

World Vision Australia is a Christian relief and development organisation that seeks to transform the lives of children and communities by tackling the causes of poverty. We advocate for the full implementation of the core human rights treaties and in particular the Convention of the Rights of the Child for all vulnerable children in Australia's sphere of influence. We argue for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential.

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Article 2 of the Convention of the Rights of the Child (CRC) states that 'States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind'. World Vision Australia (WVA) is in particular concerned about the well-being and welfare of children in Australia's sphere of influence and wishes to address three examples underlining our concerns: children in indigenous communities, children in asylum situations and children, men and women who have been trafficked to Australia.

Indigenous Australians

Much of the dire poverty, poor health, high unemployment, poor education, domestic violence, imprisonment rates and lack of self-esteem experienced by Indigenous Australians can be attributed to Australia's long history of misjudged and unjust policies. We commend the Federal and State Government's commitment to address the issue, however note that this has led to mixed results.

Australia's support for the UN Declaration on the Rights of Indigenous Peoples in April 2009 was a welcome development and offers an unprecedented opportunity for a systematic review of legislation, policies and programs, as was suggested by the Special Rapporteur on Indigenous People, James Anaya in August 2009. **World Vision supports** this suggestion, with particular reference to the rights of Indigenous children.

WVA argues that more needs to be done in providing better access to reproductive health services - access to health professionals, information and support for both women and men on sexual and reproductive health - in remote Indigenous communities. Indigenous women of remote communities deserve maternal health commensurate with that enjoyed by other women in Australia. This inequality is demonstrated in vastly different maternal and perinatal outcomes for Indigenous women and children compared to the non-Indigenous population. Indigenous women of reproductive age in remote communities are adversely affected by dangerous levels of alcohol use, smoking, poor nutrition, gestational diabetes, and domestic violence which directly impacts on child health.

Recommendation 1 WVA calls on the Australian Government to further improve primary health services for remote Indigenous communities, focusing on reproductive health.

WVA remains concerned about early childhood care and development (ECCD). WVA finds that investment in ECCD is a crucial building block in improving the socio-economic status of Aboriginal and Torres Strait Islanders and closing the gap between Indigenous and non-Indigenous Australians. Many children in remote Indigenous communities do not have the opportunity to participate in early childhood care and development programs because programs are currently not available or because the services provided are culturally inappropriate.

Recommendation 2 WVA asks the government to pursue early childhood care and development programs that are developed and implemented in a consultative, flexible, strength and place-based and culturally appropriate manner.

The value of a human rights approach in Indigenous affairs has been challenged by some leading voices in Australia who argue that a responsibilities approach is more appropriate. WVA considers that the two are mutually dependent, as is explicitly stated in Human Rights treaties. This is particularly relevant for Aboriginal and Torres Strait Islander people. Child protection has been the rationale for much government action since 2007, but approaches that reinforce the responsibility of families to ensure the well-being of their children may be more effective – and truly supportive of Indigenous rights - than the current interventionist approach. WVA considers that community partnership and participation approaches used in international development can significantly enhance the effectiveness of the federal and state government Indigenous programs.

Recommendation 3 WVA calls on both the federal and state governments to augment the existing *service delivery approach* to indigenous affairs with a range of initiatives that support a *development approach* to indigenous affairs. That is, implementing policies, practices and programs that work with indigenous communities as equal partners in development and that strengthen community resilience, capacity and self reliance.

Asylum seekers

Australian Government reforms since 2008 have brought about improvements in the treatment of asylum seekers, but the *best interests of children*¹ are not being promoted by the current arrangements. The Australian Human Rights Commission observed the conditions of asylum seeker children in July 2009² and Amnesty International subsequently reiterated³ that most still resided in the Christmas Island 'construction camp' in conditions that strongly resemble detention, despite the government policy of placing children in 'community detention'. There are not enough community detention places on Christmas Island. Children in the centre live in a largely enclosed environment. The detrimental impacts of prolonged immigration detention could have a serious and long-lasting impact on children's mental health. Facilities on Christmas Island are inadequate to manage the current numbers of asylum seekers. These inadequacies relate not only to accommodation but to support and recreational facilities and the supply of services - the hospital, school, water supply, sanitation and roads.

Recommendation 4 WVA calls on the Australian Government to remove all child asylum seekers and their families from Christmas Island and implement mainland, community based processing of their asylum claims as there are inadequate community detention facilities and support services on Christmas Island.

Recommendation 5 WVA urges the Australian Government to review its detention policy to ensure that mandatory detention is only used as a matter of last resort and to implement a community-based detention model for all detainees, including ending the use of Christmas Island.

World Vision is concerned that several aspects of Australia's current asylum seeker and border control policies are not in keeping with Australia's treaty obligations. Christmas Island's status as a territory excised from Australia's Migration Zone places the processing of some asylum seekers outside the Migration Act, denying offshore entrants access to the same refugee status determination procedures and legal safeguards that apply to asylum seekers arriving to the mainland. These safeguards include judicial review of claim outcomes and detention status, and access to the Refugee and Administrative Review Tribunals. As a result, Australia is likely to be in breach of several Articles⁴ of the ICCPR including those relating to: arbitrary detention (9.1); access to judicial review (9.4); and the principle of non-discrimination and equality before the law (26).

Recommendation 6 WVA urges the Australian Government to repeal the provisions in the Migration Act (449A) that bar offshore entrants from accessing certain legal procedures, to ensure asylum seekers are

¹ Convention on the Rights of the Child, article 3(1)

² http://www.hreoc.gov.au/Human_Rights/immigration/idc2009_xmas_island.html#fn87

³ <http://www.amnesty.org.au/news/comments/21194/>

⁴ International Convention on Civil and Political Rights, Articles 9 & 26

not denied their right to judicial review of their claims and to ensure Australia does not return genuine refugees who face the risk of persecution upon return.

Recommendation 7 WVA calls on the Australian Government to repeal the provisions of the Migration Act relating to excised offshore places.

A further concern to WVA is that the suspension of processing of new Afghani asylum seekers could lead to the indefinite detention of some asylum seekers including families and children.⁵ This is of grave concern to WVA as it could prolong and exacerbate the conditions described earlier. Long term arbitrary deprivation of liberty is a breach of Australia's obligations under the ICCPR and the Convention on the Rights of the Child⁶. Although the Australian Government lifted the suspension of processing new Sri Lankan asylum claims on the 6th July 2010, it must now commit to assessing each asylum claim from Sri Lankan applicants on individual merit, using a fair and efficient refugee status determination procedure, as outlined in the *2010 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka*.

Recommendation 8 WVA urges the government to immediately reverse the decision to suspend processing of new Afghani asylum seeker applications and recommence assessment of each asylum claim on individual merit.

⁵ Announced by the Australian Government on 9 April 2010: <http://www.minister.immi.gov.au/media/media-releases/2010/ce10029.htm>

⁶ Convention on the Rights of the Child, article 37

Trafficking in Persons and Labour Exploitation:

World Vision commends recent efforts by the Australian Government to combat and reduce the trafficking of persons in both Australia and in South East Asia. World Vision supports Australia's efforts, through its development agency AusAID to promote more effective rights-based prevention, protection and criminal justice responses to trafficking within the ASEAN region. **World Vision also supports** Australia's adoption of a whole-of-government response to trafficking in persons which includes a national policing strategy and specialist police investigation teams.

WVA argues that while Australia has undertaken commendable recent steps to amend Australia's domestic anti-trafficking strategy and to provide improved services to victims, more needs to be done to ensure that all victims (children, men, and women) of trafficking and related exploitation are identified, protected and able to secure justice. There is great scope for rationalizing the current laws in Australia to remove the legal uncertainties that surround the definitions of slavery, debt bondage and trafficking; to specifically criminalize forced labour, and forced and servile marriage; and to ensure that penalties are commensurate with the gravity of such offences.

Recommendation 9 WVA calls for a review of the current domestic legislation (including Criminal Code Act 1995) to bring the national legal framework in full conformity with Australia's obligations under the UN Trafficking Protocol⁷, the Supplementary Convention on the Abolition of Slavery 1956, and relevant human rights treaties.

Recommendation 10 WVA asks for greater efforts to resource and increase the capacity of the domestic investigatory response to ensure that the true nature and extent of trafficking is being revealed, and that all perpetrators are brought to justice. Most particularly, all employers within Australia who subject foreign workers to debt bondage and involuntary servitude and other forms of serious exploitation should be subject to criminal prosecution and appropriate sanctions.

⁷ Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Crime, United Nations (2000)