sup> DFAT, Submission 8, pages 8-10.

<sup>61</sup> DFAT, Submission 8, p. 7.

<sup>62</sup> DFAT, Submission 8, p. 7-8.

<sup>63</sup> DFAT, Submission 8, p. 8.

<sup>64</sup> DFAT, ‘Australia’s international support for gender equality’, *Department of Foreign Affairs and Trade*, [no date] <https://www.dfat.gov.au/international-relations/themes/gender-equality/Australias-international-support-for-gender-equality>, viewed 25 October 2023.

- A range of economic empowerment projects, including Investing in Women (multi-country, primarily in Southeast Asia), Women’s World Banking (global organisation, operations primarily based in Southeast Asia); and
- The Women, Peace & Security Agenda, including *Australia’s National Action Plan on Women, Peace and Security 2021-2031*.

## Committee comment

- 2.58 Across a range of policy areas, it is clear that the COVID pandemic had a significant detrimental impact on the rights of women and children globally. The Committee is concerned, however, that the regression of women and children’s rights during the pandemic will remain the ‘new normal’ without a concerted action from governments worldwide.
- 2.59 The Committee also recognises that the pandemic served as a tool for repressive state actors to dismantle services and protections that serve the interests and rights of women and children. This situation presents a challenge in the context of international relations, one which the Committee judges as worthy of priority.
- 2.60 International regulatory bodies and many nation-state counterparts have recently expressed renewed intention to address inequity, particularly in relation to gender, such as the United Nations’ call to renew and boost efforts in meeting the SDGs by 2030. The Committee strongly supports these initiatives and calls on the Australian Government and its allies to accelerate these efforts.
- 2.61 The war in Ukraine raises significant concerns regarding human rights violations against women and children. However, while the Committee did not receive substantial evidence in relation to sexual violence relating to the conflict, it is evident that the ongoing effects of the war in Ukraine are yet to fully unfold. The Committee will continue to monitor developments, including the eventual findings of the ICC, in relation to human rights impacts resulting from the war in Ukraine.

## Recommendation 1

---

### 2.62 The Committee recommends the Australian Government:

- **Commit to accelerating action on the Sustainable Development Goals (SDGs), particularly in relation to women and children; and**
- **Create a roadmap identifying measures which can be taken in order to improve Australia’s performance in the SDGs and in assisting our strategic partners to meet goals under the framework.**



## 3. Specific themes of note

- 3.1 While a range of issues relating to the rights of women and children were raised during the inquiry, the Committee has chosen a selection of specific topics to examine in further detail.
- 3.2 This chapter expands on the following issues:
- Gender-based violence, including gender-based violence in settings involving conflict or instability, and access to justice;
  - Acid attacks as a specific form of gender-based violence;
  - Orphanage trafficking and tourism;
  - Sexual and reproductive health rights; and
  - Technology-based harm and abuse.
- 3.3 Each section outlines the issue and its connection with human rights, details the evidence received, provides information regarding any Australian Government response to the issue, and any suggested recommendations by stakeholders. The chapter then concludes with the Committee's comments on these issues.

### Gender-based violence

- 3.4 Gender-based violence is often highlighted as one of the most prevalent and widespread human rights breaches facing women and children today. As noted by the United Nations (UN), '[v]iolence against women and girls is the most pervasive human rights violation rooted in gender inequality and discrimination, unequal power relations and harmful social norms'.<sup>1</sup> As pointed out by Ms Penny Underwood, Social Impact Consultant of the *Geeta* film, the UN has also recognised that violence against women and girls is 'a major obstacle to the fulfilment of human rights for women and girls and the achievement of the 2030 agenda for sustainable development'.<sup>2</sup>
- 3.5 According to UN statistics, approximately one in three women 'experience physical and/or sexual violence in their lifetimes'.<sup>3</sup> It was estimated that one woman or girl in

---

<sup>1</sup> United Nations Office on Drugs and Crime, *Gender-related killings of women and girls (femicide/feminicide)*, 2022, [https://www.unodc.org/documents/data-and-analysis/briefs/Femicide\\_brief\\_Nov2022.pdf](https://www.unodc.org/documents/data-and-analysis/briefs/Femicide_brief_Nov2022.pdf), viewed 20 October 2023.

<sup>2</sup> Ms Penny Underwood, Social Impact Consultant, *Geeta, Committee Hansard*, Canberra, 23 November 2022, p. 2.

<sup>3</sup> Cited in DFAT, Submission 8, p. 3.

the world is killed by someone in her family every 11 minutes.<sup>4</sup> This rate is suggested to be higher in areas such as the Pacific, where the Department of Foreign Affairs and Trade (DFAT) stated the rate of women and children experiencing gender-based violence is at approximately 60 to 80 per cent of the population.<sup>5</sup>

- 3.6 DFAT observed that women and girls who experience intersecting forms of discrimination are at higher risk and have higher rates of gender-based violence.<sup>6</sup> For example, Caritas Australia (Caritas) explained that women and girls with disabilities are ten times more likely to experience gender-based violence than those who do not live with disability.<sup>7</sup>
- 3.7 Gender-based violence is present in multiple different settings in society across the world. Gender-based violence is reported to be most prevalent within the household. Research from the United Nations Office on Drugs and Crime indicates that the majority of femicides are 'committed by an intimate partner or family member'.<sup>8</sup> However, gender-based violence was also reported to be widespread in public areas of society. For example, Dr Samantha J. Gunawardana and Dr Heloise Weber reported that women in Sri Lanka experience gender-based violence while travelling to work or while in the workplace.<sup>9</sup>

## **Gender-based violence in conflict and instability**

- 3.8 Gender-based violence is recognised to substantially increase during times of conflict and instability. Caritas noted that situations involving conflict or crisis raise the risk of gender-based violence, stating that approximately 70 per cent of women are victim to gender-based violence in humanitarian contexts.<sup>10</sup>
- 3.9 Gender-based violence substantially increased during the COVID pandemic as well, partly due to the public health directions forcing women into confined spaces with perpetrators and unable to access support services. This is often referred to as the 'shadow pandemic' of COVID.<sup>11</sup>
- 3.10 Sexual violence is a specific form of gender-based violence and can be used as a tactic of war or, in some cases, a tool of genocide. In relation to the link between sexual violence and genocide, DFAT explained that:

Genocide is certain acts committed against a population with the intent to destroy, in whole or in part, that population. It's been recognised that rape, and

---

<sup>4</sup> Caritas Australia, Submission 29, p. 5.

<sup>5</sup> DFAT, Submission 8, p. 3.

<sup>6</sup> DFAT, Submission 8, p. 3.

<sup>7</sup> Caritas Australia, Submission 29, p. 5.

<sup>8</sup> Cited in DFAT, Submission 8, p. 3.

<sup>9</sup> Dr Samantha J. Gunawardana and Dr Heloise Weber, Submission 28, p. 6.

<sup>10</sup> Caritas Australia, Submission 29, p. 4.

<sup>11</sup> Caritas Australia, Submission 29, p. 5.

forced pregnancy, is one of the abhorrent ways in which that intent to destroy a particular ethnic group can be prosecuted in a conflict setting.<sup>12</sup>

3.11 There is a suite of international law that applies to women in conflict situations, both during and after the event has occurred. In addition to protections provided in the Convention on the Elimination of Discrimination against Women (CEDAW), the rights of women in conflict situations have been specifically addressed in certain international instruments. The critical sources are:

- General Recommendation No. 30 of the UN Committee on the Elimination of All Forms of Discrimination Against Women, emphasising not only the protection of women's rights but also asserting their right to be involved in prevention and post-conflict negotiations; and
- The UN Security Council Resolutions on Women, Peace and Security (WPS), which have been incorporated into Australia's Second Nation Action Plan on Women, Peace and Security and the National Action Plan to Combat Modern Slavery.

3.12 WPS first appeared on the United Nations Security Council agenda in 2000. The United Nations affirms that,

increasing the full, equal and meaningful participation of women in peacemaking, conflict prevention and peacebuilding efforts is a key priority for the United Nations Department of Political and Peacebuilding Affairs (DPPA)<sup>13</sup>

3.13 DFAT stated that the evidence around the WPS agenda highlights that when women are a part of formal negotiating processes, peace agreements are more successful and sustained.<sup>14</sup> Decades of evidence on the WPS resolution shows that in a formal peace process with women at the negotiating table, a resolution is more likely to be reached and that resolution is more likely to be 'long-lasting'.<sup>15</sup>

3.14 One way in which Australia has implemented the WPS agenda is through international development assistance. Australia provided humanitarian assistance through the United Nations Population Fund (UNFPA) to Ukraine for the protection of women and girls from gender-based violence and for sexual and reproductive health services, during the Ukraine-Russia conflict.<sup>16</sup>

---

<sup>12</sup> Ms Marie-Charlotte McKenna, Assistant Secretary, International Law Branch, Legal Division, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 4.

<sup>13</sup> United Nations Department of Political and Peacebuilding Affairs (DPPA), <https://dppa.un.org/en/women-peace-and-security>, viewed 9 November 2023.

<sup>14</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch, DFAT, *Committee Hansard*, Canberra, 8 March 2023, p. 3.

<sup>15</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch, DFAT, *Committee Hansard*, Canberra, 11 August 2023, p. 24.

<sup>16</sup> DFAT, Submission 8, p. 9.

## Justice systems responding to gender-based violence

- 3.15 Access to justice issues were raised as a strong point of concern in the international community. Differing cultural systems of justice were noted by Caritas as a potential barrier to appropriate access to justice, stating that customary or traditional processes (such as payment of a fine to the family of a survivor rather than formal penalties) may not align with Western understandings of justice or provide sufficient support to the victim.<sup>17</sup> Accordingly, rates of reported gender-based violence are generally considered to be significantly underestimated in addition to under-prosecuted. Save the Children Australia (Save the Children) indicated that in Papua New Guinea, for example, approximately six per cent of cases involving gender-based violence reached the national court system. This was suggested to be due to inaction resulting from under-resourcing in the justice system, alternative justice mechanisms, and limited support for victims which results in their not pursuing their case.<sup>18</sup>
- 3.16 DFAT advised that, in addition to domestic courts (where applicable), the International Criminal Court and other international courts have jurisdiction crimes in relation to sexual violence, particularly in the context of conflict:
- Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation and other forms of sexual violence which constitute a grave breach of the Geneva Conventions may constitute crimes against humanity and/or war crimes. Persecution on the basis of gender is also a category of a crime against humanity.<sup>19</sup>
- 3.17 The ICC may investigate matters where crimes falling into this description are carried out 'by a state party national, or in the territory of a state party, or in a state that has accepted the jurisdiction of the court'. Further, the UN Security Council has the power to refer matters to the ICC prosecutor.<sup>20</sup>
- 3.18 DFAT provided recent figures in relation to the ICC's work and how it intersects with gender-based violence:
- According to information available from the International Criminal Court, as of January this year there have thus been 31 cases before the court, with some cases having more than one suspect. ICC judges have issued 38 arrest warrants. Seven persons have been detained and 14 persons remain at large. There have been 10 convictions and four acquittals. Several of these ongoing cases include charges of crimes against humanity and/or war crimes on the basis of rape or sexual violence or because of the persecution on the basis of gender. Other international criminal courts and tribunals have made convictions for rape and

---

<sup>17</sup> Caritas Australia, Submission 29, p. 7.

<sup>18</sup> Save the Children Australia, Submission 30, p. 4.

<sup>19</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 2.

<sup>20</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 2.

other forms of sexual violence, including the International Criminal Tribunal for Rwanda.<sup>21</sup>

- 3.19 Further, DFAT also pointed to key cases handled by the ICC where aggressors have been charged and convicted of crimes involving gender-based violence in conflict, including:
- Mr Bosco Ntaganda, previously a deputy chief of staff and commander of operations in the Patriotic Forces for the Liberation of Congo during conflict, was found to be guilty of crimes against humanity and war crimes, primarily involving rape and sexual slavery; and
  - Mr Dominic Ongwen, a former brigade commander in the Sinia Brigade of the Lord's Resistance Army and took part in a rebellion against the Ugandan government, was found guilty of crimes against humanity and war crimes, including sexual- and gender-based crimes.<sup>22</sup>

## Australia's response to gender-based violence

- 3.20 Australia undertakes a range of activities in support of reducing and eliminating gender-based violence, both domestically and internationally.
- 3.21 DFAT explained that, internationally, Australia is involved in the following processes designed to reduce and eliminate gender-based violence:
- The Assembly of States Parties of the ICC participate in a working group on complementarity facilitation. The working group provides a platform for states and civil societies to engage in issues in relation to complementarity.<sup>23</sup> DFAT advised that Australia, a co-chair of the workgroup, has taken a lead in efforts combating sexual and gender-based violence-related crimes, including co-sponsoring four side offences relating to gender and sexual violence at an Assembly of States Parties in December 2022. These included offences involving gender diversity, intersectional justice.<sup>24</sup>
  - Specific investments in the Overseas Development Assistance program designed to address gender-based violence, including directly supporting crisis centres, counselling services, and early intervention programs to prevent forms of harm such as female genital mutilation and forced early marriage.<sup>25</sup>
  - Collaborating with dedicated global funds, such as the UN Women Trust Fund to End Violence Against Women, which Australia currently provides \$25 million over

---

<sup>21</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 2.

<sup>22</sup> Ms Marie-Charlotte McKenna, Assistant Secretary, International Law Branch, Legal Division, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 4.

<sup>23</sup> 'Complementarity', a concept introduced by Article 1 of the Rome Statute, is the premise that serious crimes may be tried at both the national and international court system.

<sup>24</sup> Ms Marie-Charlotte McKenna, Assistant Secretary, International Law Branch, Legal Division, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 5.

<sup>25</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 6.

a period of five years; and the Women's Peace and Humanitarian Fund, which has a focus on women's rights amid conflict.<sup>26</sup>

- 3.22 Australia also provides funding in relation to certain projects internationally which support victims of sexual violence in conflict. DFAT explained that a \$300,000 contribution was made by Australia to the ICC's Trust Fund for Victims, primarily in reference to the Ntaganda case. The funding was specifically designed to focus on psychological and physical rehabilitation and support to victims- of sexual and gender-based violence, in addition to support for context-specific initiatives.<sup>27</sup>
- 3.23 The Australian Federal Police (AFP) assists victims of sexual violence in locations around the world where they have a local presence. However, cases in conflict zones were said to be complex, and prosecution rates may be challenging dependent on the jurisdiction of the complainant or perpetrator.<sup>28</sup>
- 3.24 Caritas recommended a suite of measures to address gender-based violence and other forms of human rights violations against women and children via Australia's foreign policy program. Among its recommendations, Caritas recommended that the Australian Government:
- ... reaffirms its commitment to inclusive, intersectional, and equitable development, with a clear commitment to women's leadership and the prevention of gender-based violence. In particular it should address the compounding effects of poverty, climate change, conflict and other drivers that increase women and girls' vulnerability using a range of different measures and mechanisms, including the International Development Policy.<sup>29</sup>
- 3.25 Other recommendations from Caritas which address gender-based violence and other human rights violations included:<sup>30</sup>
- Expanding financial and technical support under the International Development Policy to Australian development non-government organisations (NGOs) and local partner organisations to better support gender equity outcomes, requiring a commitment of:
    - Five per cent of Official Development Assistance (ODA) 'through women's equality organisations in 2023- 24';
    - Five per cent of ODA to initiatives with 'gender equality as the primary objective, in addition to 80 per cent of initiatives with gender equality as a significant objective'; and

---

<sup>26</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 6.

<sup>27</sup> Ms Marie-Charlotte McKenna, Assistant Secretary, International Law Branch, Legal Division, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 5.

<sup>28</sup> Ms Kirsty Schofield, Assistant Commissioner, Crime Command, AFP, *Committee Hansard*, Canberra, 24 March 2023, p. 14.

<sup>29</sup> Caritas Australia, Submission 29, p. 2.

<sup>30</sup> Caritas Australia, Submission 29, pages 2-3.

- Exemplifying the highest sector standards in preventing sexual exploitation, abuse and harassment, and contextualising the delivery of development and humanitarian programs with amplifiers of vulnerability. Further, these should be used to assist partners in addressing their own capabilities;
  - Formally recognising the role of local communities and civil society organisations, and correspondingly increasing funding to locally-led programs addressing women’s equality and safety;
  - Assistance to regional partners in creating a ‘legal and policy environment in support of gender justice’, which would include support to local authorities, services and civil society groups to improve their ability to eliminate discriminatory laws and practices; and
  - Improvements to and expansion of women’s leadership programs, particularly the Pacific Women Lead Program which could be expanded to other regions.
- 3.26 Caritas further recommended that Australian foreign policy take a broad and inclusive approach to addressing gender-based violence, which includes challenging:
- ... dominant forms of masculinities that perpetrate harmful and discriminatory practices against women and children, and leverage on the transformative potential of working with men and boys in addressing all forms of inequalities and promoting gender justice and children’s rights.<sup>31</sup>

## Acid Attacks

- 3.27 Acid attacks were raised as a human rights violation that women and children are particularly vulnerable to across the world. Acid attacks are a form of gender-based violence characterised by the use of a corrosive chemical or material as a weapon to deliberately harm another person. Acid Survivors Trust International (ASTI) explained that acid attacks are intended to cause injury to the head and face of the victim to ‘maim, disfigure and blind’, which often causes lifelong impairment and even death in some circumstances.<sup>32</sup> However, acid attacks are not necessarily intended to kill a victim:

When a person is attacked with acid the effects are immediately visible, prompting instant and excruciating pain. ... This premeditated act is designed to disfigure, maim and blind, but not to kill. Not only will a survivor need extended specialist medical treatment, sanctuary, reconstructive surgery and follow up physiotherapy but also crucial expert psychological support. Due to their disfigurement, survivors will often face social isolation further exacerbating mental trauma.<sup>33</sup>

---

<sup>31</sup> Caritas Australia, Submission 29, p. 8.

<sup>32</sup> Acid Survivors Trust International, Submission 14, p. 1.

<sup>33</sup> Acid Survivors Trust International, Submission 14, p. 1.

- 3.28 Further, due to the social stigma of their injuries, acid attack victims may be unable to participate in paid work and access basic resources for the remainder of their lives.<sup>34</sup>
- 3.29 Estimates suggest that there are at least 10,000 acid attacks annually around the world, with women and girls the overwhelming targets.<sup>35</sup> In India, where reported rates of acid attacks rise annually, approximately 250 to 300 attacks are reported to police; however, stakeholders suggested that the true figure is likely to be significantly higher.<sup>36</sup>
- 3.30 Stakeholders emphasised that acid attacks are a form of gender-based violence that transcend culture and country. Ms Emma Macey, Director of Geeta, noted that acid attacks are but one type of gender-based violence, rather than a form of cultural practice.<sup>37</sup> Further, Ms Padma Raman, PSM, Chief Executive Officer of Australia's National Research Organisation for Women's Safety (ANROWS), put the view that the concept that acid attacks are part of cultural practice is incorrect and perpetuate a myth that has been encouraged by perpetrators.<sup>38</sup> Further, she commented on the dynamics of culture in relation to acid violence in South Asian diaspora groups:
- I've seen what communities do in terms of freezing their understanding of what happens back in their country of origin ... In a migrant context, I think it's even more important to be aware that culture can be weaponised and used by men to control.
- In an immigrant context, especially in South Asian communities, the violence isn't just coming from partners; it's coming from families. And it's a really important context to keep in mind—the context of mothers-in-law, fathers-in-law and extended families controlling and limiting the freedom of women and, in large part, using them as slaves.<sup>39</sup>
- 3.31 Long-term access to treatment and rehabilitation for acid attack victims was raised as a significant issue. ASTI emphasised that the long-term impacts on victims are complex and problematic, particularly in relation to medical treatment given that many survivors require extensive invasive surgery throughout their lives. Treatment for acid-related injuries is also often unavailable in many countries with high rates of acid violence due to the lack of medical specialists.<sup>40</sup>
- 3.32 The United Kingdom (UK) is illustrative of a jurisdiction which has grappled with this issue domestically. ASTI explains that, in 2016, the reported rates of acid attacks grew to almost 1,000 in one year; the latest data showed 619 offences recorded in

---

<sup>34</sup> Acid Survivors Trust International, Submission 14, p. 2.

<sup>35</sup> Acid Survivors Trust International, Submission 14, p. 1.

<sup>36</sup> ANU Law Reform and Social Justice Unit, Submission 17, p. 3.

<sup>37</sup> Ms Emma Macey, Director, Producer, Social Impact Producer, *Geeta*, *Committee Hansard*, Canberra, 23 November 2023, p. 1.

<sup>38</sup> Ms Padma Raman, PSM, Chief Executive Officer, Australia's National Research Organisation for Women's Safety, *Committee Hansard*, Sydney, 12 April 2023, p. 11.

<sup>39</sup> Ms Padma Raman, PSM, Chief Executive Officer, Australia's National Research Organisation for Women's Safety, *Committee Hansard*, Sydney, 12 April 2023, p. 11.

<sup>40</sup> Acid Survivors Trust International, Submission 14, pages 1-2.

the year ending March 2020.<sup>41</sup> This was largely said to be due to social factors, including poverty and inequality in areas of east London.<sup>42</sup> Contrary to global trends, however, statistics from the UK suggested that men are more likely to be victims of acid attacks.<sup>43</sup> In response, the UK Government undertook a range of measures to respond to acid attacks, including:

- Legislative reform via the *Offensive Weapons Act 2019* (commenced on 6 April 2022), which included prohibitions on the sale and delivery of corrosive products to persons under 18 years of age, restrictions on delivery to residential homes or lockers, and prohibiting the possession of corrosive substances in public places.
- Mandatory data collection for police forces in England and Wales in relation to actual and attempted acid attacks (or attacks involving a corrosive substance), in place since 2019/20.
- Police training resources and interagency agreements for emergency services in relation to responding to acid attacks.
- Clarified guidance in relation to the prosecution and sentencing of acid attacks, emphasising high levels of culpability on the part of an offender where corrosive substances are used.<sup>44</sup>

3.33 In the past, Australia has recognised the issue and committed funding to address acid attacks in foreign jurisdictions. In 2011, the Australian Government provided funding for the Acid Survivors Foundation in Bangladesh to ‘assist the survivors of acid attacks with physical reconstruction, rehabilitation and legal assistance’.<sup>45</sup>

### **Box 3.1 Case study: Geeta and Neetu Mahor**

The committee heard from Mrs Geeta Mahor and Ms Neetu Mahor, the subjects of the documentary *Geeta. Geeta and Neetu*, a mother and daughter living in India, experienced an acid attack when Neetu was very young:

Geeta Mahor was asleep with her three young daughters when her husband, Inderjeet, crept into their room and maliciously threw acid on them. Geeta was badly injured, three-year-old Neetu ended up severely scarred and almost completely blind, and baby Krishna tragically passed away. And the reason Inderjeet gave for the attack was because he was only getting *girls, girls, girls*.<sup>46</sup>

Today, 30 years after the incident, Geeta and Neetu are part of campaigns to prevent acid violence and raise awareness of the experiences of acid attack survivors.<sup>47</sup> They run the Sheroes Hangout Café and Rehabilitation Centre, a social enterprise and tea shop based in Agra, India, which is designed to provide support for acid attack survivors

<sup>41</sup> Acid Survivors Trust International, Submission 14, pages 2-3.

<sup>42</sup> Acid Survivors Trust International, Submission 14, p. 2.

<sup>43</sup> ANU Law Reform and Social Justice Unit, Submission 17, p. 3.

<sup>44</sup> Acid Survivors Trust International, Submission 14, pages 3-4.

<sup>45</sup> Australian Government, ‘Acid Survivors Foundation’, *Department of Foreign Affairs and Trade*, 14 August 2012, <https://www.dfat.gov.au/news/news/Pages/acid-survivors-foundation>, viewed 3 November 2023.

<sup>46</sup> ‘Synopsis’, *Geeta Film*, 2022, <https://www.geetafilm.com/>, viewed 3 November 2023.

<sup>47</sup> Ms Emma Macey-Storch, Submission 3, p. 14.

and provide a livelihood for those who still struggle with the ongoing financial impacts of their injuries.<sup>48</sup> They are also active in the Stop Acid Attacks movement, which has assisted in prompting legislative change, including the creation of new laws relating to acid attacks, acid sales, disability rights and compensation being introduced.<sup>49</sup>

In speaking to the Committee about her experiences, Neetu emphasised the need for further efforts to support the needs of acid attack survivors, including:

- Financial support to avoid the need for victims to remain in a relationship with their attacker;
- Preventing the sale of acid in overseas jurisdictions (including Australia; and
- Education for both those in the justice system and the broader public to understand the nature of acid violence.<sup>50</sup>

Neetu stated:

This thing happened with me 30 years ago. Still, when I switch on the TV, I hear on the media that these things are still happening in society. This makes me feel very upset and disturbed, and I want us all to take action together. I have a dream that in another five years I won't see this kind of thing happening anymore. I don't want any other girl to suffer, and I want that we should have strict laws against it so that these things can be controlled in the future.<sup>51</sup>

## The Australian domestic response to acid attacks

- 3.34 While violent incidents involving the intentional use of corrosive material or substances is relatively rare in Australia, submitters put the view that the issue is present, albeit under-reported and subsequently poorly understood.
- 3.35 Ms Penny Underwood, Social Impact Consultant for the *Geeta* film, explained that while there is very little formal data collected on the incidence of acid attacks in Australia, media reports indicate that there were '21 known cases of acid attacks [between 2009 and 2022], and about 30 per cent of those 21 acid attacks in Australia are family violence related and mainly targeted on women and children'.<sup>52</sup> Mrs Nayana Bhandari similarly reported, in her experience as the co-founder of the Oorja Foundation which supports the Indian community in Melbourne, that she had witnessed an increased number of family violence cases during the COVID pandemic, and that approximately 60 per cent of these involved 'threats of disfigurement'.<sup>53</sup>

---

<sup>48</sup> Ms Emma Macey-Storch, Submission 3, p. 13.

<sup>49</sup> Ms Emma Macey-Storch, Submission 3, p. 14.

<sup>50</sup> Ms Neetu Mahor, *Committee Hansard*, Canberra, 23 November 2022, p. 3.

<sup>51</sup> Ms Neetu Mahor, *Committee Hansard*, Canberra, 23 November 2022, p. 3.

<sup>52</sup> Ms Penny Underwood, Social Impact Consultant, *Geeta*, *Committee Hansard*, Canberra, 23 November 2022, p. 2.

<sup>53</sup> Mrs Nayana Bhandari, *Committee Hansard*, Canberra, 23 November 2022, p. 4.

- 3.36 Submitters raised concerns that the migration system is a significant complicating factor in addressing acid attacks in Australia. Perpetrators who are non-citizens may be immediately deported due to breaches of their visa conditions in relation to the 'character test' and imprisonment.<sup>54</sup> It was suggested that this system means that a perpetrator's actions 'remains unpunished and the victims' sense of justice unresolved'.<sup>55</sup> It also does not mitigate against other factors, including potential harassment and intimidation by family members remaining in Australia.<sup>56</sup> Ms Sakina Hassani agreed with this point, providing an example of a situation she had observed involving acid violence:

Several years ago, I worked with a client in Melbourne where the husband had thrown acid on his wife in Australia. The woman presented at a hospital and the social worker there rang the police and services. This is where I got involved because I was working in a sector where I could support the woman. She had some serious burns on some of her face and a lot of her body. She was given a PR—permanent residency—visa and support and sole custody of their two children.

However, the perpetrator of the acid attack was never charged with a crime or given a sentence. He was simply deported, with no further consequences, back to their home country. The deportation order was for family violence rather than for committing an acid attack.

As members of his family were very angry at him being deported, the woman in Australia has experienced ongoing stalking and other death threats because she reported it to the police. This woman remains in hiding and has been in fear of her life for several years. While she had some assistance, I remember her really struggling financially. She was trying to stand on her own and support her children on her own, to look after her kids and stay on top of everything in Australia.<sup>57</sup>

- 3.37 Multiple submitters recommended the introduction of specific criminal offences in Australian domestic legislation designed to prohibit acid attacks.<sup>58</sup> In supporting the introduction of an offence specifically addressed at acid attacks, the ANU Law Reform and Social Justice Hub further recommended that the legislation include 'punitive measures prior to deportation of the offender'.<sup>59</sup> Further, a number of international jurisdictions are in the process of introducing legislation or regulations to address acid-related violence, including Colombia, the United Kingdom, Bangladesh and India.<sup>60</sup>

---

<sup>54</sup> ANU Law Reform and Social Justice Hub, Submission 17, p. 4.

<sup>55</sup> ANU Law Reform and Social Justice Hub, Submission 17, p. 4.

<sup>56</sup> ANU Law Reform and Social Justice Hub, Submission 17, p. 4.

<sup>57</sup> Ms Sakina Hassani, private capacity, *Committee Hansard*, Canberra, 23 November 2022, p. 3.

<sup>58</sup> ANU Law Reform and Social Justice Hub, Submission 17, p. 4.

<sup>59</sup> ANU Law Reform and Social Justice Hub, Submission 17, p. 4.

<sup>60</sup> Ms Emma Macey-Storch, Submission 3, p. 26.

3.38 Ms Macey-Storch observed that the United Nations' supplement to *The Handbook for Legislation on Violence Against Women* published in 2009 incorporated guidance designed to address acid attacks:

#### 3.3.6.1 Defining Acid Attacks

Legislation should:

- Define an acid attack as any act of violence perpetrated through an assault using acid.

#### 3.3.6.2 Considerations for criminal offences related to acid attacks

Legislation should:

- Establish a specific acid attack crime,
- Criminalise the unlicensed sale of any type of acid,
- Regulate the sale of any type of acid, and
- Mandate medical personnel to report any case of bodily harm caused by acid to the police.<sup>61</sup>

3.39 In response to this recommendation, the Attorney-General's Department (AGD) and the Australian Federal Police (AFP) raised concerns that introducing legislation relating to acid attacks would likely be outside Commonwealth jurisdiction, and thus a matter for the state and territories. Further, they explained that acid attacks may fall within an offence such as aggravated assault or assault resulting in grievous bodily harm, and that this may provide 'adequate scope to under the egregious nature of this offending and can impose appropriate penalties'.<sup>62</sup> The AFP also observed that implementation of a specific offence at the Commonwealth level may be achievable but would likely require some level of 'doubling up' with existing state or territory offences.<sup>63</sup>

3.40 Ms Macey-Storch recommended that Australian institutions conduct research and allocate funding to data collection in relation to incidents and threats in relation to acid attacks. This was extended to also include areas where there may be 'gaps' in data, in order to identify the extent of the issue and the best method of eliminating the practice.<sup>64</sup> According to Macey-Storch, the collection of data is imperative to understanding acid-related violence in order to:

- Determine the need for and extent of any efforts to reform legislation, including specifically criminalising acid attacks and reducing access to corrosive substances;
- Determine legislation's compliance with international agreements;

---

<sup>61</sup> Ms Emma Macey-Storch, Submission 3, p. 25.

<sup>62</sup> Mrs Susan McKeag, Assistant Secretary, Criminal Law Policy Branch, Attorney-General's Department, *Committee Hansard*, Canberra, 24 March 2023, p. 16.

<sup>63</sup> Ms Jayne Crossling, Acting Commander, Australian Centre to Counter Child Exploitation and Human Exploitation, Australian Federal Police, *Committee Hansard*, Canberra, 24 March 2023, p. 16.

<sup>64</sup> Ms Emma Macey-Storch, Submission 3, p. 31.

- Raise awareness in the justice system and broader public services, including improving record-keeping in medical, family violence, and migration systems; and
  - Consider whether to review sentencing guidelines for acid-related crimes.<sup>65</sup>
- 3.41 Ms Underwood also suggested the inclusion of questions relating to acid violence (including threats to disfigure) into the Family Violence Multi-Agency Risk Assessment and Management Framework (MARAM) report book, used during assessment processes in family violence settings.<sup>66</sup>
- 3.42 In relation to data collection, the AFP advised that they did not receive statistics in relation to acid violence unless it was connected with an issue that the agency had jurisdiction in, such as forced marriage. However, acid attacks were considered within the nexus of other complex forms of violence, including female genital mutilation, and the AFP advised that it had contacts within all state and territory police agencies to discuss these matters, including a working group. This was said to help aid state and territory agencies identify cases involving acid-related violence.<sup>67</sup>

## Orphanage Trafficking

- 3.43 One form of human rights violations that predominantly affect children raised throughout the inquiry was orphanage trafficking. While there is no internationally agreed definition, the practice has been described as ‘a form of child trafficking, where a child is recruited or transferred into an orphanage or institutional care for the purpose of exploitation’.<sup>68</sup>
- 3.44 Anti-Slavery Australia explained that orphanage trafficking is a form of child trafficking ‘in which vulnerable children are placed in orphanages, or institutional care for the purposes of exploitation for profit in order to meet the demands of orphanage tourism and foreign funding’.<sup>69</sup> The US Parliamentary Task Force on Human Trafficking (US Task Force) further explained that orphanages encourage volunteers and tourists to visit in an effort to raise funds, noting reports of children being deliberately malnourished and living in deprived conditions in order to attract more visitor donations, and that children are recruited from their families and sold to orphanages.<sup>70</sup>
- 3.45 The US Task Force noted that children are especially vulnerable in relation to human trafficking more generally and make up almost a third of trafficked victims globally.

---

<sup>65</sup> Ms Emma Macey-Storch, Submission 3, p. 31.

<sup>66</sup> Ms Penny Underwood, Social Impact Consultant, *Geeta, Committee Hansard*, Canberra, 23 November 2022, p. 5.

<sup>67</sup> Ms Jayne Crossling, Acting Commander, Australian Centre to Counter Child Exploitation and Human Exploitation, Australian Federal Police, *Committee Hansard*, Canberra, 24 March 2023, p. 9.

<sup>68</sup> Attorney-General’s Department (AGD), *Targeted Review of Modern Slavery Offences in Division 270 and 271 of the Criminal Code Act 1995 (Cth)*, p. 8.

<sup>69</sup> Anti-Slavery Australia, Submission 34: 1, Answer to Question on Notice, p. 8.

<sup>70</sup> US Parliamentary Task Force on Human Trafficking, Submission 15, p. 1.

They commented that of the eight million children living in orphanages worldwide, 80 to 90 percent have at least one parent alive:

[T]he unfortunate reality is that children are often in orphanages due to poverty, abuse, neglect, or family breakdown, rather than the death of both parents or all living kin.<sup>71</sup>

- 3.46 The US Task Force stated that children being trafficked via orphanages were often called ‘paper orphans’ as a result of their formal documentation being falsified to indicate that they had no living family or had been abandoned.<sup>72</sup>
- 3.47 Orphanage trafficking was argued to be a complex issue that intersects with extreme poverty, inequality, and desperation. Forget Me Not Australia pointed to the complex reasons behind orphanage trafficking such as poverty, dysfunctional families and the desire for education and opportunities in cities.<sup>73</sup> They highlighted how, in Nepal, the COVID pandemic worsened the already dire situation:

During COVID, definitely it got worse because most of the institutions sent the children back to their families. They were not able to provide food to the child in institutions. The caretakers just left the children's homes and orphanages because they wanted to take care of their families. So COVID-19 was like a big eye-opener for everybody, not just in Nepal but globally wherever institutions are run, wherever children are institutionalised unnecessarily. During COVID time, the Nepal government also put measures in place ... not opening any new children's homes or orphanages in Nepal. At the same time COVID-19 left children and families back in the communities where children were going from orphanages into the families—it led to a lot of problems because the families were not prepared and the children were not prepared how to support their livelihoods and how to help them adjust in their new lives going back to the communities.<sup>74</sup>

- 3.48 It was observed that orphanage trafficking is ‘propped up by orphanage tourism, voluntourism, and volunteering and foreign funding’.<sup>75</sup> The US Task Force, in defining orphanage trafficking, noted that the industry flourishes on a ‘demand for access to orphans from tourists to and volunteers with orphanages worldwide...’.<sup>76</sup>
- 3.49 Orphanage trafficking was argued to be a breach of the rights of children. Similarly, ReThink Orphanages (ReThink) asserted that orphanage trafficking is linked to a range of human rights violations against children, including unnecessary separation

---

<sup>71</sup> US Parliamentary Task Force on Human Trafficking, Submission 15, p. 1.

<sup>72</sup> US Parliamentary Task Force on Human Trafficking, Submission 15, pages 1-2.

<sup>73</sup> Ms Anju Pun, Country Director, Forget Me Not Australia Ltd, *Committee Hansard*, Sydney, 12 April 2023, p. 33.

<sup>74</sup> Ms Anju Pun, Country Director, Forget Me Not Australia Ltd, *Committee Hansard*, Sydney, 12 April 2023, p. 33.

<sup>75</sup> Mrs Rebecca Nhep, Senior Technical Adviser, Better Care Network; and Co-Founder and Co-Chair, ReThink Orphanages Australia, *Committee Hansard*, Sydney, 12 April 2023, p. 31.

<sup>76</sup> US Parliamentary Task Force on Human Trafficking, Submission 15, p. 1.

of children from their families, 'sexual exploitation, child abuse, child labour, servitude, child marriage and child commodification.'<sup>77</sup> Orphanage trafficking was also argued to fall within the scope of UN Sustainable Development Goal Target 16.2, which aims to end abuse, exploitation, trafficking and all forms of violence against and torture of children.<sup>78</sup>

- 3.50 ReThink noted that many regions have taken steps to reform their care systems, recognising the danger of overusing institutional care. Accordingly, 'gateway' mechanisms are in place in multiple countries to regulate how children are admitted into care institutions. However, ReThink asserted that operations involved in orphanage trafficking often subvert the law and continue to operate:

[M]any of these orphanages that are involved in trafficking and commodification of children continue to recruit children in violation of the laws of the country that regulate those gatekeeping processes. They're doing it anyway, in part to get enough children to generate the profit that they might be seeking to meet their donor thresholds and to ensure that there are enough children available for orphanage tourism.<sup>79</sup>

- 3.51 The US Task Force highlighted the linkages between orphanage trafficking, voluntourism and foreign aid from Western countries, including Australia. It emphasised that Australia and other Western countries have a role to play in reducing demand, especially in Southeast Asia.<sup>80</sup> The AFP supported this view, stating:

The orphanages are supported by donations and tourism fees. To enable the continued operation of an orphanage, further requests for donations are made and orphanage tourism is promoted. In an illicit operation, child trafficking may be used to increase the number of children living in orphanages, and facilitate sexual exploitation or illicit adoption.

Financially motivated orphanage operators are capitalising on well-meaning foreign benefactors and volunteers, who are in most cases completely unaware their contributions are actively funding child trafficking and exploitation.<sup>81</sup>

- 3.52 Anti-Slavery Australia argued that, as one of the biggest donor and volunteer-sending countries, it is important that Australia be aware of its contribution to orphanage trafficking while implementing reforms to mitigate the effects.<sup>82</sup> This was supported by the AFP, who observed that Australian citizens represent 'one of the largest stakeholder groups supporting (and in some cases running) orphanages in Cambodia, both through donations and volunteering within the centres'.<sup>83</sup> This was

---

<sup>77</sup> Committee Hansard, Sydney, 12 April 2023, p. 31.

<sup>78</sup> US Parliamentary Task Force on Human Trafficking, Submission 15, p. 2.

<sup>79</sup> Mrs Rebecca Nhep, Senior Technical Adviser, Better Care Network; and Co-Founder and Co-Chair, ReThink Orphanages Australia, Committee Hansard, Sydney, Sydney, 12 April 2023, p. 34.

<sup>80</sup> US Parliamentary Task Force on Human Trafficking, Submission 15, p. 2.

<sup>81</sup> Australian Federal Police, Submission 37: 1, Answer to Question on Notice, p. 8.

<sup>82</sup> Anti-Slavery Australia, Submission 34: 1, Answer to Question on Notice, p. 8.

<sup>83</sup> Australian Federal Police, Submission 37: 1, Answer to Question on Notice, p. 8.

considered to be particularly the case in Cambodia, where the industry raises a 'considerable volume of funds' through donors and volunteers.<sup>84</sup>

## Legislative and policy action

3.53 There is a range of domestic and international legislation which may be applicable in situations involving orphanage trafficking. Relevant international and domestic legislation includes:

- International: the *Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption and Guide to Good Practice* and the *Protocol for Responding to Allegations of Illicit or Illegal Practices in Intercountry Adoption*.
- Domestic: *Modern Slavery Act 2018* (Cth), offences under the *Criminal Code Act 1995* (Cth) (Criminal Code), regulations made under the *Family Law Act 1975* (Cth), and offences under the *Counter-Terrorism Financing Act 2006* (Cth).<sup>85</sup>

3.54 However, the Attorney-General's Department commented that orphanage trafficking is not specifically defined in domestic or international legislation, and Australia does not currently have any specific legislation addressing orphanage trafficking.<sup>86</sup> As the AFP explained, current trafficking offences do not encapsulate situations where an Australian citizen in an overseas jurisdiction engages in conduct that 'does not involve the trafficking of a person into or from Australia'.<sup>87</sup>

3.55 Government policy has also addressed orphanage trafficking in a variety of guises in recent years. These include:

- The recognition of the trafficking and exploitation of children in orphanage settings overseas as a form of modern slavery, which was a world-first initiative.<sup>88</sup>
- Regulations on Australian charities who maintain overseas activities to ensure measures are established to prevent harm, exploitation and abuse of vulnerable persons.<sup>89</sup>
- DFAT's collaboration with Australian Volunteers International in 2018 to establish the Child Safe Volunteering Hub in order to promote responsible volunteering and tourism.

---

<sup>84</sup> Australian Federal Police, Submission 37: 1, Answer to Question on Notice, p. 8.

<sup>85</sup> AGD, Submission 35: 1, Answer to Question on Notice, p. 3.

<sup>86</sup> Committee Hansard, Canberra, 24 March, 2023, p.15.

<sup>87</sup> Australian Federal Police, Submission 37: 1, Answer to Question on Notice, p. 8.

<sup>88</sup> DFAT, Australia's international engagement strategy on human trafficking and modern slavery, 2022, <https://www.dfat.gov.au/sites/default/files/dfat-international-strategy-human-trafficking-modern-slavery-2022.pdf>, p. 27.

<sup>89</sup> DFAT, Australia's international engagement strategy on human trafficking and modern slavery, 2022, <https://www.dfat.gov.au/sites/default/files/dfat-international-strategy-human-trafficking-modern-slavery-2022.pdf>, p. 27.

- The Smart Traveller website (operated by DFAT) which provides guidance around the risks of child exploitation and discourages short-term volunteering in orphanages.<sup>90</sup>
- Advice provided by DFAT in relation to responsible volunteering through the Australian Volunteers Program.<sup>91</sup>

3.56 ReThink supported Australia’s leadership in addressing modern slavery and trafficking more broadly, in addition to its efforts to address orphanage trafficking both in its advice to overseas travellers and supporting international actions:

Australia became the first country to formally recognise orphanage trafficking as a form of modern slavery in the context of the Modern Slavery Act, and to recognise orphanage tourism and volunteering as a sector-based risk factor for modern slavery in the Acts reporting guidelines. Australia was also the first country to release travel advice discouraging Australians from participating in orphanage tourism and volunteering through the DFAT Smart Volunteering Campaign. Australia committed to ensuring government funding was not used to perpetuate child institutionalisation or support programs involving orphanage volunteering and introduced criteria that made support of such programs ineligible for receipt of funds through the DFAT ANCP and Friendship Grant programs.<sup>92</sup>

3.57 In considering issues relating to orphanage trafficking, the Targeted Review of Divisions 270 and 271 of the *Criminal Code* noted that there are two potential avenues of amending the law to capture orphanage trafficking. The first pathway could be to establish a separate offence specifically aimed at orphanage trafficking, as discussed earlier in this chapter. The second option suggested was to remove the requirement in Division 271 that trafficking persons must occur across Australian borders.<sup>93</sup> However, the importance of a flexible definition of ‘exploitation’ was said to be critical by:

[E]nsuring Australia’s trafficking in persons offences can apply to evolving criminal methodologies and new forms and settings of exploitation. This includes exploitation of children in orphanages and other institutional settings.<sup>94</sup>

3.58 Further, Save the Children acknowledged that the international non-government sector have a significant role to play; however, they posited that there is a lack of enforcement by the Australian Charities and Not-for-Profits Commission (ACNC) in relation to monitoring potential orphanage trafficking:

<sup>90</sup> Committee Hansard, Canberra, 24 March 2023, p. 7.

<sup>91</sup> Committee Hansard, Canberra, 11 August 2023, p. 27.

<sup>92</sup> ReThink Orphanages Australia, Submission 10, p. 5.

<sup>93</sup> AGD, *Targeted Review of Modern Slavery Offences in Division 270 and 271 of the Criminal Code Act 1995 (Cth)*, [https://consultations.ag.gov.au/crime/modern-slavery-offences/user\\_uploads/targeted-review-of-divisions-270-and-271-of-the-criminal-code.pdf](https://consultations.ag.gov.au/crime/modern-slavery-offences/user_uploads/targeted-review-of-divisions-270-and-271-of-the-criminal-code.pdf), p. 8.

<sup>94</sup> AGD, *Targeted Review of Modern Slavery Offences in Division 270 and 271 of the Criminal Code Act 1995 (Cth)*, [https://consultations.ag.gov.au/crime/modern-slavery-offences/user\\_uploads/targeted-review-of-divisions-270-and-271-of-the-criminal-code.pdf](https://consultations.ag.gov.au/crime/modern-slavery-offences/user_uploads/targeted-review-of-divisions-270-and-271-of-the-criminal-code.pdf), p. 8.

That's a strong word, but we really need the ACNC to step up and make it obligatory for their overseas operations or for charities operating overseas to be much more accountable, because at the minute it's all too grey. We've done some work to try and escalate that, but it doesn't seem to get traction. So I think that's one piece of work. The ACNC needs to step behind the Australian government in leading on this issue.<sup>95</sup>

3.59 In relation to broader international cooperative action, the US Task Force recommended that a critical aspect of addressing orphanage trafficking was to stop the demand from Western tourists to participate in orphanage tourism.<sup>96</sup> ReThink similarly recommended that Australia have a whole-of-government approach to the prevention of orphanage trafficking, which would see an explicitly stated position on orphanage volunteering and other forms of unregulated voluntourism. This stated position would acknowledge harm to children as well as any potential links to orphanage trafficking.<sup>97</sup>

3.60 The adoption of an international consultative working group was suggested by the US Task Force as a method of creating worldwide standards of care for children's shelters. The US Task Force suggested that this group, consisting of government and parliamentary representatives alongside key stakeholders and survivors of human trafficking, could ensure that benchmarks are set to determine whether institutions are compliant with human rights and enhance accountability.<sup>98</sup> International standards of care would also:

[prevent] abuse and harm to children and trafficking survivors, and ... also provide a framework for decision making by Australians and citizens of other nations when exploring adoption from or support for those providing housing and care.<sup>99</sup>

3.61 Further, a model law addressing orphanage trafficking has been developed from Lumos in conjunction with Professor Parosha Chandran. The model legislation contains two offences addressing children being trafficked in orphanage settings:

#### ARTICLE 1: CHILD TRAFFICKING OFFENCE

It shall be a criminal offence to recruit, transfer, transport, harbour or receive a child into an orphanage or other residential childcare institution for the purpose of financial exploitation.

A person guilty of this child trafficking offence is liable on conviction to:

- a. imprisonment for a period of at least [10] years; and
- b. compulsory payment of compensation to the victim; and

---

<sup>95</sup> Ms Karen Flanagan, AM, Co-Chair, ReThink Orphanages, Committee Hansard, Sydney, 12 April 2023, p. 34.

<sup>96</sup> US Parliamentary Task Force on Human Trafficking, Submission 15, p. 2.

<sup>97</sup> ReThink Orphanages Australia, Submission 10, pages 6-7.

<sup>98</sup> US Parliamentary Task Force on Human Trafficking, Submission 15, p. 2.

<sup>99</sup> US Parliamentary Task Force on Human Trafficking, Submission 15, p. 2.

- c. confiscation of assets and disqualification from being involved in any current or future business involving children.

A judge must give reasons for deciding not to award compensation to a victim.

...

#### ARTICLE 2: ADDITIONAL OFFENCES RELATING TO THE FINANCIAL EXPLOITATION OF A CHILD

It shall be a criminal offence to do any of the following acts when done for the purpose of the financial exploitation of a child, namely to:

- Establish, direct, operate, control or manage an orphanage or other residential childcare institution; or
- Solicit or receive funds, donations or gifts, including in-kind donations and the voluntary work of volunteers, for an orphanage or other residential care institution.

A person guilty under this section is liable on conviction to imprisonment for a period of at least [10] years.<sup>100</sup>

3.62 As part of this suite of measures, Lumos recommends additional legislation clarifying issues relating to the proposed offences, such as:

- Aggravating circumstances, including the child's purchase or sale to be placed in the institution, whether they were trafficked across an international border, and whether they were intentionally misrepresented to be an orphan when they were not an orphan.
- The irrelevance of a child's consent to their involvement in any offence.
- Children are not to be prosecuted or punished for unlawful acts related to their trafficking or exploitation.
- Jurisdiction, including that the law applies to acts committed overseas if the perpetrators is ordinarily resident in the country where the law has been implemented.

3.63 These laws are argued to address the concerns raised by the US Task Force in addressing the demand for orphanage trafficking. Such a law was argued to draw the attention of donors and volunteers to the potential risks and liability involved in these institutions:

The Model Law is therefore very likely to influence donors, funders and volunteers to exercise careful due diligence and detailed investigations into the management and running of any proposed childcare institution before deciding whether to fund or donate towards it or volunteer in it. The real and very probable impact of this on the "supply chain" of funds and donations and

---

<sup>100</sup> Interparliamentary Taskforce on Human Trafficking, *The Model Law on Orphanage Trafficking from Lumos*, by Professor Parosha Chandran, 2023, <https://taskforceonht.org/model-legislation/the-model-law/>, viewed 6 September 2023.

voluntary work to childcare institutions that are involved in trafficking children with the aim of using them for financial exploitation cannot be underestimated.<sup>101</sup>

- 3.64 Conversely, responses to previous inquiries have indicated that orphanage trafficking does not need a specific offence in Australian legislation. In responding to the *Hidden in Plain Sight* report, the Australian Government stated in 2020:

The Government does not consider it is necessary to specifically criminalise 'orphanage trafficking' as a separate recognised 'form' of modern slavery. The Government's criminal offences for human trafficking and slavery reflect international best practice and are drafted to include conduct that occurs in a broad range of circumstances and contexts. For example, Australia's offences of human trafficking, slavery, servitude and forced labour apply to exploitation in any industry or context, including exploitation in orphanages.

These offences were specifically amended in 2013 to ensure they cover exploitation in any context. Specifically listing contexts in which exploitation may occur, such as orphanages, would not increase the scope of the offences, and may have unintended consequences. However, the Government recognises the importance of raising awareness that orphanages are a high-risk context where exploitation may occur. The Government is exploring potential legislative options to strengthen the Criminal Code Act 1995 offences to capture conduct by Australians overseas that does not involve the trafficking of a person into or from Australia. For example, this could include the trafficking of a child from one village in another country to an orphanage in another village in that country or a second country.<sup>102</sup>

## Sexual and reproductive health rights

- 3.65 A wide range of stakeholders highlighted that sexual and reproductive health rights had significantly regressed in many parts of the world during the pandemic. This was broadly due to two key factors:
- Efforts made by many nations to curtail sexual and reproductive health rights; and
  - The reduction of access to women's health and sexual and reproductive health services, including reductions in funding and difficulties in obtaining necessary medical resources and equipment.

---

<sup>101</sup> Interparliamentary Taskforce on Human Trafficking, *The Model Law on Orphanage Trafficking from Lumos*, by Professor Parosha Chandran, 2023, <https://taskforceonht.org/model-legislation/the-model-law/>, viewed 6 September 2023.

<sup>102</sup> Australian Government, *Australian Government response to the Parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade reports: Hidden in Plain Sight: An inquiry into establishing a Modern Slavery Act in Australia and Modern Slavery and Global Supply Chains: Interim report of the Joint Standing Committee on Foreign Affairs, Defence and Trade's inquiry into establishing a Modern Slavery Act*, October 2020, p. 14.

3.66 DFAT highlighted the regression of women’s and girls’ human rights and stated that some United Nations Member States oppose references to gender and diversity as well as sexual and reproductive health rights. It acknowledged that restrictions on access to sexual and reproduction health services and information undermine women and girls’ rights.<sup>103</sup> DFAT also explained that there have been concerted efforts in international forums to weaken agreed commitments to address sexual and reproductive health rights:

The backsliding on SRHR commitments commenced as soon as the Sustainable Development Goals were agreed. In the last seven years, the UN Commission on Population Development, which monitors global progress on the ICPD Programme of Action, achieved a consensus outcome on only two occasions because of pushback against commitments in Sustainable Development Goal 5. Restrictions to and denial of SRHR both negate women’s and girls’ bodily autonomy and reinforce restrictive gender roles that place women and girls in the domestic sphere and prioritise motherhood in their identity and perceived worth.<sup>104</sup>

3.67 The Australian Council for International Development (ACFID) similarly commented that 217 million women globally do not have access to contraception and that sexual and reproductive health rights remain restricted. Restricted or prohibited abortion rights were highlighted by ACFID, which they argued led to high rates of unsafe abortions and maternal mortality. They explained that there were an estimated 25 million unsafe abortions annually, accounting for around 13.2 percent of global maternal fatalities.<sup>105</sup>

3.68 In relation to access to sexual and reproductive healthcare, stakeholders noted that access to these services had significantly declined during the pandemic. DFAT noted impacts such as delays in delivering sexual and reproductive health supplies while also diverting resources and staff, impacting the continuity and quality of health services for women and children.<sup>106</sup> DFAT explained that ‘[h]ealth and family planning services were disrupted in at least two-thirds of the world’s countries, impacting the wellbeing and rights of millions of women and girls’.<sup>107</sup>

3.69 The Embassy of the Kingdom of Morocco stated that, during lockdowns, female-led households experienced greater challenges accessing health services, with the gap in accessing reproductive health care for women more pronounced in rural areas.<sup>108</sup>

3.70 Family Planning Australia (FPA) stated that a part of rebuilding from the pandemic is ensuring universal access to sexual and reproductive health services, which is essential for health security.<sup>109</sup> FPA observed that reproductive and sexual health

---

<sup>103</sup> DFAT, Submission 8, pages 3-4.

<sup>104</sup> DFAT, Submission 8, p.4.

<sup>105</sup> Australian Council for International Development, Submission 25, p. 3.

<sup>106</sup> DFAT, Submission 8, pages 4-5.

<sup>107</sup> DFAT, Submission 8, p. 5.

<sup>108</sup> Embassy of the Kingdom of Morocco, Submission 1, pages 4-5.

<sup>109</sup> Family Planning Australia, Submission 11, p. 3.

care is internationally recognised as an international health service, which needs to be accessible and available even during a crisis. COVID was argued to have shifted the public policy focus away from other forms of health care, including sexual and reproductive services, which resulted in reduced access to services.<sup>110</sup>

3.71 Similarly, the Australian Red Cross (the Red Cross) emphasised the centrality of healthcare to women, girls and gender diverse people and note that during times of crisis, access to critical sexual and reproduction healthcare can be interrupted. The Red Cross argued that economic, social and development gains cannot be achieved without access, which should remain a focus during emergencies.<sup>111</sup>

3.72 Climate change was also recognised as a disruptor in ensuring sexual and reproductive health rights were accessible to all. FPA explained that 14 million women across 26 climate-affected nations may lose access to contraception due to climate-related displacement within the next ten years. They stated:

If access is not protected for these women, that would lead to an additional 6.2 million unintended pregnancies, 2.1 million unsafe abortions, and 5,800 maternal deaths in the next decade alone over and above current projections.<sup>112</sup>

### **Australian foreign policy regarding sexual and reproductive health rights**

3.73 DFAT explained that it currently engages in a range of forums to advance sexual and reproductive health rights in the international arena:

Australia is a founding member of the Nexus Initiative to advocate for SRHR in UN forums, supports the provision of lifesaving sexual and reproductive health services and supplies to women and girls in conflict and crisis-affected communities, and has responded to the impacts of COVID-19 through the \$48.5 million Indo-Pacific Sexual and Reproductive Health and Rights program (C-Surge). C-Surge worked with the International Planned Parenthood Federation, Marie Stopes International, Reproductive Choices, UNFPA, and UNICEF to deliver essential sexual and reproductive health services and information to populations across 22 countries in the Indo-Pacific. Services include obstetric and neonatal care, family planning, and HIV and STI testing and treatment, with supplies encompassing dignity/hygiene kits, clean birthing kits, reproductive health kits and emergency tents. The Sexual and Reproductive Health Program in Crisis and Post-Crisis Settings (SPRINT), delivered by the International Planned Parenthood Federation, provides services to communities impacted by disasters, conflict and/or COVID-19, such as those in Fiji, India, Nepal, Papua New Guinea, the Philippines, Samoa, Sri Lanka, and Sudan.<sup>113</sup>

---

<sup>110</sup> Family Planning Australia, Submission 11, p. 4.

<sup>111</sup> Australian Red Cross, Submission 16, p. 7.

<sup>112</sup> Family Planning Australia, Submission 11, p. 4.

<sup>113</sup> DFAT, Submission 8, p. 9.

- 3.74 Australia incorporates sexual and reproductive health rights in relation to disaster assistance. For example, Australia provided \$8 million for the United Nations Population Fund to promote the protection of Ukrainian women and girls from gender-based violence and provide sexual and reproductive health services in Ukraine and neighbouring nations.<sup>114</sup>
- 3.75 One recommendation put forward by FPA was that the Australian Government maintain and increase support to neighbouring countries to protect and strengthen sexual and reproductive health rights, particularly in technical and financial assistance. They noted that addressing the impacts of the pandemic on reproductive and sexual health on neighbouring countries ‘is not only a matter of health security but has social and economic implications that go beyond the immediate situation and directly impact Australia’s national interest’.<sup>115</sup> The International Women’s Development Agency (IWDA) similarly recommended that sexual and reproductive healthcare services are ‘prioritised and recognised as essential health care services’.<sup>116</sup>
- 3.76 In addition, FPA recommended that women from culturally and linguistically diverse backgrounds (including migrant and refugee backgrounds) should receive specialised support services funded via the Australian Government.<sup>117</sup> FPA observed that women from migrant and refugee backgrounds, including those in diaspora communities, generally have worse sexual and reproductive health outcomes than those of an Anglo-Australian background, including less uptake of contraceptives and lower rates of testing for sexually transmitted infections.<sup>118</sup>

## Technology-facilitated harm and abuse

- 3.77 Women and children are also at heightened risk of technology-facilitated abuse, a term which covers a range of different forms of harms. DFAT noted that violence is recognised to be perpetrated against women and girls via technological means, including harassment, stalking, cyberbullying, exploitation, sextortion, hacking and hate speech. This form of violence is also now considered a human rights violation.<sup>119</sup> Child Sexual Abuse Material (CSAM) has also linked to other forms of human rights violations, including threats of violence to the victim or their family members.<sup>120</sup>
- 3.78 The Uniting Church in Australia (Uniting Church) asserted that the digital age has ‘dramatically facilitated’ harm to women and children across the world. Regarding the risks posed to children, they stated:

Child sexual abuse perpetrators can now find their victims online by using advanced technologies and taking advantage of online platforms and services to

---

<sup>114</sup> DFAT, Submission 8, p. 9.

<sup>115</sup> Family Planning Australia, Submission 11, p. 3.

<sup>116</sup> International Women’s Development Agency, Submission 12, p. 6.

<sup>117</sup> Family Planning Australia, Submission 11, p. 3.

<sup>118</sup> Family Planning Australia, Submission 11, p. 5.

<sup>119</sup> DFAT, Submission 8, p. 4.

<sup>120</sup> Uniting Church in Australia, Submission 27, pages 28-30.

go undetected. They are also able to set up their own forums and sites to share information and tips with a spirit of camaraderie. They share information about which global locations are most convenient for opportunities to sexually abuse children. The ability to find like-minded people online, which helps to socialise and normalise child abuse, can make it harder for those with a disposition for paedophilia to control their behaviour. It has also resulted in increased production of new child sexual abuse material to share online, as child sexual abuse perpetrators in networks try to please each other with the sharing of such material.<sup>121</sup>

3.79 The Uniting Church expanded on the prevalence of online abuse of women and children in statistics:

The children's rights network Terre des Hommes has estimated that there will be roughly 750,000 men worldwide looking for online sex with children at any time of the day.

In the Philippines alone, in 2022, 20% of internet using children aged 12 to 17 were victims of serious instances of online sexual exploitation and abuse.

As of August 2017, the Internet Child Sexual Exploitation Database contained over one million unique images and videos. Only a small fraction of the children captured in this material have been identified. Globally, law enforcement agencies have only been able to identify 19,100 of the children depicted in child sexual abuse material online.<sup>122</sup>

3.80 They further provided the following indicators:

- The number of URLs containing child sexual abuse material (CSAM) has increased from 13,182 in 2013 to 252,000 in 2021;<sup>123</sup>
- CSAM involving the sexual abuse of girls has increased from 65 per cent in 2011 to 97 per cent in 2021;<sup>124</sup> and
- The number of victims of CSAM is considered to be underestimated; studies across East Asia, the Pacific, and Eastern and Southern African regions during 2020-21 show that 'between one and 20% of children suffered online sexual exploitation and abuse in the past year'.<sup>125</sup>

3.81 Online sexual extortion was also raised as a harmful practice which disproportionately affects children. According to the Uniting Church, the US National Centre for Missing and Exploited Children stated that 78 per cent of reported sexual

---

<sup>121</sup> Uniting Church in Australia, Submission 27, p. 15.

<sup>122</sup> Uniting Church in Australia, Submission 27, p. 20.

<sup>123</sup> Uniting Church in Australia, Submission 27, p. 21.

<sup>124</sup> Uniting Church in Australia, Submission 27, p. 22.

<sup>125</sup> Uniting Church in Australia, Submission 27, p. 23.

exploitation cases involved girls between the ages of 8 and 17.<sup>126</sup> The rate of reported cases increased by almost 100 per cent from 2019 to 2020.<sup>127</sup>

- 3.82 In explaining the need for action to address the long-term effects of CSAM, Dr Michael Salter explained that CSAM survivors tend to experience high rates of ongoing psychological distress and impacts to their schooling, workforce participation, and impacts to their social networks. However, due to the lack of legislative frameworks that provide restitution mechanisms for victims, victims were argued not to be receiving adequate support.<sup>128</sup>
- 3.83 Dr Salter observed that while a number of reform efforts have been successfully carried out in the Australian region, there remain significant issues impacting on the human rights of women and children. Dr Salter raised three key points of concern:
- The lack of proactive efforts on the part of Australian agencies to detect and remove identified CSAM of Australian children, which requires victims to do so themselves and report it for removal;
  - No legislation across any Australian jurisdiction requiring that CSAM victims identified in law enforcement seizures (either in Australia or an overseas jurisdiction) be notified, resulting in victims' lack of capacity to seek civil remedies for personal injury from perpetrators who view and/or distribute the material; and
  - An absence of legislative frameworks in any Australian jurisdiction providing for compensation or restitution for CSAM survivors; while some victims of crime compensation schemes exist at the state and territory levels, their strict provisions are a barrier for CSAM victims seeking assistance.<sup>129</sup>
- 3.84 In contrast, the United States' Child Pornography Victim Assistance Act provides CSAM victims with access to crime-specific and mandatory restitution, notification systems, and enables victims to take action against perpetrators for the distribution of material.
- 3.85 Australia's engagement with the Southeast Asian region was also observed by Dr Salter to be critical but in need of adjustment to focus on the holistic needs of victims in the region. He explained that Australia has particular responsibilities to the Southeast Asian region due to the specific power dynamics between the neighbouring nations:

Australia has an obligation to ensure that Australian child sex offenders do not predate on children overseas. This obligation exists inherently but Australia has a particular responsibility due to the relatively wealth of Australian citizens compared [to] the vulnerability of children in poorer countries in our region.<sup>130</sup>

---

<sup>126</sup> Uniting Church in Australia, Submission 27, p. 26.

<sup>127</sup> Collective Shout, Submission 31, p. 20.

<sup>128</sup> Dr Michael Salter, Submission 39, p. 2.

<sup>129</sup> Dr Michael Salter, Submission 39, p. 2.

<sup>130</sup> Dr Michael Salter, Submission 39, p. 4.

- 3.86 He observed that overseas victims of Australian perpetrators currently have limited options in relation to seeking restitution or compensation, and that the current avenues available to them 'also put an extremely vulnerable cohort of victims at risk of experiencing additional harm, distress and trauma'.<sup>131</sup> Dr Salter expanded on this point by way of comparison between jurisdictions:

As a matter of accepted Australian law, civil claims are determined under the law of the place where the offence occurred ...

Consequently, and as an example, a Cambodian victim of offences committed against him or her by an Australian national in Cambodia may be entitled to bring a civil claim for compensation before an Australian court. However, the Australian court will be required to apply Cambodian law in deciding the case. This adds significantly to the already prohibitive cost and complexity of litigation, and may also give rise to insurmountable legal barriers. For example, under Cambodian law the statutory limitation period for civil claims for compensation in connection with assault, including sexual assault, is 18 months. This statutory limitation period may not be extended in any circumstances, including where the victim is a child, the full extent of the harm suffered by the victim is unknown or the identity of the offender is unknown.<sup>132</sup>

- 3.87 Dr Salter recommended that the Australian Government establish a CSAM notification system and the creation of a victims' compensation scheme for Commonwealth child sexual abuse offences. He noted that this would be consistent with the Commonwealth Action Plan to Prevent and Respond to Child Sexual Abuse, particularly in relation to the commitment to improve civil remedies for CSAM victims. He further recommended that the Australian Government develop an initiative to remove all known CSAM depicting Australian victims, noting that there have been similar successful strategies implemented in the past.<sup>133</sup>
- 3.88 The Uniting Church recommended the introduction of legislation requiring corporations to 'detect proactively child sexual abuse material accessed or stored on their platforms or services for the purpose of blocking or removing such materials'.<sup>134</sup> The Uniting Church observed that this form of legislation would be similar to requirements contained in the *Anti-Money Laundering Counter-Terrorism Financing Act 2006*.<sup>135</sup> Further, UNICEF and other international agencies such as INTERPOL and ECPAT were noted to be supportive of similar initiatives, including that technology platforms provide material to law enforcement agencies that may identify potential victims and perpetrators.<sup>136</sup>
- 3.89 The Uniting Church also recommended the introduction of an offence for technology providers to not 'preserve and report evidence of child exploitation on their platform

---

<sup>131</sup> Dr Michael Salter, Submission 39, p. 4.

<sup>132</sup> Dr Michael Salter, Submission 39, pages 4-5.

<sup>133</sup> Dr Michael Salter, Submission 39, pages 2-3.

<sup>134</sup> Uniting Church in Australia, Submission 27, p. 2.

<sup>135</sup> Uniting Church in Australia, Submission 27, p. 3.

<sup>136</sup> Cited in Uniting Church in Australia, Submission 27, p. 3.

to law enforcement agencies where an Australian child or offender is involved or where the provider is located in Australia'.<sup>137</sup>

## Australian actions on technology-facilitated harm and abuse

3.90 Australia has worked with its international partners to address safety in the digital sphere. In relation to its multilateral engagement efforts, DFAT advised that recent sessions of the Commission of the Status of Women have adopted resolutions in relation to the 'critical role of technology and innovation in advancing women's and girls' empowerment and fulfilling their human rights'.<sup>138</sup>

3.91 The AGD leads national strategies on children's safety online, particularly in relation to CSAM, and ensuring compliance with the *Convention on the Rights of the Child* and its *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography*.<sup>139</sup> AGD also provides support to regional neighbours in addressing CSAM, including the Indo-Pacific Child Protection Program which is designed to enhance how the legal and justice systems respond to CSAM. This program, funded for \$4.1 million from 2021-25, is designed to:

build greater awareness of child sexual abuse issues, support the reform of institutional frameworks and support services, and drive engagement between regional and international partners, non-government organisations and other key stakeholders. Activities have focused on child-friendly justice practices, including training to prosecutors and law-enforcement on taking a victim-centred approach to investigation and prosecution.<sup>140</sup>

3.92 Australia is also a member of the Global Partnership for Action on Gender-Based Online Harassment and Abuse, in which it has committed to three key objectives:

- The promotion of shared principles on the prevention of and responding to gender-based online harassment and abuse, particularly in relation to accountability mechanisms directed at perpetrators and platforms;
- Supporting relevant programming, resources and training; and
- Enhancing data and research of the scope, impacts and associated costs of gender-based online harassment and abuse.<sup>141</sup>

---

<sup>137</sup> Uniting Church in Australia, Submission 27, p. 3.

<sup>138</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 1.

<sup>139</sup> AGD, Submission 35, p. 3.

<sup>140</sup> AGD, Submission 35, p. 7.

<sup>141</sup> DFAT, *Submission 8*, pages 8-9.

## Committee comment

### Gender-based violence

- 3.93 Gender-based violence remains a scourge on the world community that will forever stymie efforts towards gender equity unless it can be addressed and eliminated.
- 3.94 The Committee is strongly supportive of current initiatives by multilateral actors and international organisations such as the UN to accelerate progress towards gender equity. However, more can and must be done to support the pursuit of gender equity across the world.
- 3.95 Broader social drivers of gender-based violence, such as enduring misogyny and sexism, cannot be underestimated in this context. Further, the importance of an effective justice system which supports victims throughout the legal process is essential in addressing gender-based violence. The Committee accordingly supports these areas of reform being reflected in foreign aid programs and encourages the Australian Government to adopt them as strategic priorities.
- 3.96 The Committee believes that eliminating gender-based violence must be highlighted as one of Australia's key foreign policy goals. Accordingly, it suggests that this issue be considered as a central parameter in all new foreign policies, including the redevelopment of the International Gender Equality Strategy.

### Recommendation 2

---

- 3.97 The Committee recommends the Australian Government, when developing and implementing the new International Gender Equality Strategy, identify gender-based violence as a key strategic issue, and identify pathways and mechanisms to support its regional neighbours in addressing related issues.**

### Recommendation 3

---

- 3.98 The Committee recommends the Department of Foreign Affairs and Trade investigate and implement strategies to assist in the improvement of legal frameworks and support services in the Indo-Pacific regarding gender-based violence.**

### Acid attacks

- 3.99 The Committee recognises the extreme nature of acid attacks, including the impacts on the victim's physical and psychological wellbeing and their capacity to engage in work, school and the broader community. It is supportive of further initiatives at the international and domestic level to address acid violence, including increased support to initiatives supporting the victims of acid violence.

3.100 Having said that, evidence to the inquiry was not clear regarding the scope of the issue in Australia. Reports of acid attacks have generally been taken from media coverage, and the Committee heard that very little formal research is conducted on the issue. Further data collection is required to understand the scope of the issue. This may be best suited by improvements to risk assessment and screening tools, mandatory reporting in public health settings, and improvements in identification of indicators by social services.

## Recommendation 4

---

### 3.101 The Committee recommends the Australian Government:

- **Work with state and territory governments in identifying potential gaps in legislation where acid attacks may not be sufficiently encapsulated, and where improvements can be made to data collection, risk assessment and screening tools;**
- **Consider the viability of the introduction of a Commonwealth offence specifically directed at violence using acid as a weapon, including models which prohibit the sale of certain corrosive substances and potential amendments to Division 271 of the *Criminal Code 1995 (Cth)*; and**
- **Conduct research in relation to the prevalence, nature and impacts of acid attacks in Australia, particularly in relation to support services and medical assistance.**

## Orphanage trafficking

3.102 The Committee has previously engaged on the matter of orphanage trafficking in its inquiry into establishing a Modern Slavery Act in Australia.<sup>142</sup> This issue is complex and emotive, as evidenced by the range of perspectives who contributed to the inquiry. Despite the passage of time, the practice continues to proliferate.

3.103 The Committee is supportive of initiatives that will strengthen Australia's stance against orphanage trafficking and orphanage tourism, including the development of legislation based on the model legislation developed in conjunction with Lumos discussed in this chapter. It is also supportive of broader initiatives at the international level to address the issue, particularly given the linkages to other forms of human rights violations.

3.104 While the Australian Government has indicated in response to past inquiries that it does not believe that orphanage trafficking needs to be specifically addressed in legislation, the Committee is conscious of evidence internationally that the public policy trend is moving towards legislative measures in this context. Further, it is supportive of the findings of the Targeted Review which supported changes to the *Criminal Code 1995 (Cth)* to better capture orphanage trafficking. However, given the

---

<sup>142</sup> See Chapter 8 ('Orphanage trafficking') in Joint Standing Committee on Foreign Affairs, Defence and Trade, *Hidden in Plain Sight: Inquiry into establishing a Modern Slavery Act in Australia*, December 2017.

challenges and complexities of this policy area, the Committee believes that other legislative mechanisms may achieve better outcomes.

- 3.105 Further, while work has been done in relation to public awareness of orphanage trafficking, the Committee suggests that improved awareness of the issue – particularly by Australian benefactors who support the practice without recognition of the human rights concerns – should be pursued. It particularly notes the suggestion by the US Taskforce that legislative action by way of the introduction of specific offences may be a strong measure that will force volunteers, donors and benefactors to turn their mind to these concerns prior to engagement.

## **Recommendation 5**

---

**3.106 The Committee recommends the Australian Government develop and implement strategies to counteract orphanage trafficking and tourism, including:**

- **The adoption of a whole-of-government position explicitly condemning the practice of orphanage trafficking and orphanage tourism;**
- **Developing stronger guidance material for travellers in relation to potential risks in relation to orphanage tourism and volunteering;**
- **Working with multilateral partners (including via interparliamentary working groups and the Inter-parliamentary Union) to eliminate orphanage trafficking and tourism;**
- **Improved regulation and oversight by the Australian Charities and Not-for-profits Commission in relation to institutions engaging in (or suspected to be engaged in) orphanage trafficking and tourism; and**
- **The creation of a specific offence criminalising orphanage trafficking.**

## **Technology-facilitated harm and abuse**

- 3.107 The Committee recognises that technology-facilitated harm and abuse is a relatively recent but pernicious form of human rights violation, often particularly targeting women and children. It is also a crime of an unusually global scale, given that harm can be done immediately and distributed to all jurisdictions. It is also an area where nation-states have limited capacity to control the terrain of public policy, given the power of the main technology companies.
- 3.108 Despite the challenges in this regulatory environment, it is critical that Australia work with its multilateral partners to combat the proliferation of harmful material. The Committee agrees with some stakeholders that there are avenues of regulatory reform which should be investigated, particularly in relation to ensuring that CSAM victims are protected from further harm by being traumatised again.
- 3.109 Further, Australia's role as a leader in the Southeast Asian region requires that we take a role in leading by example and assisting our neighbours in education and

implementation of their own strategies. The Committee recognises that the legal networks in this space between nations can be challenging for victims to navigate, and that many are unable to access open justice. The Committee is of the view that further action may enable improved outcomes for CSAM victims in addition to improving relationships with our neighbours and enhancing the rule of law on both sides.

## **Recommendation 6**

---

**3.110 The Committee recommends the Australian Government develop legislation addressed at the rights of the victims of child sexual abuse material, including:**

- **The provision of legal pathways to enable victims (including those in overseas jurisdictions) to seek civil penalties from the perpetrator, including compensation and restitution; and**
- **Victim access to a perpetrator notification system from law enforcement agencies.**





## 4. New ways forward

4.1 This chapter focuses on areas where Australia can further develop its policies and strategies in relation to the rights of women and children internationally. Themes explored in this chapter include:

- Emphasising the importance of the rights of women and children by placing them at the heart of foreign policy, including an intersectional approach to the rights of women and children;
- Driving women's empowerment to create and lead change in their local communities;
- Focusing on the protection of the rights of children;
- Supporting aid and development programs via improved data; and
- Future-proofing Australia's foreign policy.

### Placing women and children at the heart of foreign policy

4.2 Submitters asserted that the rights of women and children should be at the heart of foreign policy. One suggested method of realising this goal was the formal adoption of a 'feminist foreign policy'. Ms Michelle Higelin, Executive Director of ActionAid Australia (ActionAid), explained that a feminist foreign policy is reflective of a coordinated and coherent approach to matters involving gender equality and the rights of women across all foreign policy. Ms Higelin stated:

Taking a feminist approach encourages us to look at the issue of intersectional feminism, and that encourages us to look at the intersection of gender inequality with other forms of discrimination and prejudice, whether they be on the basis of disability, class, location, ethnicity, race or other forms.<sup>1</sup>

4.3 A foreign policy that emphasises the rights of women was argued to have a range of benefits, as expanded on by Ms Higelin:

With a feminist foreign policy we would see targeted, scaled-up interventions in what we see as gender transformative programming. This is really about getting at the heart of patriarchal norms, challenging unequal power relations, the widespread discrimination faced by women across multiple areas of society and

---

<sup>1</sup> Ms Michelle Higelin, Executive Director, ActionAid Australia, *Committee Hansard*, Sydney, 12 April 2023, p. 20.

really starting to tackle some of those harmful gender norms like violence against women and women's systematic exclusion from decision-making.<sup>2</sup>

4.4 She noted that an official feminist foreign policy would also ensure policy consistency across foreign aid, trade, and diplomatic relations, which currently she asserted was 'some incoherence'. Ms Higelin expanded further on what this looked like from the perspective of non-government organisations engaging with Australian foreign policy, stating that ActionAid supports 'decent work for women in the aid program, yet our trade agreements continue to undermine basic labour rights for women workers'.<sup>3</sup>

4.5 The International Women's Development Agency (IWDA) similarly expressed strong support for Australia's foreign policy to incorporate a feminist foreign policy. They observed that eleven nations had adopted a formal feminist foreign policy, including Canada, France, Spain, Germany and the Netherlands. It observed that foreign policy and international assistance programs emphasise 'a focus on transforming the systems of power which underpin inequality and marginalisation'.<sup>4</sup>

4.6 Caritas Australia (Caritas) emphasised that Australia's foreign policy and its new international development policy should prioritise 'mainstreaming of gender equality outcomes'.<sup>5</sup> Caritas expanded to assert that:

When women are empowered, their children are more likely to attend school and have better health outcomes. Evidence also shows that when women are included in decision-making, disaster preparedness and response initiatives as well as peacebuilding efforts are more likely to be durable and effective.<sup>6</sup>

4.7 The Australian Red Cross (Red Cross) similarly observed that foreign aid or disaster response policy should better address women and children's needs, including the adoption of an intersectional policy which recognises the differing responses required for diverse groups. The Red Cross recommended that the Australian Government:

... increase its focus on strengthening implementation of the protections for women articulated in [international human rights law] to ensure that relevant disaster risk management laws are gender-sensitive and provide robust measures to prevent and address sexual and gender-based violence in emergencies and support other governments to do the same.<sup>7</sup>

---

<sup>2</sup> Ms Michelle Higelin, Executive Director, ActionAid Australia, *Committee Hansard*, Sydney, 12 April 2023, p. 20.

<sup>3</sup> Ms Michelle Higelin, Executive Director, ActionAid Australia, *Committee Hansard*, Sydney, 12 April 2023, p. 20.

<sup>4</sup> International Women's Development Agency, Submission 12, p. 1.

<sup>5</sup> Caritas Australia, Submission 29, p. 5.

<sup>6</sup> Caritas Australia, Submission 29, p. 6.

<sup>7</sup> Australian Red Cross, Submission 16, p. 11.

## An intersectional approach to the rights of women and children

4.8 As outlined in Chapter 2, an intersectional analysis of the rights of women and children requires the appreciation of the different life experiences and backgrounds of women, including elements which make them even more vulnerable to human rights abuses. Many submitters recommended the implementation of intersectionality assessments and analysis at all points of policy formulation and decision-making, including in international agreements and activities.<sup>8</sup> This was argued to be a way of ensuring that the needs and rights of women and children are placed at the heart of foreign policy.

4.9 The importance of recognising intersectionality in women and children was emphasised by a range of stakeholders. Intersectionality is defined as a lens which can enable ‘insight into how multiple characteristics such as gender and disability, age and gender intersect to influence the experience of poverty’.<sup>9</sup> This was expanded on by Ms Jane Munro, Protection, Gender and Inclusion Technical Lead in International Programs and Movement Relations, the Red Cross:

By applying an intersectional lens, what we mean is that it's important to consider the compounding impact of different diversity factors that will impact a person's experience of marginalisation or discrimination in a particular context. Those diversity factors are context specific, of course, but they can include things like gender identity, sexual orientation, migration status, ethnicity, disability, age, nationality, religion, social status, level of education. Not only [a] person's experience of gender but also a person's experience in a humanitarian crisis will be impacted by how those diversity factors are compounding in that particular context. It can impact a person's ability to access essential services, to remain safe in the response and to have a dignified support provided to them.<sup>10</sup>

4.10 Caritas similarly asserted that threats to the rights of women and children should be understood through an intersectional lens:

Addressing gender inequalities and protecting the rights of women and children must be done from a broader, inclusive and intersectional lens. This means taking into consideration the diversity of women and children's experiences, and responding to their unique needs across varying contexts.<sup>11</sup>

4.11 Further, recognising the intersectional needs of women and children can identify how women and children ‘by virtue of [their] gender but also [their] age ... can fall through the cracks or have very unique, distinct or specific needs’.<sup>12</sup> For example, Ms Susanne Legena, Chief Executive Officer of Plan International Australia (Plan),

---

<sup>8</sup> Our Watch, Submission 46, p. 2.

<sup>9</sup> International Women's Development Agency, Submission 12: 1, p. 1.

<sup>10</sup> Ms Jane Munro, Protection, Gender and Inclusion Technical Lead in International Programs and Movement Relations, Australian Red Cross, *Committee Hansard*, Melbourne, 7 June 2023, p. 2.

<sup>11</sup> Caritas Australia, Submission 29, p. 8.

<sup>12</sup> Ms Susanne Legena, Chief Executive Officer, Plan International Australia, *Committee Hansard*, Melbourne, 7 June 2023, p. 9.

explained that in children's programming, a focus on children as a homogenous cohort can result in girls' needs being overlooked at the expense of boys' needs, or vice versa.<sup>13</sup>

- 4.12 The Australian National University Law Reform and Social Justice Research Hub (ANU LRSJ Research Hub) pointed to specific examples domestically where an intersectional lens highlights the risks for women and children of different backgrounds. For example, Aboriginal and Torres Strait Islander women in Australia were said to be '34 times more likely to be hospitalised from violence and report three times as many incidents of sexual violence as non-Indigenous women'.<sup>14</sup>
- 4.13 The Department of Foreign Affairs and Trade (DFAT) observed that disproportionate impacts on the rights of women and children in situations of crisis or conflict can be a result of ineffective considerations of intersectionality in policy responses. For instance, DFAT noted that responses to the COVID pandemic sometimes resulted in negative impacts disproportionately impacting women and children due to measures being 'not gender-responsive or intersectional in their design and delivery'.<sup>15</sup>
- 4.14 The Red Cross stated that its international partners apply an intersectional framework when responding to crisis and humanitarian situations. This is governed by professional standards for protection work and protection, gender and inclusion minimum standards for all International Federation of Red Cross and Red Crescent Society actors.<sup>16</sup> The Red Cross explained that it takes an intersectional approach in disaster preparedness work:

I encourage my colleagues working in Red Cross and Red Crescent societies to conduct analyses of their particular context, look at who might experience marginalisation and discrimination. As I say, that looks different in really different contexts. That could be migrants in that particular context. It could be people with particular health conditions. They then plan for how they will support those groups. We also encourage Red Cross and Red Crescent societies to form good working relationships with community service organisations like organisations for persons with disabilities, women's organisations, on the ground. So then once there is that disaster already happening and there's the heat and adrenaline of the response, those relationships are already formed, and people can be supported more directly.<sup>17</sup>

---

<sup>13</sup> Ms Susanne Legena, Chief Executive Officer, Plan International Australia, *Committee Hansard*, Melbourne, 7 June 2023, p. 9.

<sup>14</sup> ANU Law Reform and Social Justice Research Hub, Submission 17, p. 3.

<sup>15</sup> DFAT, Submission 8, p. 5.

<sup>16</sup> Ms Jane Munro, Protection, Gender and Inclusion Technical Lead, International Programs and Movement Relations, Australian Red Cross, *Committee Hansard*, Melbourne, 7 June 2023, p. 4.

<sup>17</sup> Ms Jane Munro, Protection, Gender and Inclusion Technical Lead, International Programs and Movement Relations, Australian Red Cross, *Committee Hansard*, Melbourne, 7 June 2023, p. 4.

## Australian Government policy and action

4.15 Since the commencement of this inquiry, there has been significant action by the Australian Government on the inclusion of gender considerations in foreign affairs policy. One of the key developments in this space was the publication of the Australian Government's *International Development Policy* in August 2023. The *International Development Policy*, designed to outline Australia's long-term strategic policies in relation to development and international engagement, indicated that gender will be a paramount consideration in Australia's international outreach. The *International Development Policy* explained that the Australian Government is committed to 'the rights and freedoms enshrined in the United Nations Charter' and strives for 'a world in which the rights of all people are upheld'.<sup>18</sup> It also emphasised the importance of working with regional partners, addressing climate change, collective action in the face of disaster and change, and improving equity and equality for all, including within the Australian community and particularly First Nations Australians.<sup>19</sup>

4.16 In particular reference to gender equality, the *International Development Policy* stated:

Gender inequality compounds the most pressing global development challenges. No country can meet its development potential without ensuring all its people have every opportunity to reach their full potential. ... Placing gender equality at the centre of development creates opportunities for people to thrive, making our countries stronger, more secure and more inclusive.<sup>20</sup>

4.17 The *International Development Policy* further explains that it is progressing or plans to implement the following actions in relation to gender equality:

- The development of a new international gender equality strategy, designed to 'guide the breadth of Australia's engagement, including how we integrate gender equality throughout our development partnerships and programs';<sup>21</sup> and
- Supporting programs which specifically address gender equality, particularly via the development programs.<sup>22</sup>

4.18 Ms Sarah Goulding, DFAT, advised that the new *International Development Policy* was the first update to the policy in almost a decade, explaining:

There is in fact a very important commitment that underlies the approach that this policy is taking to international development, which is to put gender equality and

---

<sup>18</sup> DFAT, Australia's *International Development Policy*, August 2023, p. 13.

<sup>19</sup> DFAT, Australia's *International Development Policy*, August 2023, p. 13.

<sup>20</sup> DFAT, Australia's *International Development Policy*, August 2023, p. 14.

<sup>21</sup> DFAT, Australia's *International Development Policy*, August 2023, p. 14.

<sup>22</sup> DFAT, Australia's *International Development Policy*, August 2023, p. 14.

the human rights of women and girls and a human rights agenda at the heart of the work that we will do.<sup>23</sup>

- 4.19 DFAT has also reintroduced a performance target for all Official Development Assistance (ODA) grants which requires that at least 80 per cent of all grants effectively address gender equality in implementation. Further, all new ODA grants over \$3 million are required to contain an objective regarding gender equality, measured by reporting to the Organisation for Economic Cooperation and Development (OECD).<sup>24</sup> This requirement was supported by the findings of the recent *Development Finance Review*, which recommended that all new development finance investments be inclusive of a gender equality objective and be assessed under performance targeting frameworks for gender equality.<sup>25</sup> Ms Sarah Goulding, Assistant Secretary of the Gender Equality Disability and Social Inclusion Branch at DFAT, explained the reasoning for this measure:

The rationale behind that is ... if you don't address gender equality in a whole wide range of forums, whether it's in infrastructure development or it's in education or it's in health or it's in a humanitarian response, you are risking hardwiring discrimination and the perpetuation of the discriminatory social norms that enable gender based violence. That is a fundamental driver, why we want to ensure that within the aid program, in as many places as we can, that we are upholding and promoting gender equality and positive social norms around gender equality in the aid program.<sup>26</sup>

- 4.20 Another way in which Australia addresses gender in its foreign policy is via sanctions for human rights breaches. DFAT advised that the Australian Government utilises a range of approaches in managing human rights abuses against women and children, one of the most serious forms ones being sanctions. DFAT explained that Australia has two types of sanctions:

- An autonomous sanctions framework, which is applied by decision of the Australian Government; and
- A sanctions framework which works to implement sanctions applied by the United Nations Security Council in accordance with its obligations under the UN Charter.<sup>27</sup>

- 4.21 DFAT emphasised that sanctions are 'not our only choice, and they will rarely be our first choice'; rather, it was part of a suite of options available to ensure that the Australian Government responded to human rights situations 'based on what we

---

<sup>23</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality Branch, Department of Foreign Affairs and Trade, *Committee Hansard*, Canberra, 11 August 2023, p. 22.

<sup>24</sup> DFAT, *Development Finance Review*, August 2023, p. 30.

<sup>25</sup> DFAT, *Development Finance Review*, August 2023, p. 11.

<sup>26</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 6.

<sup>27</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 2.

assess will most effectively bring about change'.<sup>28</sup> For example, the Australian Government has imposed human rights sanctions on individuals and entities involved in the oppression of women and girls in Iran, including asset freezes and travel bans.<sup>29</sup>

- 4.22 The Australian Government also addresses human rights issues in global forums and multilateral settings, such as co-sponsoring a United Nations Economic and Social Council resolution which removed Iran from the Commission on the Status of Women in December 2022.<sup>30</sup> Australian representatives delivered a national statement and joined the statement of the Group of Friends on Women, Peace and Security at the UN Security Council Open Debate on Women, Peace and Security on 7 March 2023, emphasising the importance of inclusive and equitable global peace and security.<sup>31</sup>

## Changes for women, led by women

- 4.23 Women remain significantly underrepresented in positions of leadership and decision-making across the world. Accordingly, many stakeholders emphasised that empowering women as community and political leaders can improve societal outcomes and foster change.
- 4.24 Caritas reported that women comprise only 26 per cent of national parliamentarians across the world and 34 per cent of local government elected representatives. They observed that female leaders were reported to be highly prevalent at the household and community level, but that cultural norms and formal restrictions often prevented them from higher leadership positions.<sup>32</sup>
- 4.25 Women's leadership was also highlighted by the Myanmar Campaign Network (MCN), who observed that female leaders have been 'at the forefront' of those fighting against the Myanmar Spring revolution. They observed that many female activists and leaders have faced negative impacts resulting from their efforts, including job loss, arrest, threats, and violence (including sexual violence).<sup>33</sup>
- 4.26 Caritas emphasised the importance of women's leadership and participation in formulating and implementing change. They noted that many repressive regimes internationally had disempowered women and implemented discriminatory laws that robbed women and children of their human rights.<sup>34</sup> Caritas argued that women's involvement in broader society and leadership is essential to improved development outcomes, explaining that benefits included better educational and health outcomes

---

<sup>28</sup> DFAT, Submission 8: 4, Answer to Question on Notice, p. 1.

<sup>29</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 1.

<sup>30</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 1.

<sup>31</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 2.

<sup>32</sup> Caritas Australia, Submission 29, p. 6.

<sup>33</sup> Myanmar Campaign Network, Submission 23, p. 3.

<sup>34</sup> Caritas Australia, Submission 29, p. 6.

for children, and more resilient initiatives and policies in peacebuilding efforts.<sup>35</sup> Further, Caritas pointed to Tongan female leaders in the context of disaster management as proof of women's leadership producing improved outcomes, including better mobilisation, more flexible adaptation to change, and better communication of information.<sup>36</sup>

- 4.27 Similarly, the Australian Council for International Development (ACFID) asserted that women's leadership was critical to not only their empowerment and human rights, but the fundamental stability of societies and protection of everyone's human rights:

Women across the globe play a critical leadership role in resisting conflict and building peace. When women are involved in peace process, the resulting agreements are more likely to endure. Decisions taken by diverse groups are more likely to reflect the needs of the people impacted, making these decisions better informed and more capable of delivering impactful results. Supporting women human rights defenders and women peacebuilders is critical to laying the foundations for peace and stability in fragile and conflict-affected states. Investing in women's leadership across all areas of development, peace and security will lead to better development outcomes.<sup>37</sup>

- 4.28 ACFID urged the Australian Government to increase its efforts in implementing the *Second Australian National Action Plan on Women, Peace and Security 2021–2031* (NAP), asserting that full implementation would 'ensure timely analysis and targeted strategies to advance women's rights, peace and security through Australia's response efforts'.<sup>38</sup>

- 4.29 The Centre for People, Place and Planet (CPPP) at Edith Cowan University recommended that Australian foreign policy emphasise women's leadership at all points of decision-making processes, including inclusion of women and girls of all backgrounds in public policy forums and processes. They suggested three key areas in relation to climate change in particular where women's leadership could be enhanced:

- Establishing quotas to ensure the inclusion of women's movement representatives in all climate and development bodies at the local, national, regional and international levels.
- Committing to full implementation of the Gender Action Plan under the UNFCCC, recognizing the "full, meaningful and equal participation and leadership of women."
- Appointing national gender climate change focal points (NGCCFPs) and supporting them by providing capacity development, tools and sufficient resources. This includes ensuring adequate time and finances to fulfill their respective responsibilities, including contributing to the UNFCCC

---

<sup>35</sup> Caritas Australia, Submission 29, p. 6.

<sup>36</sup> Caritas Australia, Submission 29, p. 6.

<sup>37</sup> Australian Council for International Development, Submission 25, p. 7.

<sup>38</sup> Australian Council for International Development, Submission 25, p. 7.

Gender Action Plan; mainstreaming gender in all negotiation topics and NFCCC bodies; formulating, monitoring, implementing and evaluating national climate change policies, plans, strategies and actions, including nationally determined contributions, national adaptation plans and national communications.<sup>39</sup>

- 4.30 DFAT advised that it currently engages with a range of women's groups in the Indo-Pacific region, in addition to other international jurisdictions, which focus on gender equity and cultural change. Examples of such programs include Pacific Women Lead, Amplify-Invest-Reach, and RiseUp!.<sup>40</sup> Stakeholders applauded these programs, particularly those focused on women's leadership programs in the Indo-Pacific.<sup>41</sup>

## Working with local and community organisations

- 4.31 Ensuring that solutions and community work is led by local actors was highlighted as a critical feature of future foreign policy practice. A number of stakeholders urged that Australian foreign policy and overseas projects be inclusive of the local community, particularly in relation to project or policy design and delivery. In the context of crisis or emergency situations in particular, a locally-led approach was argued to be critical, as local communities 'are best placed to have the capacity and the skills and the funding that they need to then respond in the immediate aftermath of an emergency'.<sup>42</sup>
- 4.32 The Red Cross emphasised that the principle of localisation is recognised as an effective tool in development and also in responding to crises, providing examples from its work internationally:

To illustrate that with the example of Fiji, Fiji Red Cross is one of our priority contexts that we work with. Over the long period of our partnership with them, we've worked on supporting them to be prepared. I will have regular calls with my counterpart, who's the lead for the Fiji Red Cross on this work. I talk to her about what challenges she's experiencing in her work, what training she's conducting, how she might be able to adapt that to make sure that she is capturing all the people who might be impacted in a particular disaster in Fiji. She is on the ground forming relationships with other actors in Suva, UN organisations and also local community organisations who can provide that specialised support to people who have different needs, like people of diverse sexual orientations and gender identities, like children. For example, she is working in partnership with UNICEF

---

<sup>39</sup> Centre for People, Place and Planet, Edith Cowan University, Submission 24, p. 14.

<sup>40</sup> DFAT, Submission 8: 6, Answer to Question on Notice, p. 1.

<sup>41</sup> Australian Red Cross, Submission 16, p. 2; Caritas, Submission 29, p. 3; Ms Michelle Higelin, Executive Director, ActionAid Australia, *Committee Hansard*, Sydney, 12 April 2023, p. 20.

<sup>42</sup> Ms Jane Munro, Protection, Gender and Inclusion Technical Lead, International Programs and Movement Relations, Australian Red Cross, *Committee Hansard*, Melbourne, 7 June 2023, p. 5.

on the ground in Fiji at the moment to look at a really dedicated support for children in disaster response in Fiji.<sup>43</sup>

4.33 Stakeholders suggested that one form of response to addressing the rights of women and children is via a human rights-based approach. The United Nations defines a human rights-based approach as:

... a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress.<sup>44</sup>

4.34 The Centre for People, Place and Planet, Edith Cowan University (the CPPP) explained that a human rights-based approach takes into consideration the human impact of crises such as climate change, including disproportionate impact on different groups and the obligations on certain actors to respond.<sup>45</sup>

4.35 The CPPP illustrated the effectiveness of this approach with reference to the Asia Pacific Forum on Women, Law and Development (APWLD) which was described as 'empowering women and advocating for climate justice using a rights-based approach'. This was achieved by promoting women's rights:

... by supporting autonomous feminist movements through capacity building; producing new knowledge, tools, and resources; undertaking impactful advocacy; and strengthening the movements' architecture.<sup>46</sup>

4.36 Resulting from this approach, the CPPP reported that the APWLD's rights-based approach when applied to work with grassroots women's rights organisations to educate about the gendered impacts of climate change had enabled participants to:

- Increase their understanding of their human rights, patriarchy, climate change, and climate and development justice;
- Gain skills and confidence in leadership, advocacy, campaigning, public speaking, negotiation and decision-making skills;
- Document local experiences of climate injustice;
- Engage in climate-related decision-making at local and district levels; and

---

<sup>43</sup> Ms Jane Munro, Protection, Gender and Inclusion Technical Lead, International Programs and Movement Relations, Australian Red Cross, *Committee Hansard*, Melbourne, 7 June 2023, p. 5.

<sup>44</sup> United Nations, 'What is a human rights-based approach?' *HRBA Portal: A Human Rights-Based Approach to Programming*, no date, <https://hrbaportal.org/faq/what-is-a-human-rights-based-approach/>, viewed 5 October 2023.

<sup>45</sup> Godden et al cited in Centre for People, Place and Planet, Edith Cowan University, Submission 24, pages 11-12.

<sup>46</sup> Centre for People, Place and Planet, Edith Cowan University, Submission 24, p. 11.

- Strengthen organisations, alliances, local governments, and communities through capacity building, networking and increasing women’s confidence.<sup>47</sup>

4.37 Despite these positives, the CDPD noted that structural and systemic issues remained as significant barriers for women engaging in collective action on climate action. These included the challenges of women’s limited capacity to engage with social movements in addition to their unpaid domestic work commitments, men’s unwillingness to involve women in decision-making processes, and – more seriously – safety and security risks for women involved in social action.<sup>48</sup>

4.38 The CDPD recommended the urgent adoption of the United Nations Framework Convention on Climate Change (UNFCCC) Gender Action Plan by the Australian Government, including the Lima work programme.<sup>49</sup> The Gender Action Plan nominates five priority areas which aim to:

advance knowledge and understanding of gender-responsive climate action and its coherent mainstreaming in the implementation of the UNFCCC ... as well as women’s full, equal and meaningful participation in the UNFCCC process.<sup>50</sup>

4.39 Similarly, the Red Cross put the view that foreign policy must reflect the lived experience of local communities, and empower them to make change. The Red Cross highlighted that providing people with first-hand experience with agency enables them to ‘advocate for themselves, to contribute to and connect with the larger society in which they live and receive affirmation that their expertise has been listened to, understood, and valued’. They also highlighted that the incorporation of local people with lived experience can result in the reflection of a diversity of views and backgrounds, which naturally results in an intersectional approach. Accordingly, Red Cross recommended that the Australian Government:

... support a localised approach to protection in humanitarian response that seeks to endorse the role of local actors, with complementary support from international actors, to strengthen capacity and contextualise standards.<sup>51</sup>

4.40 Caritas similarly argued that locally-led solutions are best suited to addressing gender inequity and structural disadvantage. It provided an example from Timor Leste, where it had assisted local communities via supporting partner organisations to address social attitudes on gender-based violence:

Caritas Australia supports 13 local partners across four municipalities of Timor Leste to protect the dignity, safety and access to services for those most vulnerable to experiencing gender-based violence. As well as providing shelters and other support services for women and children survivors of violence, our

---

<sup>47</sup> Centre for People, Place and Planet, Edith Cowan University, Submission 24, p. 12.

<sup>48</sup> Centre for People, Place and Planet, Edith Cowan University, Submission 24, p. 12.

<sup>49</sup> Centre for People, Place and Planet, Edith Cowan University, Submission 24, pages 13-14.

<sup>50</sup> United Nations Climate Change, ‘The Gender Action Plan’, no date, <https://unfccc.int/topics/gender/workstreams/the-gender-action-plan>, viewed 25 September 2023.

<sup>51</sup> Australian Red Cross, Submission 16, p. 10.

local partners also work in the area of prevention and social behaviour change. They engage youth, church actors, and high school students in conversations and training around topics such as early marriage, healthy relationships and conflict management as well as ‘unpacking the social construct of masculinity and how it contributes to power structures and dynamics in our society today. As part of this intervention, there are men’s groups that meet regularly to discuss domestic violence in their community and develop strategies they view to be locally appropriate and relevant to create peaceful homes and harmonious families. These groups of men are influencers who advocate to other men in their communities to put an end to violence’.<sup>52</sup>

- 4.41 Caritas emphasised the importance of local communities, civil society organisations (CSOs) and the role they play in realising the rights of women and children. Programs like the Pacific Woman Lead and the Pacific Church Partnership Program were highlighted, and it was emphasised that in many communities the programs that are most successful and sustainable are those that are led by local communities themselves, where decisions are made by those closest to and most affected by the issues.<sup>53</sup>

## The rights of children

- 4.42 While children are among the most vulnerable to human rights abuses, they often fall through the gaps in foreign policy and response efforts. ACFID stated that children were at higher risk of exploitation and abuse, while having less involvement in decision-making processes that affect their interests.<sup>54</sup>
- 4.43 Children’s rights were said to be at risk in a variety of contexts. This section focuses on three particular issues:
- Violence against children, including in domestic settings and in conflict zones;
  - Access to education, particularly for girls; and
  - Addressing children’s rights and empowering children to participate in decision-making processes.

## Violence against children

- 4.44 Stakeholders asserted that children’s rights and wellbeing are impacted by violence perpetrated against them. Save the Children Australia (Save the Children) argued that violence against children is a violation of a child’s right to live in safety, and can

---

<sup>52</sup> Caritas Australia, Submission 29, p. 6.

<sup>53</sup> Ms Anna Dinglasan, Lead, Equity and Inclusion, Caritas Australia, *Committee Hansard*, Canberra, 24 March 2023, p. 29.

<sup>54</sup> Australian Council for International Development, Submission 25, p. 8.

impact on access to education, compromise their physical and mental health, and limit their opportunities.<sup>55</sup>

- 4.45 Violence against children was argued to be particularly prevalent. ACFID argued that levels of violence against children in the Indo-Pacific are at 'endemic levels' which constituted a significant violation of their rights.<sup>56</sup> ACFID explained the importance of addressing violence against children:

Healthy and happy children, who live free from violence, are more likely to become educated, healthy and functional adults ready to participate in and contribute to their communities. Upholding children's rights to live free from violence will not only protect children now but will set them up for fulfilling lives in adulthood and support long-term resilience and stability across communities, as well as our region.<sup>57</sup>

- 4.46 While significant attention is paid to the human rights of girls, boys also face unique challenges and risks in relation to their human rights. Ms Susanne Legena, Chief Executive Officer of Plan International Australia (Plan), noted the particular vulnerability of boys in the context of armed conflicts, where they can be forced into being enlisted as child soldiers.<sup>58</sup> Ms Legena also observed that gender-inclusive language in relation to violence and gender equality recognises that boys also are at risk:

This is where I would say that the focus on gender equality is really powerful, because when we say gender equality we're not saying just girls. We actually saying yes, there are contexts where boys can also be, and in fact often are, victims of very rigid gender stereotypes which actually harm them too. So by that focus on a broader notion of gender equality, we don't just mean a focus on women and girls. We mean a focus on those power dynamics and those stereotypes and the kind of relationships that exist that would allow everybody to be able to be safe and healthy and to be able to thrive.<sup>59</sup>

- 4.47 Save the Children argued that donor expenditure on ending violence against children remains insufficient:

In recognition of the close relationship between violence against women and violence against children, Australia should seek to strengthen linkages between frontline services and violence prevention programs. This should include applying a child rights and child protection lens to the planning, design, implementation

---

<sup>55</sup> Save the Children Australia, Submission 30, p. 4.

<sup>56</sup> Australian Council for International Development, Submission 25, p. 8.

<sup>57</sup> Australian Council for International Development, Submission 25, p. 8.

<sup>58</sup> Ms Susanne Legena, Chief Executive Officer, Plan International Australia, *Committee Hansard*, Melbourne, 7 June 2023, pp 13-14.

<sup>59</sup> Ms Susanne Legena, Chief Executive Officer, Plan International Australia, *Committee Hansard*, Melbourne, 7 June 2023, p. 13.

and evaluation of gender-based violence and family violence programs to ensure that shared risk factors are understood and addressed.<sup>60</sup>

## Education

4.48 The importance of access to education as a right and a tool for change was emphasised by stakeholders. Plan asserted that education is an investment that improves the intergenerational wellbeing of communities and can lift families out of poverty. However, the impact of climate-related disasters, COVID, food insecurity and armed conflict on the education of adolescent girls, poses a threat to achieving gender equality.<sup>61</sup> Plan further explained:

Disasters and emergencies, including extreme weather events, are increasingly putting children's right to education at risk through severe and repeated disruptions to education services, which impact children's learning, and through physical collapse and destruction of education infrastructure – which has killed tens of thousands of children.<sup>62</sup>

4.49 Similarly, DFAT submitted that during the pandemic school related closures led to a higher rate of school drop-out for girls than boys, noting this was linked to 'pre-existing discriminatory gender norms'.<sup>63</sup> DFAT further observed that 'the gender digital divide and technology-facilitated gender-based violence hindered and prevented girls from continuing their education online'.<sup>64</sup>

4.50 In addition to these factors, access to education was also said to be restricted in times of conflict. For example, women and girls' rights to education were significantly hampered in Afghanistan after the Taliban's return to power in 2021. Protests by women and girls in Afghanistan against their exclusion from formal education and employment were met with violence in a move to further enforce measures that 'restrict women's movement, activities and dress'.<sup>65</sup>

## Protecting and empowering children

4.51 Given that children are among the most vulnerable groups in the international community, many stakeholders argued that they require specific consideration and protection in foreign policy considerations.

4.52 It was argued that Australia's new International Development Policy (IDP) is a promising move in the right direction, with a commitment to tackling poverty, inequality and climate change.<sup>66</sup> Some stakeholders like Save the Children have

---

<sup>60</sup> Save the Children Australia, Submission 30, p. 5.

<sup>61</sup> Plan International, Submission 22, p. 6.

<sup>62</sup> Plan International, Submission 22, p. 7.

<sup>63</sup> DFAT, Submission 8, p. 5.

<sup>64</sup> DFAT, Submission 8, p. 5.

<sup>65</sup> DFAT, Submission 8, p. 7.

<sup>66</sup> Mr Aram Hosie, Group Executive Director, Strategy and Public Affairs, Save the Children Australia, *Committee Hansard*, Canberra, 11 August 2023, p. 1.

however expressed the desire for the Australian government to invest in specific strategies for children and young people which promotes their rights. Mr Aram Hosie, Group Executive Director, Strategy and Public Affairs at Save the Children remarked that:

We think that child protection needs to be prioritised in the development of national development plans. We want to see the integration of child rights as a key element of the Civil Society Partnerships Fund. We would like to see the Australian government commit to building climate resilience in our region by engaging with climate finance mechanisms, including replenishing the Green Climate Fund and community based damage and loss funding. Throughout all of this, we would like to see a human rights approach to the development of a humanitarian strategy in ensuring that there is adequate funding to address the child rights issues in conflict zones.<sup>67</sup>

- 4.53 A suggested method of addressing these concerns was the creation and adoption of a specific international strategy aimed at children, similar to the Australia's Gender Development Policy. ACFID stated that the Australian Government should develop:

... a targeted strategy to be a priority for the Australian Government. Setting out the civil, political, economic, social, health and cultural rights of children, this strategy should be in line with the international Convention on the Rights of the Child. It must intentionally consider children in the design and delivery of development and humanitarian projects, including education system strengthening targeted at children and young people, health interventions, protection programs, and community-based social protection.<sup>68</sup>

- 4.54 ACFID also recommended that 80 per cent of humanitarian and development investments should effectively support and protect children, regardless of their primary objective.<sup>69</sup>
- 4.55 Save the Children maintained that children are disproportionately threatened now and in the future with regards to climate change. Despite this they are excluded from and overlooked in decision making, observing that 'children were only directly mentioned in 20% of all Nationally Determined Contributions (NDCs) developed after the introduction of the Paris Agreement'.<sup>70</sup>

## Future-proofing Australia's foreign policy

- 4.56 Stakeholders noted that gender equality outcomes should be a priority in Australia's foreign policy, with others stating the need for the *International Development Policy* to be comprehensive, intersectional and cross-sectoral. Stakeholders strongly

---

<sup>67</sup> Mr Aram Hosie, Group Executive Director, Strategy and Public Affairs, Save the Children Australia, *Committee Hansard*, Canberra, 11 August 2023, pages 1-2.

<sup>68</sup> Australian Council for International Development, Submission 25, p. 8.

<sup>69</sup> Australian Council for International Development, Submission 25, p. 8.

<sup>70</sup> Save the Children Australia, Submission 30, p. 6.

recommended that increased support for humanitarian aid and assistance programs should be a priority in addressing future challenges. ACFID explained that:

In terms of humanitarian need, compounding, complex, and long-lasting crises have become the new normal. The underlying vulnerabilities and causes of humanitarian crises are being exacerbated. According to the UN Humanitarian Needs Overview (HNO), the number of people in need of humanitarian assistance rose by 70 per cent in the four years between 2018 and 2021 – from 122 million people to 218 million people. There is an urgent need for Australia to reinvigorate its focus on humanitarian action, principles and capabilities so that we are fit to deal with future challenges.<sup>71</sup>

4.57 The Red Cross similarly observed that there will be increased demands on humanitarian assistance in future as natural disasters become more frequent and conflict arises. In anticipating future challenges in Australia's foreign policy, they recommended the need for:

- Increased focus on pre-disaster resilience building;
- Intentional improvement of the social infrastructure, in addition to hard disaster risk reduction measures,
- Increased resourcing for community-led initiatives; and
- Reduction of systems that duplicate services, drive competition over collaboration and retraumatise people by making them tell their stories over and over.<sup>72</sup>

4.58 Caritas argued that Australia's *International Development Policy* needed to recognise the role of local communities and the CSOs that provide support to them as key stakeholders in confronting inequality and violence.<sup>73</sup>

4.59 Australia's newly released *International Development Policy* is reflective of the dynamic strategic environment, emphasising the importance of the Indo-Pacific region as key to securing stability. The *Development Finance Review*, released alongside the *International Development Policy*, also indicated that the Pacific region requires substantial and urgent investment for climate-resilient infrastructure which are fit for purpose and affordable for developing economies.<sup>74</sup>

## Fostering change through data

4.60 Data was highlighted as a central component in addressing inequality. The reliance on data to identify the scope of issues in addition to measuring progress was highlighted by the United Nations in its most recent report on the Sustainable

---

<sup>71</sup> Australian Council for International Development, Submission 25, p. 10.

<sup>72</sup> Australian Red Cross, Submission 16: 1, Answer to Question on Notice, p. 2.

<sup>73</sup> Caritas Australia, Submission 29, p. 9.

<sup>74</sup> Department of Foreign Affairs and Trade, *Development Finance Review*, pages 9-10.

Development Goals. It explained that while there have been improvements in the collection of data in recent years, there are still significant gaps:

While these achievements are worthy of celebration, we cannot ignore the persistent gaps that still challenge our data landscape. Geographic coverage, timeliness, and disaggregation remain areas of concern. For several crosscutting goals such as climate action (Goal 13), gender equality (Goal 5), and peace, justice, and strong institutions (Goal 16), less than half of the 193 countries or areas have internationally comparable data since 2015. This stark reality serves as a reminder that we must prioritize gathering essential information on these critical issues that profoundly impact our future and our planet. Furthermore, a significant challenge lies in the timeliness of data, with less than 30 per cent of the latest available data from 2022 and 2023, while over half of the latest data comes from 2020 and 2021. As we embark on delivering a rescue plan for people and planet at the SDG Summit, accelerated action for data is imperative.<sup>75</sup>

4.61 The importance of data collection was highlighted by a range of stakeholders. For example, the Red Cross pointed to the use of data to respond to a disaster in the case of the Timor-Leste Red Cross's (Cruz Vermelha de Timor-Leste or CVTL) response to Cyclone Seroja in 2021. The aim of the disaster response was to provide emergency food, water and sanitation but during the response staff identified issues that were not being addressed. CVTL collected disaggregated data based on sex, age and disability during their response. This allowed the organisation to identify needs of particular groups including people with disabilities and pregnant women, which then allowed for the response work to be adapted to cater to these needs.<sup>76</sup>

4.62 IWDA asserted that the circumstances of women are made invisible through data, which continues to be a barrier to human rights for women and girls. The way that data is collected and measured with relation to poverty, makes it difficult to disaggregate. It is argued that:

As the world moves increasingly towards data-driven decision-making, important types of data - including data on poverty and inequality - hides, rather than illuminates the gendered nature of the experience.... Data that hides the circumstances of individuals is both a denial of rights in the first place and a constraint on the realisation of rights, because it renders some rights holders invisible to duty-bearers. Household level measurement of poverty, that by design hides the circumstances of people by gender should not be considered a sufficient basis for decision on policy, programs or resource allocations.<sup>77</sup>

4.63 ReThink recommended that data be used to drive a whole-of-government approach to orphanage trafficking and voluntourism. They stressed that research should be

---

<sup>75</sup> United Nations, *The Sustainable Development Goals Report: Special Edition*, 2023, p. 9.

<sup>76</sup> Australian Red Cross, Submission 16: 1, Answer to Question on Notice, p. 6.

<sup>77</sup> International Women's Development Agency, Submission 12, p. 2.

used to inform this approach and to ‘monitor the implementation and effectiveness of strategies.’<sup>78</sup> Further, ReThink recommended that:

Australia should develop a baseline understanding of the scope and scale of involvement in orphanage volunteering and tourism, including through:

- 4.64 The former Ambassador for Women and Girls, Ms Christine Clarke CSC, highlighted the use of the Murad Code (otherwise known as the Global Code of Conduct for Gathering and Using Information about Systematic and Conflict-Related Sexual Violence) as ‘victim centred data collection’, used in the collection of evidence from victims. The aim of the MURAD is to collect data according to specific and rigorous requirements in the first instance, so that victims are not retraumatised in retelling their story multiple times to different parties.<sup>79</sup> Ms Sarah Goulding emphasised that the Murad Code was not a formal international agreement but rather outlines good practice and guidelines. The Murad Code is supported by a number of international agencies and by DFAT.<sup>80</sup>
- 4.65 DFAT indicated that the new *International Development Policy* is committed to ensuring that aid is subject to performance targeting on how well it promotes gender equality. Representatives noted that the new performance framework attached to the development policy:

...outlines a range of ways where we will track the trajectory of the region, which includes markers for progress on gender equality. It also includes measures of the outcomes of the assistance that we do, and we do have a new indicator in there that we will report on about how much support we will be providing to women's rights organisations. We will also report on how many women receive support for business development opportunities, as well as reporting on the number of people who receive support for gender based violence counselling.<sup>81</sup>

## Committee comment

- 4.66 The Committee recognises that there are two key issues that dominate in foreign policy settings today: recovering from the lack of or reversal of progress in advancing human rights due to COVID and other international disruptors, and the emerging changes and threats posed by climate change and conflict. This is true of all areas of foreign policy, but the trend is particularly pronounced when examining the lives and rights of women and children.
- 4.67 In relation to the first point, it is clear that the pandemic had a significant detrimental impact on the rights of women and children. This is due to two factors: the nature of

---

<sup>78</sup> ReThink Orphanages Australia, Submission 10, p. 7.

<sup>79</sup> Ms Christine Clarke CSC, Former Ambassador for Women and Girls, Department of Foreign Affairs and Trade, *Committee Hansard*, Canberra, 8 March 2023, p. 2.

<sup>80</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality Branch, Department of Foreign Affairs and Trade, *Committee Hansard*, Canberra, 8 March 2023, p. 2.

<sup>81</sup> Ms Sarah Goulding, Assistant Secretary, Gender Equality Branch, Department of Foreign Affairs and Trade, *Committee Hansard*, 11 August 2023, p. 23.

COVID-related public health restrictions and consequential impacts on social and economic conditions, and wavering commitment on the part of many nation-states to continue the pursuit of universal human rights. Australia must lead the world to 'get back on track' in progressing human rights as a national and international priority.

- 4.68 As this inquiry has progressed, the Australian Government has taken steps to reframe foreign policy to address the perspectives of women in particular. Accordingly, the Committee recognises that these changes are yet to be fully understood in terms of their impact. However, further action can be taken to fully embrace Australia's role as a world leader in addressing the rights of women and children.
- 4.69 The Committee agrees that a modern foreign policy must acknowledge and incorporate the views and first-hand experiences of local people. Further, it supports the view that solutions are best found by local communities, rather than imposed by foreign entities. The Committee is conscious that Australia has a role to play in assisting its international partners by sharing knowledge and skills, in addition to ensuring value for money in overseas investments. Peace and security in our region is best promoted via working together on mutually beneficial outcomes and achievements, particularly when supporting the most vulnerable members of our region.
- 4.70 The Committee identified two areas of importance in this space which require attention in Australia's foreign policy: engagement during disaster or times of instability or conflict, and the need for data. Recognising the tumultuous nature of the geostrategic environment, and noting the need for a future-proof foreign policy, the Committee is of the view that these areas should be high priority for policy development and international engagement.
- 4.71 While much attention was paid in the inquiry to the rights of women, the Committee observed that children have limited policy specifically addressed at their needs, or mechanisms in which to have their voices heard. Given the issues raised which often see children being targeted, such as orphanage trafficking, violence against children, and child marriage, this appears to be a significant gap that should be rectified. The Committee is of the view that children should have a specific engagement policy in Australia's foreign affairs space, which details not only how Australian officials engage with children in international jurisdictions, but how Australian foreign policy enhances the rights of children and also provides children with avenues in which they can be empowered to be involved in decisions that impact them.

## **Recommendation 7**

---

**4.72** The Committee recommends the Australian Government continue to use international forums, including bilateral platforms and interparliamentary networks, to emphasise the need to strengthen laws and protections regarding the human rights of women and children in conflict and crisis situations. This should include an emphasis on developing and strengthening responses to issues such as sexual and gender-based violence, children in exploitative environments and industries, and modern slavery.

## **Recommendation 8**

---

**4.73** The Committee recommends the Department of Foreign Affairs and Trade (DFAT) ensure that all activities concerning humanitarian, crisis or disaster responses involving DFAT-funded or -supported entities be:

- Assessed upon application on the basis of local engagement with the community, including the requirement of a statement by the applicant on the basis of local engagement, particularly emphasising gender diversity and considerations of the needs of children;
- Monitored at appropriate intervals to determine outcomes and impact; and
- Reported to the Parliament as part of the DFAT annual report.

## **Recommendation 9**

---

**4.74** The Committee recommends that the Department of Foreign Affairs and Trade allocate a specific portion of Official Development Assistance funding to projects relating to data collection on issues affecting women and children.

## **Recommendation 10**

---

**4.75** The Committee recommends that the Australian Government develop an International Children's Development Strategy which outlines:

- Australia's commitment to upholding the rights of children internationally;
- Reflect commitments made via international legislation and agreements, including the Sustainable Development Goals;
- Identify mechanisms and approaches in which it can support neighbours and partners in enhancing their international law obligations and promote the rights of children in local and regional settings; and
- Provide mechanisms in which children can be involved in policy development on matters which affect their interests, lives and rights.

**Ms Maria Vamvakinou MP**  
**Chair**  
**Human Rights Subcommittee**  
**29 November 2023**

**Hon Shayne Neumann MP**  
**Chair**  
**Joint Standing Committee on Foreign Affairs, Defence and Trade**  
**29 November 2023**





# A. Submissions

- 1 Embassy of the Kingdom of Morocco
- 2 Eleos Justice, Faculty of Law, Monash University
- 3 Ms Emma Macey-Storch
- 4 *Name Withheld*
- 5 WESNET
  - Attachment 1
- 6 Monash University
  - Attachment 1
  - Attachment 2
  - Attachment 3
  - Attachment 4
- 7 Dr Sílvia Shrubsall
- 8 Department of Foreign Affairs and Trade
  - 8.1 Supplementary to submission 8
  - 8.2 Supplementary to submission 8
  - 8.3 Supplementary to submission 8
  - 8.4 Supplementary to submission 8
  - 8.5 Supplementary to submission 8
  - 8.6 Supplementary to submission 8
  - 8.7 Supplementary to submission 8
  - 8.8 Supplementary to submission 8
  - 8.0 Supplementary to submission 8
- 9 Confidential
- 10 ReThink Orphanages Australia
- 11 Family Planning Australia

- 12** International Women's Development Agency (IWDA)
- 12.1 Supplementary to submission 12
- 13** Australian Feminists for Women's Rights
- 14** Acid Survivors Trust International
- 15** Parliamentary Task Force on Human Trafficking
- 16** Australian Red Cross
- 16.1 Supplementary to submission 16
- 17** ANU LRSJ Research Hub
- 18** CBM Australia / The Australian Disability and Development Consortium
- 19** Confidential
- 20** Dr Julie Smith
- 21** Department of Social Services
- 21.1 Supplementary to submission 21
- 22** Plan International Australia
- 23** Myanmar Campaign Network
- 24** Centre for People, Place and Planet, Edith Cowan University
- 25** Australian Council for International Development
- 26** Iranian Women's Association
- 27** Uniting Church in Australia
- 27.1 Supplementary to submission 27
- 28** Dr Samantha J. Gunawardana and Dr Heloise Weber
- 29** Caritas Australia
- 30** Save the Children Australia
- 31** Collective Shout
- 32** Confidential
- 33** ANROWS
- 34** Anti-Slavery Australia

- 34.1 Supplementary to submission 34
- 35** Attorney-General's Department
- 35.1 Supplementary to submission 35
- 36** Department of Home Affairs
- 36.1 Supplementary to submission 36
- 36.2 Supplementary to submission 36
- 37** Australian Federal Police
- 37.1 Supplementary to submission 37
- 38** Australia Tibet Council
- 39** Dr Michael Salter
- 40** Mr Nathan Organ
- 41** International Social Service Australia
- 42** NPY Women's Council
- 43** Australian Human Rights Commission
- 44** Destiny Rescue Limited
- 45** NSW Aboriginal Women's Advisory Network
- 46** Our Watch
- 47** Associate Professor Joshua Aston and Dr Cecilia Anthony Das, Edith Cowan University
- 48** Prosecute; don't perpetrate
- 49** Human Rights Watch





## B. Public hearings

### Wednesday, 23 November 2022 - Canberra

#### *Geeta filmmakers*

- Mrs Nayana Bhandari, Producer
- Ms Emma Macey, Director, Producer, Social Impact Producer
- Ms Penny Underwood, Social Impact Consultant
- Ms Sakina Hassani - Private Capacity
- Mrs Geeta Mahor - Private Capacity
- Ms Neetu Mahor - Private Capacity, Through Sonal Chadha, Interpreter
- Mr Ajay Singh Tomar - Private Capacity

### Wednesday, 8 March 2023 - Canberra

Ms Christina Clarke CSC, Private capacity

#### *Department of Foreign Affairs and Trade*

- Ms Sarah Goulding, Assistant Secretary, Gender Equality Branch

### Friday, 24 March 2023 - Canberra

#### *Department of Foreign Affairs and Trade*

- Mr Steven Barraclough, Assistant Secretary, Afghanistan and Regional Branch, Middle East, Africa and Afghanistan Division
- Ms Juliette Brassington, Assistant Secretary, Protracted Crises Resilience and Partnerships Branch, Humanitarian Division
- Ms Alison Chartres, Assistant Secretary, Africa Branch, Middle East, Africa and Afghanistan Division,
- Ms Jenny Da Rin, Assistant Secretary, Southeast Asia Development Policy and Programs Branch,
- Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch,
- Ms Danielle Heinecke, First Assistant Secretary, Pacific Melanesia Division,
- Ms Gemma Huggins, Assistant Secretary, Middle East Branch, Middle East, Africa and Afghanistan Division,

- Ms Marie-Charlotte McKenna, Assistant Secretary, International Law Branch, Legal Division,
- Ms Mary Ellen Miller, Assistant Secretary, Human Rights Branch,

*Attorney-General's Department*

- Ms Samantha Byng, Assistant Secretary, Family Safety Branch,
- Mr Jesse Clarke, Acting First Assistant Secretary, International Law and Human Rights Division,
- Ms Frances Finney, Assistant Secretary, Modern Slavery and Human Trafficking Branch,
- Mrs Susan Mckeag, Assistant Secretary, Criminal Law Policy Branch,
- Ms Ayesha Nawaz, Assistant Secretary, Human Rights Branch,

*Australian Federal Police*

- Ms Jayne Crossling, Acting Commander, Australian Centre to Counter Child Exploitation and Human Exploitation,
- Ms Kristy Schofield, Assistant Commissioner, Crime Command,

*Department of Social Services*

- Mr Tim Crosier, Branch Manager, Children's Policy,
- Ms Greta Doherty, Group Manager, Women's Safety,
- Ms Amber Shuhyta, Branch Manager, National Policy,

*Department of Home Affairs*

- Ms Justine Jones, First Assistant Secretary, Status Resolution and Visa Cancellation Division, Immigration Group,
- Mr Andrew Kiley, Acting First Assistant Secretary, Refugee, Humanitarian and Settlement Division,
- Ms Karin Maier, Acting First Assistant Secretary, Immigration Programs Division,

*Caritas Australia*

- Ms Anna Dinglasan, Lead, Equity and Inclusion,
- Dr Damian Spruce, Associate Director, Advocacy and Government Relations,

*CARE Australia*

- Mr Soman Moodley, Policy Manager,
- Dr Athena Nguyen, Senior Manager, Capability and Impact Unit

**Wednesday, 12 April 2023 - Sydney**

*Anti-Slavery Australia*

- Professor Jennifer Burn, Director

- Ms Sandeep Dhillon, Lawyer
- Ms Isobel McGarity, Lawyer
- Ms Isobel McGarity, Lawyer

*Australia's National Research Organisation on Women's Safety (ANROWS)*

- Ms Padma Raman PSM, Chief Executive Officer

*ActionAid Australia*

- Ms Michelle Higelin, Executive Director

*Australia Tibet Council*

- Dr Zoe Bedford, Executive Officer
- Ms Lhadon Tethong, Director, Tibet Action Institute
- Dr Gyal Lo

*ReThink Orphanages*

- Ms Karen Flanagan AM, Co-Chair
- Mrs Rebecca Nhep, Senior Technical Adviser, Better Care Network and Co-Founder and Co-Chair
- Ms Sinet Chan, Care-Leaver Activist, Founder and Leader
- Ms Anju Pun, Country Director

**Wednesday, 10 May 2023 - Canberra**

Dr Michael Salter, Private capacity

**Wednesday, 7 June 2023 - Melbourne**

*Australian Red Cross*

- Ms Jane Munro, Gender and Inclusion Technical Lead, International Programs and Movement Relations
- Ms Fiona Tarpey, Head, International Advocacy

*Plan International Australia*

- Ms Iremide Ayonrinde, Youth Activist
- Ms Susanne Legena, Chief Executive Officer

*Uniting Church of Australia*

- Dr Mark Zirnsak, Senior Social Justice Advocate, Synod of Victoria and Tasmania

*Iranian Women's Association*

- Ms Nos Hosseini, Secretary and Spokesperson
- Ms Betia Shakiba, Committee member

*CBM Australia & The Australian Disability and Development Consortium*

- Ms Kirsten Bate, Program Coordinator
- Ms Conor Costello, Head of Policy and Advocacy, and Executive Committee Member, Australian Disability and Development Consortium

*International Women's Development Agency*

- Ms Alice Ridge, Senior Research, Policy and Advocacy Adviser
- Ms Lotte Wolff, Senior Research, Policy and Advocacy Adviser

*Monash University and Eleos Justice*

- Emeritus Professor Stephen Cordner, Department of Forensic Medicine
- Dr Leavides Domingo-Cabarrubias, Fellow, Eleos Justice, Faculty of Law
- Associate Professor Sara Kowal, Deputy Director, Eleos Justice, Faculty of Law
- Associate Professor Bebe Loff, Director, Michael Kirby Centre for Public Health and Human Rights, Department of Forensic Medicine
- Dr Maaïke Moller, Senior Forensic Physician, Victorian Institute of Forensic Medicine; Senior Lecturer, Department of Forensic Medicine
- Associate Professor Mai Sato, Director, Eleos Justice, Faculty of Law

**Wednesday, 9 August 2023 - Canberra**

*Australian Council for International Development*

- Ms Brigid O'Farrell, Policy and Advocacy Lead
- Mr Marc Purcell, Chief Executive Officer

**Friday, 11 August 2023 - Canberra**

*Save the Children (via teleconference)*

- Ms Karen Flanagan, Principal Adviser, Child Protection Policy
- Mr Simon Henderson, Head of Policy
- Mr Aram Hosie, Group Executive Director, Strategy and Public Affairs

*Private capacity*

- Associate Professor Hannah McGlade

*Harmony Alliance (The Social Policy Group)*

- Ms Carla Wilshire

*Australian Human Rights Commission (via teleconference)*

- Emeritus Professor Rosalind Croucher, President

*Department of Foreign Affairs and Trade*

- Ms Sarah Goulding, Assistant Secretary, Gender Equality Branch

**Wednesday, 13 September 2023 - Canberra**

*Department of Foreign Affairs and Trade*

- Ms Lynn Bell, Ambassador to Counter Modern Slavery, People Smuggling and Human Trafficking