

Chapter 3 - Specific themes of note

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'.^[1] 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'.^[2]

3.5 According to UN statistics, approximately one in three women 'experience physical and/or sexual violence in their lifetimes'.^[3] It was estimated that one woman or girl in the world is killed by someone in her family every 11 minutes.^[4] 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.^[5]

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.^[6] 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.^[7]

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'.^[8] 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.^[9]

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 victims to gender-based violence in humanitarian contexts.^[10]

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.^[11]

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 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.^[12]

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)^[13]

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.[14] 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'.[15]

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.[16]

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.[17] 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.[18]

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.[19]

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.[20]

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 other forms of sexual violence, including the International Criminal Tribunal for Rwanda.[21]

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.[22]

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.[23] 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.[24]
- 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.[25]
- Collaborating with dedicated global funds, such as the UN Women Trust Fund to End Violence Against Women, which Australia currently provides \$25 million over a period of five years; and the Women's Peace and Humanitarian Fund, which has a focus on women's rights amid conflict.[26]

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.[27]

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.[28]

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.[29]

3.25 Other recommendations from Caritas which address gender-based violence and other human rights violations included:[30]

- 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
- 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.[31]

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.[32] 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.[33]

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.[34]

3.29 Estimates suggest that there are at least 10,000 acid attacks annually around the world, with women and girls the overwhelming targets.[35] 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.[36]

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.[37] 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.[38] 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.[39]

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.[40]

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 the year ending March 2020.[41] This was largely said to be due to social factors, including poverty and inequality in areas of east London.[42] Contrary to global trends, however, statistics from the UK suggested that men are more likely to be victims of acid attacks.[43] 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.[44]

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'.[45]



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*.^[46]

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.^[47] 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 and provide a livelihood for those who still struggle with the ongoing financial impacts of their injuries.^[48] 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.^[49]

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.^[50]

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.^[51]

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'.^[52] 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'.^[53]

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.^[54] It was suggested that this system means that a perpetrator's actions 'remains unpunished and the victims' sense of justice unresolved'.^[55] It also does not mitigate against other factors, including potential harassment and intimidation by family members remaining in Australia.^[56] 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.^[57]

3.37 Multiple submitters recommended the introduction of specific criminal offences in Australian domestic legislation designed to prohibit acid attacks.^[58] 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'.^[59] 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.^[60]

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.[\[61\]](#)

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'.[\[62\]](#) 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.[\[63\]](#)

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.[\[64\]](#) 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;
- 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.[\[65\]](#)

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.[\[66\]](#)

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.[67]

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’.[68]

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’.[69] 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.[70]

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. 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.[71]

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.[72]

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.[73] 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.[74]

3.48 It was observed that orphanage trafficking is 'propped up by orphanage tourism, voluntourism, and volunteering and foreign funding'.[75] 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...'.[76]

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 of children from their families, 'sexual exploitation, child abuse, child labour, servitude, child marriage and child commodification.'[77] 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.[78]

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.[79]

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.[80] 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.[81]

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.[82] 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'.[83] This was considered to be particularly the case in Cambodia, where the industry raises a

‘considerable volume of funds’ through donors and volunteers.[84]

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).[85]

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.[86] 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’.[87]

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.[88]
- Regulations on Australian charities who maintain overseas activities to ensure measures are established to prevent harm, exploitation and abuse of vulnerable persons.[89]
- DFAT’s collaboration with Australian Volunteers International in 2018 to establish the Child Safe Volunteering Hub in order to promote responsible volunteering and tourism.
- The Smart Traveller website (operated by DFAT) which provides guidance around the risks of child exploitation and discourages short-term volunteering in orphanages.[90]
- Advice provided by DFAT in relation to responsible volunteering through the Australian Volunteers Program.[91]

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.[92]

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.[93] 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.[94]

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:

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.[95]

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.[96] 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.[97]

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.[98] 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.[99]

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:

1. imprisonment for a period of at least [10] years; and
2. compulsory payment of compensation to the victim; and
3. 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.^[100]

3.62As 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.

3.63These 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 voluntary work to childcare institutions that are involved in trafficking children with the aim of using them for financial exploitation cannot be underestimated.[101]

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.[102]

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.

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.[103] 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.[104]

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.[105]

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.[106] 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'.[107]

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.[108]

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.[109] FPA observed that reproductive and sexual health 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.[110]

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.[111]

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.[112]

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.[113]

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.[114]

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'.[115] The International Women's Development Agency (IWDA) similarly recommended that sexual and reproductive healthcare services are 'prioritised and recognised as essential health care services'.[116]

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.[117] 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.[118]

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, sexploitation, sextortion, hacking and hate speech. This form of violence is also now considered a human rights violation.^[119] 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.^[120]

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 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.^[121]

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.^[122]

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;^[123]
- CSAM involving the sexual abuse of girls has increased from 65 per cent in 2011 to 97 per cent in 2021;^[124] 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’.[125]

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

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.[128]

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.[129]

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.[130]

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’.[131] 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.[132]

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.[133]

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'. [134] 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*. [135] 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. [136]

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 to law enforcement agencies where an Australian child or offender is involved or where the provider is located in Australia'. [137]

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'. [138]

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*.^[139] 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.^[140]

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.^[141]

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.

3.97The 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

3.98The 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

3.99The 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.

3.100Having 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

3.101The 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

3.102The Committee has previously engaged on the matter of orphanage trafficking in its inquiry into establishing a Modern Slavery Act in Australia.^[142] 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 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.**

Footnotes

[1] 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, viewed 20 October 2023.

[2] Ms Penny Underwood, Social Impact Consultant, *Geeta, Committee Hansard*, Canberra, 23 November 2022, p. 2.

[3] Cited in DFAT, Submission 8, p. 3.

[4] Caritas Australia, Submission 29, p. 5.

[5] DFAT, Submission 8, p. 3.

[6] DFAT, Submission 8, p. 3.

[7] Caritas Australia, Submission 29, p. 5.

[8] Cited in DFAT, Submission 8, p. 3.

[9] Dr Samantha J. Gunawardana and Dr Heloise Weber, Submission 28, p. 6.

[10] Caritas Australia, Submission 29, p. 4.

[11] Caritas Australia, Submission 29, p. 5.

[12] Ms Marie-Charlotte McKenna, Assistant Secretary, International Law Branch,

Legal Division, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 4.

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

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

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

[16]DFAT, Submission 8, p. 9.

[17]Caritas Australia, Submission 29, p. 7.

[18]Save the Children Australia, Submission 30, p. 4.

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

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

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

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

[23]‘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.

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

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

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

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

[28]Ms Kirsty Schofield, Assistant Commissioner, Crime Command, AFP, *Committee Hansard*, Canberra, 24 March 2023, p. 14.

[29]Caritas Australia, Submission 29, p. 2.

[30]Caritas Australia, Submission 29, pages 2-3.

[31]Caritas Australia, Submission 29, p. 8.



- [32]Acid Survivors Trust International, Submission 14, p. 1.
- [33]Acid Survivors Trust International, Submission 14, p. 1.
- [34]Acid Survivors Trust International, Submission 14, p. 2.
- [35]Acid Survivors Trust International, Submission 14, p. 1.
- [36]ANU Law Reform and Social Justice Unit, Submission 17, p. 3.
- [37]Ms Emma Macey, Director, Producer, Social Impact Producer, *Geeta, Committee Hansard*, Canberra, 23 November 2023, p. 1.
- [38]Ms Padma Raman, PSM, Chief Executive Officer, Australia's National Research Organisation for Women's Safety, *Committee Hansard*, Sydney, 12 April 2023, p. 11.
- [39]Ms Padma Raman, PSM, Chief Executive Officer, Australia's National Research Organisation for Women's Safety, *Committee Hansard*, Sydney, 12 April 2023, p. 11.
- [40]Acid Survivors Trust International, Submission 14, pages 1–2.
- [41]Acid Survivors Trust International, Submission 14, pages 2–3.
- [42]Acid Survivors Trust International, Submission 14, p. 2.
- [43]ANU Law Reform and Social Justice Unit, Submission 17, p. 3.
- [44]Acid Survivors Trust International, Submission 14, pages 3–4.
- [45]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.
- [46]'Synopsis', *Geeta Film*, 2022, <https://www.geetafilm.com/>, viewed 3 November 2023.
- [47]Ms Emma Macey–Storch, Submission 3, p. 14.
- [48]Ms Emma Macey–Storch, Submission 3, p. 13.
- [49]Ms Emma Macey–Storch, Submission 3, p. 14.
- [50]Ms Neetu Mahor, *Committee Hansard*, Canberra, 23 November 2022, p. 3.
- [51]Ms Neetu Mahor, *Committee Hansard*, Canberra, 23 November 2022, p. 3.
- [52]Ms Penny Underwood, Social Impact Consultant, *Geeta, Committee Hansard*, Canberra, 23 November 2022, p. 2.
- [53]Mrs Nayana Bhandari, *Committee Hansard*, Canberra, 23 November 2022, p. 4.
- [54]ANU Law Reform and Social Justice Hub, Submission 17, p. 4.
- [55]ANU Law Reform and Social Justice Hub, Submission 17, p. 4.

- [56] ANU Law Reform and Social Justice Hub, Submission 17, p. 4.
- [57] Ms Sakina Hassani, private capacity, *Committee Hansard*, Canberra, 23 November 2022, p. 3.
- [58] ANU Law Reform and Social Justice Hub, Submission 17, p. 4.
- [59] ANU Law Reform and Social Justice Hub, Submission 17, p. 4.
- [60] Ms Emma Macey–Storch, Submission 3, p. 26.
- [61] Ms Emma Macey–Storch, Submission 3, p. 25.
- [62] Mrs Susan McKeag, Assistant Secretary, Criminal Law Policy Branch, Attorney–General’s Department, *Committee Hansard*, Canberra, 24 March 2023, p. 16.
- [63] 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.
- [64] Ms Emma Macey–Storch, Submission 3, p. 31.
- [65] Ms Emma Macey–Storch, Submission 3, p. 31.
- [66] Ms Penny Underwood, Social Impact Consultant, *Geeta*, *Committee Hansard*, Canberra, 23 November 2022, p. 5.
- [67] 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.
- [68] 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.
- [69] Anti–Slavery Australia, Submission 34: 1, Answer to Question on Notice, p. 8.
- [70] US Parliamentary Task Force on Human Trafficking, Submission 15, p. 1.
- [71] US Parliamentary Task Force on Human Trafficking, Submission 15, p. 1.
- [72] US Parliamentary Task Force on Human Trafficking, Submission 15, pages 1–2.
- [73] Ms Anju Pun, Country Director, Forget Me Not Australia Ltd, *Committee Hansard*, Sydney, 12 April 2023, p. 33.
- [74] Ms Anju Pun, Country Director, Forget Me Not Australia Ltd, *Committee Hansard*, Sydney, 12 April 2023, p. 33.
- [75] 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.
- [76] US Parliamentary Task Force on Human Trafficking, Submission 15, p. 1.

- [77]Committee Hansard, Sydney, 12 April 2023, p. 31.
- [78]US Parliamentary Task Force on Human Trafficking, Submission 15, p. 2.
- [79]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.
- [80]US Parliamentary Task Force on Human Trafficking, Submission 15, p. 2.
- [81]Australian Federal Police, Submission 37: 1, Answer to Question on Notice, p. 8.
- [82]Anti-Slavery Australia, Submission 34: 1, Answer to Question on Notice, p. 8.
- [83]Australian Federal Police, Submission 37: 1, Answer to Question on Notice, p. 8.
- [84]Australian Federal Police, Submission 37: 1, Answer to Question on Notice, p. 8.
- [85]AGD, Submission 35: 1, Answer to Question on Notice, p. 3.
- [86]Committee Hansard, Canberra, 24 March, 2023, p.15.
- [87]Australian Federal Police, Submission 37: 1, Answer to Question on Notice, p. 8.
- [88]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.
- [89]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.
- [90]Committee Hansard, Canberra, 24 March 2023, p. 7.
- [91]Committee Hansard, Canberra, 11 August 2023, p. 27.
- [92]ReThink Orphanages Australia, Submission 10, p. 5.
- [93]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, p. 8.
- [94]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, p. 8.
- [95]Ms Karen Flanagan, AM, Co-Chair, ReThink Orphanages, Committee Hansard, Sydney, 12 April 2023, p. 34.
- [96]US Parliamentary Task Force on Human Trafficking, Submission 15, p. 2.
- [97]ReThink Orphanages Australia, Submission 10, pages 6-7.

- [98]US Parliamentary Task Force on Human Trafficking, Submission 15, p. 2.
- [99]US Parliamentary Task Force on Human Trafficking, Submission 15, p. 2.
- [100]Interparliamentary Taskforce on Human Trafficking, *The Model Law on Oprhanage Trafficking from Lumos*, by Professor Parosha Chandran, 2023, <https://taskforceonht.org/model-legislation/the-model-law/>, viewed 6 September 2023.
- [101]Interparliamentary Taskforce on Human Trafficking, *The Model Law on Oprhanage Trafficking from Lumos*, by Professor Parosha Chandran, 2023, <https://taskforceonht.org/model-legislation/the-model-law/>, viewed 6 September 2023.
- [102]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.
- [103]DFAT, Submission 8, pages 3–4.
- [104]DFAT, Submission 8, p.4.
- [105]Australian Council for International Development, Submission 25, p. 3.
- [106]DFAT, Submission 8, pages 4–5.
- [107]DFAT, Submission 8, p. 5.
- [108]Embassy of the Kingdom of Morocco, Submission 1, pages 4–5.
- [109]Family Planning Australia, Submission 11, p. 3.
- [110]Family Planning Australia, Submission 11, p. 4.
- [111]Australian Red Cross, Submission 16, p. 7.
- [112]Family Planning Australia, Submission 11, p. 4.
- [113]DFAT, Submission 8, p. 9.
- [114]DFAT, Submission 8, p. 9.
- [115]Family Planning Australia, Submission 11, p. 3.
- [116]International Women's Development Agency, Submission 12, p. 6.
- [117]Family Planning Australia, Submission 11, p. 3.
- [118]Family Planning Australia, Submission 11, p. 5.
- [119]DFAT, Submission 8, p. 4.

- [120]Uniting Church in Australia, Submission 27, pages 28–30.
- [121]Uniting Church in Australia, Submission 27, p. 15.
- [122]Uniting Church in Australia, Submission 27, p. 20.
- [123]Uniting Church in Australia, Submission 27, p. 21.
- [124]Uniting Church in Australia, Submission 27, p. 22.
- [125]Uniting Church in Australia, Submission 27, p. 23.
- [126]Uniting Church in Australia, Submission 27, p. 26.
- [127]Collective Shout, Submission 31, p. 20.
- [128]Dr Michael Salter, Submission 39, p. 2.
- [129]Dr Michael Salter, Submission 39, p. 2.
- [130]Dr Michael Salter, Submission 39, p. 4.
- [131]Dr Michael Salter, Submission 39, p. 4.
- [132]Dr Michael Salter, Submission 39, pages 4–5.
- [133]Dr Michael Salter, Submission 39, pages 2–3.
- [134]Uniting Church in Australia, Submission 27, p. 2.
- [135]Uniting Church in Australia, Submission 27, p. 3.
- [136]Cited in Uniting Church in Australia, Submission 27, p. 3.
- [137]Uniting Church in Australia, Submission 27, p. 3.
- [138]Ms Sarah Goulding, Assistant Secretary, Gender Equality, Disability and Social Inclusion Branch, DFAT, *Committee Hansard*, Canberra, 24 March 2023, p. 1.
- [139]AGD, Submission 35, p. 3.
- [140]AGD, Submission 35, p. 7.
- [141]DFAT, *Submission 8*, pages 8–9.
- [142]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.

[Content](#)

Committee Secretariat contact:

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



PO Box 6021
Parliament House
Canberra ACT 2600

Phone: [+61 2 6277 2313](tel:+61262772313)
jscfadt@aph.gov.au

About this inquiry

The Joint Standing Committee on Foreign Affairs, Defence and Trade has commenced an inquiry into matters related to the rights of women and children.

- [Inquiry home page](#)
- [Terms of Reference](#)
- [Submissions](#)
- [Media Releases](#)
- [Public Hearings](#)
- [Government Response](#)
- [Committee Membership](#)
- [Report](#)

Past Public Hearings

13 Sep 2023: Canberra

11 Aug 2023: Canberra

09 Aug 2023: Canberra

[Top](#)

