



Convention on the Rights of the Child

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Committee on the Rights of the Child

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Item 4 of the provisional agenda

Consideration of reports of States parties

Optional Protocol on the involvement of children in armed conflict

List of issues concerning additional and updated information related to the consideration of the initial report of Australia (CRC/C/OPAC/AUS/1)

Addendum

Written replies of Australia*

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Reply to the issues raised in paragraph 1 of the list of issues (CRC/C/OPAC/AUS/Q/1)

1. As Australia is fully compliant with the Optional Protocol, there is no Government department or body that is specifically responsible for its implementation. At the time of ratification of the Optional Protocol, the Australian Defence Force (ADF) and Department of Defence had fully implemented the Optional Protocol and consequently no further changes to Defence policy or regulations are required. Similarly all Australian laws were compliant with the Optional Protocol at time of ratification and continue to comply.

Reply to the issues raised in paragraph 2 of the list of issues

2. The ADF does not carry out any other recruitment activities aimed at children. The typical audience at school career days is students who are preparing to leave school and enter the workforce—that is, students in years 10, 11 and 12. These students are generally aged 15, 16 and 17 years respectively.

Reply to the issues raised in paragraph 3 of the list of issues

3. ADF Cadets is a voluntary youth development programme that provides opportunities for young Australians to experience personal challenges resulting in the growth in their self-confidence, enhanced self-esteem and self-discipline in an adventurous military setting. The Australian Naval Cadets provides a focus on the sea and sailing and in the many facets of naval activities and seamanship. The Australian Army Cadets provides a focus on land activities that are ‘military-like’ in an Army setting. The Australian Air Force Cadets provides opportunities for cadets to pursue interests in flying and associated air services. Cadets are not members of the ADF and will never be compulsorily recruited into the ADF.

4. Activities undertaken by ADF Cadets are conducted in a ‘military setting’. Aspects of a ‘military setting’ experienced by cadets include:

- Interaction with ADF members who assist with cadet activities
- The use of defence facilities (including bases and unit facilities)
- The hierarchical organisation of cadets
- Behavioural expectations imposed by a Code of Conduct, and
- Wearing military uniforms.

ADF Cadets will never participate in hostilities.

5. Military activities undertaken by cadets are activities of the same type as some of those performed by the ADF, but do not include direct or indirect participation in any situation of armed conflict or hostility. Examples of ADF Cadets activities may include:

- Drills and ceremonial parades
- Using approved military obstacle courses, modified for cadet use
- Abseiling and roping activities
- Canoeing, boating and other swimming activities
- Navigation by day and night, and
- First aid training.

6. ADF Cadets do not participate in any activity that equips or trains them for actual offensive or defensive military training capability. Consistent with this requirement, the following activities are not undertaken by ADF Cadets:

- Bayonet training
- Ambush techniques, attacks and mock killing
- Live firing of firearms in battle scenarios
- Use of explosives or blank ammunition
- Computer based games depicting combat or combat related activities
- Paintball games
- Participation in opposed survival exercises
- Unarmed combat
- Firearms training that involves firing at targets that depict human or animal shapes, and
- Any activity that depicts or portrays violence towards an individual or group.

7. The Cadet Policy Manual, which outlines requirements for conducting military activities for ADF Cadets, incorporates the requirements of the Optional Protocol. Cadet organisations are required to consider the cadets' best interests as a primary consideration. This includes their physical, psychological and emotional wellbeing.

8. Cadets must volunteer to participate in any activity and have written approval from their parent or guardian. The psychological and emotional wellbeing and safety of cadets and ADF Cadets staff is the overriding consideration in all activities. Where a cadet is under the age of 16 years, the activity must not involve the real, simulated or perceived application of potentially lethal force to an enemy or opposition in order to achieve domination over them.

9. Prior to undertaking any activity, cadets must have the prerequisite skills, knowledge and attitudes, and an understanding of the cadet's limitations prior to training in group or individual activities. Where there are external restrictions that limit cadets as a result of parental concerns, religious beliefs, medical conditions or any other considerations, the requirements of the cadet and/or the parents are to be respected.

Reply to the issues raised in paragraph 4 of the list of issues.

10. The number of cadets (data available from ADF Cadets Data, June 2011), is set out below:

- Australian Naval Cadets: 2196
- Australian Army Cadets: 14,696
- Australian Air Force Cadets: 6648
- Total: 23,540
- Female Cadets: 4226
- Male Cadets: 19,314

11. Data on the age, rural/urban origin, socio-economic background, indigenous status and ethnic origin of cadets has not been collected and cannot be provided.

Reply to the issues raised in paragraph 5 of the list of issues

12. There are a number of complaint mechanisms available to cadets. The ADF Cadet Behaviour Policy requires induction training in, acknowledgement of and adherence to the Code of Conduct for Cadets. The Code of Conduct requires officers, instructors and cadets

of the cadet forces to comply with all applicable Australian laws and to treat everyone with respect, courtesy and without harassment.

13. Detailed reporting, recording and procedural requirements, which include keeping those involved informed and supported, are outlined in the policy. They are designed to prevent unacceptable behaviour, stop it when it occurs and to ensure complaints are handled promptly and fairly.

14. If a complaint concerns the actions of the ADF or Department of Defence, complaints can be made by cadets and their parents or carers to the Defence Force Ombudsman. The Ombudsman is appointed by law and is not part of the ADF. If the complaint relates to unlawful discrimination, a cadet can complain to the Australian Human Rights Commission. Cadets may also complain to civilian police authorities and Members of Parliament. In addition, a telephone Advice Line is also available to cadets for advice on any questions they may have about what constitutes unacceptable behaviour, and to assist them to resolve a complaint or address a concern.

Reply to the issues raised in paragraph 6 of the list of issues

15. ADF members may be charged with a variety of service offences for all forms of physical or verbal abuse, any unacceptable behaviour towards cadets and ADF members under 18 years of age, or any failure to follow the detailed procedures mandated by Defence Instruction (Personnel) 33-4 – Management and administration of Australian Defence Force members under 18 years of age. For example, a failure to follow a requirement contained in the Defence Instruction can be prosecuted as a service offence for failing to comply with a lawful general order contrary to section 29 of the Defence Force Discipline Act 1982 (Cth). The maximum punishment for this offence is 12 months imprisonment.

16. In ADF Cadets, administrative sanctions can also be imposed on ADF members and officers, instructors and cadets if they breach the Code of Conduct or behave in an unacceptable manner. Cadets and others involved in administrative action must be afforded procedural fairness. The Department of Defence operates a whistleblower scheme to allow any person to complain about illegal or unethical behaviour by an ADF member. Any complaint under this scheme is received and handled outside the normal chain of command.

17. If the alleged conduct constitutes criminal behaviour, charges are normally laid and prosecution is normally conducted by the Director of Public Prosecutions in the relevant State or Territory.

18. Criminal behaviour also includes offences under the Criminal Code Act 1995 (Cth) of using, conscripting or enlisting children below certain ages into national armed forces or armed groups.

Reply to the issues raised in paragraph 7 of the list of issues.

19. The Detention Health Advisory Group (DeHAG) was formed in 2006. The group is comprised of practitioners from key health professional organisations and the Commonwealth Ombudsman's office has observer status. The DeHAG plays a major role in providing the Department of Immigration and Citizenship with advice regarding the design, implementation and monitoring of improvements in health care (particularly mental health care) for people in immigration detention.

20. Within 72 hours of entering an immigration detention facility, people (including children) undergo a health induction assessment, which includes screening for signs of torture and trauma. If a person is identified as a survivor of torture or trauma, they are

referred for torture and trauma counselling to be delivered by specialist torture and trauma counsellors.

21. The Complex Case Support (CCS) Program delivers specialised and intensive case management services to humanitarian entrants with exceptional needs, which includes providing torture and trauma services to children affected by armed conflict. The programme provides flexible and tailored responses to meet the individual needs of each case and is designed to work in partnership with settlement and mainstream services. Refugee entrants and special Humanitarian Program entrants are eligible for CCS and may access services for up to five years after their arrival in Australia. Anyone can refer a child for a CCS assessment, including settlement service providers, Australian and State or Territory government agencies, community and health organisations, local church and volunteer groups, doctors, teachers, police officers, school counsellors, and individuals (including self-referral).

22. The Department of Health and Ageing funds the Program of Assistance for Survivors of Torture and Trauma (PASTT), which provides specialised mental health support to refugees resettled permanently in Australia who are experiencing psychological and/or psychosocial difficulties resulting from pre-migration experiences of torture and trauma. This support includes counselling and case work, as well as working with mainstream services and community groups to improve awareness and responsiveness in relation to the needs of clients from refugee backgrounds.

23. PASTT is delivered by member agencies of the Forum of Australian Services for Survivors of Torture and Trauma (FASSTT), a network of specialist torture and trauma rehabilitation agencies located in each capital city of Australia. PASTT services are available to people of all ages and are tailored to the individual needs of clients. There is no limit on the length of time a client is provided support. Approximately 40 per cent of FASSTT clients are children and young people, and agencies report that the extent of traumatic loss experienced by this group is increasing. Torture and trauma survivors are referred to PASTT through a range of sources including GPs, schools and broader mental health services. FASSTT agencies run a range of programmes to assist children and young people. For example, there are Child and Youth teams who provide support beyond individual counselling by including activities that incorporate family members and seek to build intergenerational connections, and providing activity-based therapy. The teams work closely with a range of schools supporting young people from refugee backgrounds.

Reply to the issues raised in paragraph 8 of the list of issues

24. All mental health 'screening' conducted by the Department of Immigration and Citizenship (DIAC) is undertaken by health professionals and not immigration officers. DIAC has a number of mental health policies for persons in immigration detention, including 'Identification and Support of People in Immigration Detention who are Survivors of Torture and Trauma'. These are supported by the Immigration Detention Instruction: Application of Mental Health Policies to Minors in Immigration Detention.

25. This policy applies to all children in immigration detention, whether they are accompanied by their parents or unaccompanied, and includes children detained as suspected illegal foreign fishers or people smuggling crew. The policy is intended for all Government officials in DIAC who:

- Perform protection visa processing, entry screening interviews and refugee status assessments
- Work at places of immigration detention and in related policy roles
- Work in case management, case resolution, enforcement and related policy roles

- Manage the Humanitarian Settlement Services contract
- Manage the Community Detention programme, or
- Have interactions with people in immigration detention.

26. The policy is also intended for professionals and service organisations involved in the provision of health care to people in immigration detention. The policy identifies a number of risk factors linked to the mental health of children and their ability to respond to trauma, and sets out a number of signs of psychological distress that children may display if they have experienced trauma. The policy also includes additional advice on assessment tools and screening instruments to be used for children in immigration detention.

27. Mental health awareness and mental health policy training is delivered to staff working with people in immigration detention. All staff of the security company contracted to run the detention centres (Serco), who work with people in immigration detention, are required to undertake mental health awareness training as part of their induction training and at least every two years thereafter. This training is coordinated by Serco.

28. The detention health services provider (IHMS) provides its employees with orientation training and then regular ongoing training at detention facilities on a wide range of health service delivery issues, including mental health awareness and the mental health policies.

29. Relevant DIAC operations staff, including case managers, receive mental health awareness training as part of their orientation and ongoing role-specific training. The case management training includes training on the mental health policies. This training is coordinated by DIAC and during 2010 was delivered to 381 staff and during 2011 to 550 staff.

30. In addition to the above training, a joint IHMS and DIAC team delivers mental health awareness and mental health policy training across the detention network to staff from Serco, IHMS and DIAC. During 2010 this training was delivered to approximately 1180 staff and during 2011 652 staff (to continue across the network during 2012).

Reply to the issues raised in paragraph 9 of the list of issues

31. Australia's export control policies reflect the Australian Government commitment to ensure Australia exports responsibly. Controlled goods, such as arms or related materiel, cannot be exported from Australia without a valid licence, or without prior permission obtained from the Department of Defence.

32. Applications for the exportation of controlled goods are assessed by the Department of Defence on a case-by-case basis to ensure compliance with Australia's international obligations and treaty commitments. Consideration is given to United Nations Security Council imposed sanctions restricting the sale, supply or transfer of defence or dual-use goods (equipment and technologies developed to meet commercial needs, but may be used as military components). Additionally, where there is a clearly identifiable risk that the controlled goods would be used to commit or facilitate serious human rights abuses, an export licence would not be granted. This would include exporting arms to countries where children are known to take part in hostilities.

33. The Australian Government also relies on domestic sanctions legislation as a foreign policy tool that can be applied to a specific country with the intent of preventing unauthorised supply, sale or transfer of arms or related materiel. Australian sanctions legislation is administered by the Department of Foreign Affairs and Trade. In circumstances where legislated sanctions have been imposed against a specific country,

additional licences and permissions must be obtained for the exportation of controlled goods such as arms.
