



Australian Government
Department of Foreign Affairs and Trade

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OHCHR Questionnaire Responses - Australia

Assistance and rehabilitation programmes for child victims of sale and exploitation, including sexual exploitation

1. Provide information on the legal, policy, institutional and budgetary framework developed by your country to establish assistance and rehabilitation programmes for child victims of sale and exploitation, including sexual exploitation.

In Australia, there are a number of key national initiatives that seek to support women and their children who experience violence and exploitation.

Australia's Support for Trafficked People Program

Australia provides a comprehensive range of support services for trafficked people through the government-funded Support for Trafficked People Program (Support Program). It is available to all victims of human trafficking, slavery and slavery-like practices, including forced marriage and forced labour; who meet the eligibility criteria, including children.

The Support Program, administered by the Department of Social Services with tailored case management services provided by the Australian Red Cross; provides a 24 hours a day, seven days a week, 365 days a year national response within all Australian States and Territories.

The Support Program is demand driven and wholly funded by the Australian Government. The Australian Government is providing \$4.22 million over four years, or \$1.055 million per year, from 2011-12 to 2014-15.

In recognition of the fact that the needs of minors are unique and different to those of adults, the Support Program ensures that specialist and appropriate services are available, in accordance with the principles of the best interests of the child, for any minor identified as or suspected of, having been a victim of a human trafficking or slavery-related offence. Australia's mandatory reporting laws also impose a legislative requirement on Support Program case managers and service providers to report all

suspected cases of child abuse and neglect to the relevant State or Territory child protection authority.

To address the many complexities in providing victim support for minors, the Australian Government is currently developing a *Protocol for the treatment of minors suspected as victims of human trafficking, slavery and slavery-like practices* (Minors Protocol) to be included as an addendum to the Support Program's operational communications manual. The Minors Protocol will ensure an integrated and tailored response to victim support, which is a key area of focus of the National Framework.

While not specifically related to minors, Australia's National Action Plan to Combat Human Trafficking and Slavery 2015-19 sets out the strategic aims of Australia's response to human trafficking over the next five years.

Human trafficking, slavery and slavery-like practices

The Australian Government has comprehensively criminalised the exploitation of children through human trafficking, slavery and slavery-like practices, satisfying our obligations under the *United Nations Convention against Transnational Organised Crime* (UNTOC) and its supplementary *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (Trafficking Protocol).

The Commonwealth *Criminal Code Act 1995* comprehensively criminalises human trafficking (including standalone offences for trafficking in children), slavery and slavery-like practices, such as servitude, forced labour and forced marriage. Australia's slavery-like offences are considered to be aggravated and carry higher penalties where the victim is a minor.

Since 2004, the Australian Federal Police had undertaken more than 550 assessments and investigations into alleged human trafficking and slavery-related matters, resulting in the conviction of seventeen individuals, one of which was for trafficking in children.

Child sexual exploitation in travel and tourism

Australia recognises the serious, immediate and long-term consequences of child sexual exploitation. The Australian Government is therefore committed to preventing, investigating and prosecuting all forms of child sexual exploitation, including offences that occur within Australia and those committed by Australians overseas.

Female genital mutilation

All Australia States and Territories have criminalised intentionally performing female genital mutilation (FGM) on another person. In most

jurisdictions, it is also an offence to take a minor from the jurisdiction, or arrange for a minor to be taken from the jurisdiction, with the intention of having FGM performed. The Commonwealth Government does not have any FGM offences, consistent with constitutional power to legislate on this issue.

Other National Initiatives

Australia's *National Plan to Reduce Violence against Women and their Children 2010-2022* (the National Plan) is the overarching mechanism that brings together the efforts of all Australian governments to achieve a significant and sustained reduction in violence against women and their children.

The National Plan recognises violence against women not only affects the victims themselves but also their children. Growing up in an environment of domestic and family violence can have profound effects on a child, impacting on their capacity to learn, future relationships, health and emotional wellbeing and engagement in work and community life.

The National Plan also recognises violence does not occur in isolation from other challenges faced by individuals and communities and has strong linkages to other significant national initiatives, including:

- The Support for Trafficked People Program;
- National initiatives focused on providing effective settlement support for women and their children who enter Australia as refugees and humanitarian entrants; and
- The *National Framework for Protecting Australia's Children 2009-2020*, which focuses on improving the safety and wellbeing of children and young people and providing support for those individuals who are exposed to abuse and exploitation. The National Framework operates through a series of three-year action plans, each of which will identify actions and strategies aimed at ensuring that Australia's children and young people are safe and well through a substantial and sustained reduction in child abuse and neglect in Australia over time.

2. Based on your experience, what elements are necessary for a comprehensive and rights-based care and recovery system of child victims of sale and exploitation, including sexual exploitation?

The Australian Government is committed to the rights, wellbeing and development of Australia's children and young people.

Best interests of the child

Australia has ratified several international treaties that protect child victims of sale and exploitation, including sexual exploitation. These include the *Convention on the Rights of the Child* (CRC) and the Optional Protocols on the sale of children, child prostitution and child pornography. Article 3(1) of the CRC requires States Parties to ensure that in all actions concerning minors, whether undertaken by public or private, social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the minor shall be a primary consideration.

Australia's victim-centred approach to providing assistance and rehabilitation for child victims of serious exploitation is underpinned by the obligations in the CRC and key principles contained in other relevant international instruments.

3. Provide examples of good practices and successful initiatives of assistance and rehabilitation programmes which facilitate the rehabilitation and reintegration of child victims of sale and exploitation, including sexual exploitation.

The Support for Trafficked People Program

As outlined in response to Question 1, Australia provides a comprehensive range of support services for victims of human trafficking, slavery and slavery-like practices through the Support Program. The Support Program enables trafficked and exploited minors to access a variety of support services to improve their mental and physical health and well-being following the trauma of their experience, and to provide opportunities to learn new skills and develop options for a new life.

These services may include intensive case management support; secure accommodation; medical treatment; counselling; access to legal and migration advice; and appropriate skills development training. Child victims of exploitation are also eligible to receive appropriate assistance from the relevant Australian State or Territory child protection authority.

4. Describe the challenges that your country has identified in the establishment and management of assistance and rehabilitation programmes for child victims of sale and exploitation, including sexual exploitation

Under Australia's federated system of government, State and Territory governments have primary responsibility for dealing with child sexual abuse and other forms of violence against children. Under the Constitution, the Commonwealth is limited to dealing with criminal

matters that fall within its federal jurisdiction and within the scope of Commonwealth powers.

A number of complexities surround providing support to minors who may be victims of both a Commonwealth and State or Territory offence. The National Framework aims to deliver a more integrated, coordinated response while allowing each government to retain their existing responsibilities.

The referral of children onto the Support Program, particularly in cases of forced marriage, raises issues in relation to child protection and guardianship. Due to the nature of the crime, it is often the case that the person forcing the victim into a marriage is a member of their own family. Where a victim referred onto the Support Program is an unaccompanied minor, that minor is referred to the relevant State or Territory child protection authority in addition to the Support Program, as appropriate.

5. How do you ensure that the views and needs of children are duly taken into account in the design and provision of care and recovery services?

All participants on the Support Program are provided with specialist services and individualised care based on their needs and requirements. Where appropriate, this care is tailored to meet the unique needs of minors. Specialist services are available, in accordance with the principle of the best interests of the child, for any minor identified as having been trafficked, or suspected of having been trafficked, into Australia.

The Support Program provides an initial 45 days of intensive support for all clients referred to the Support Program, irrespective of whether they are willing and/or able to assist with an investigation and prosecution. Access to a further 45 days' support is automatically available for all minors if it is in their best interests. This recognises their high level of vulnerability and allows them more time to consider their options and make decisions about their future.

Underpinned by the obligations in the *Convention on the Rights of Child*, the Australian Government's forthcoming Minors Protocol will ensure that the best interests of the minor will be a primary consideration in all decisions or actions that affect a minor.

For instance, if a minor is capable of forming a view on their best interests, the Minors Protocol will ensure that they are able to give it freely and that it must be taken into account; however, in acting of the best interests of the minor this view may sometimes be required to be overridden. Furthermore, parents will have primary decision-making

responsibility on behalf of minors in their care, except where they fail to, or are unable to, make the minor's best interests a basic concern, in which case the Government may intervene to protect those interests.

6. How do you ensure access of child victims to support services?

Ms Megan Mitchell was appointed the first National Children's Commissioner in February 2013. The Children's Commissioner promotes public discussion and awareness of issues affecting children, conducts research and education programs, and consults directly with children and representative organisations. The Commissioner is also responsible for examining relevant Commonwealth legislation, policies and programs that relate to children's rights, wellbeing and development, as well as national or cross-jurisdictional matters that would benefit from national leadership. The Commissioner has scope to focus on vulnerable and at-risk groups of children such as children with disability, Indigenous children, homeless children and those who are witnessing or subjected to violence.

In situations where trafficked people are minors, the Australian Federal Police refers them to the relevant state or territory child protection authorities in addition to the Support Program, as appropriate. The Support Program works with the relevant child protection authority to ensure appropriate services are provided to meet the client's needs for safety, accommodation, mental and physical health and well-being. All clients referred to the Support Program have access to interpreters and legal assistance, and are made aware of their options, entitlements and services.

7. How do you ensure the adoption of a gender perspective in the establishment and management of the assistance and rehabilitation programmes? Do the programmes provide gender-specific measures for the care and recovery of boys and girls?

Australia is primarily a destination country for human trafficking and slavery, with the majority of trafficked people identified by Australian authorities to date being women. Furthermore, each of the five cases of forced marriage referred onto the Support Program to date involved a girl being forced into marriage. While human trafficking and slavery affect both men and women, the overrepresentation of women and children as victims in global statistics reflects their particular and continuing vulnerability in many parts of the world. Although there are no particular gender-specific measures, the Support Program provides tailored

assistance to all clients according to their individual needs, which may be gender-specific.

The Australian Government condemns discrimination in all forms and believes that all Australian children should have the opportunity to participate in the life of their community without fear of discrimination or disadvantage.

8. Provide information on prevention programmes developed by your country with a specific focus on children at risk or in vulnerable situations (e.g children working and/or living on the street, children placed in institutions, unaccompanied migrant children).

The Australian Human Rights Commission also works to promote and protect the rights set out in the *Convention on the Rights of the Child*.

Forced marriage: Prevention and awareness-raising initiatives

Australia defines forced marriage as a slavery-like practice, a form of gender-based violence and an abuse of fundamental human rights. The Australian Government has taken a preventative approach to addressing instances of forced marriage by undertaking various awareness-raising initiatives and funding non-government organisations to provide targeted support for people in, or at risk, of forced marriages.

In March 2013 the Australian Government criminalised forced marriage. To support the implementation of these offences, the Government, in partnership with civil society and non-government organisations, developed a suite of best-practice information materials for frontline officers, service providers and vulnerable groups.

Throughout April and May 2015 the Australian Government also hosted a series of workshops in each State and Territory to encourage use of the *Forced Marriage Community Pack* materials amongst frontline officers and service providers in relevant government agencies, civil society and community organisations who are likely to come into contact with people in, or at risk of, a forced marriage.

The Australian Government has also awarded almost \$500,000 in funding to three key non-government organisations – Anti-Slavery Australia, Australian Catholic Religious Against Trafficking, and the Australian Muslim Women’s Centre for Human Rights – to progress outreach and awareness-raising initiatives on forced marriage issues.