

Refugee Background

Executive Summary

Research shows that refugees¹ and asylum seekers² face extensive challenges integrating into Australian society upon arrival and for many years after arrival,³ including:

- language barriers;⁴
- obtaining stable housing;⁵
- financial hardship;⁶
- acquiring employment;⁷
- difficulties in accessing help and assistance;⁸
- encountering forms of institutional racism and discrimination;⁹
- feelings of loss of home, family and other connections;¹⁰ and
- acculturative stressors.¹¹

Many refugees and asylum seekers have been exposed to trauma before and during fleeing their own country.¹² The deleterious impact of such experiences on mental health may also be exacerbated upon arrival in Australia, where asylum seekers may face prolonged detention and face significant uncertainty about their future.¹³ Research suggests that traumatic experiences place refugees at a greater risk of a range of adverse psychological impacts, including post-traumatic stress disorder ('PTSD').¹⁴

The Australian Human Rights Commission has found that significant numbers of children experience negative and ongoing emotional impacts after prolonged detention'.¹⁵ The Australian Psychological Society describes a number of common symptoms exhibited by children who have lived in immigration detention, including anxiety, conduct problems, aggressive behaviours, delinquency and trauma.¹⁶ Education disruption may also continue for refugees settled in Australia, including expulsions, suspensions and regular truancy.¹⁷

The Australian Human Rights Commission identifies a range of barriers that asylum seekers may face in seeking employment,¹⁸ as well as a reluctance on behalf of employers associated with uncertainty around the visa status of prospective employees.¹⁹ A 2017 Australian study found that:

Financial hardship, initial reliance on government payments and the social challenges of residing in low-income jurisdictions, can produce unstable and discouraging environmental contexts with limited opportunities for upward mobility and the development of legitimate social capital. These issues are perhaps heightened when migration patterns consign disproportionate numbers of young males to such settings, which can be fertile grounds for boredom, frustration, alienation and law-breaking activity.²⁰

Women from refugee backgrounds may be particularly vulnerable to financial abuse, reproductive coercion and immigration-related violence',²¹ as well as family violence.²²

The potential relevance of evidence of a refugee background in sentencing proceedings includes an assessment of moral culpability; moderating the weight to be given to general deterrence; determining the weight to be given to specific deterrence and protection of the community; and the shaping of conditions to enhance prospects of rehabilitation. It may also be relevant to other sentencing issues and principles including a finding of special circumstances.

¹ The term ‘refugee’ is used to refer to someone who, ‘owing to a well-founded fear of being persecuted for reasons of race, religion, nationality or membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable or, owing to such fear is unwilling to avail himself/herself to the protection of that country; or who, not having a nationality and being outside is unwilling to return to it’: [Convention Relating to the Status of Refugees](#), opened for signature 28 July 1951, 189 UNTS 150 (entered into force 22 April 1954) art 1A(2).

² The term ‘asylum seeker’ is used to refer to an individual who has sought international protection and whose claim for refugee status has not yet been determined: Janet Phillips, ‘[Asylum Seekers and Refugees: What Are the Facts?](#)’ (Research Paper, Parliamentary Library, Parliament of Australia, 2 March 2015) 3.

³ Australian Institute of Family Studies, [Intimate Partner Violence in Australian Refugee Communities](#) (CFCA Paper No 50, December 2018) 4; Trauma and Grief Network, [Refugees and Asylum Seekers: Supporting Recovery from Trauma](#) (Information Sheet, Australian National University, 2013) 2; Stephane M Shepherd, Danielle Newton and Karen Farquharson, ‘Pathways to Offending for Young Sudanese Australians’ (2018) 51 *Australian & New Zealand Journal of Criminology* 481, 484; Kate E Murray, Graham R Davidson and Robert D Schweitzer, [Psychological Wellbeing of Refugees Resettling in Australia: A Literature Review Prepared for the Australian Psychological Society](#) (August 2008); Marie Segrave, [Temporary Migration and Family Violence: An Analysis of Victimisation, Vulnerability and Support](#) (Report, Monash University, 2017); Refugee Council of Australia, [Intake Submission on Australia’s 2015-2016 Refugee and Humanitarian Program](#), cited in Fiona MacDonald, ‘Positioning Young Refugees in Australia: Media Discourse and Social Exclusion’ (2017) 21 *International Journal of Inclusive Education* 1182.

⁴ Australian Institute of Family Studies, [Intimate Partner Violence in Australian Refugee Communities](#) (CFCA Paper No 50, December 2018) 4.

⁵ Trauma and Grief Network, [Refugees and Asylum Seekers: Supporting Recovery from Trauma](#) (Information Sheet, Australian National University, 2013) 2.

⁶ Stephane M Shepherd, Danielle Newton and Karen Farquharson, ‘Pathways to Offending for Young Sudanese Australians’ (2018) 51 *Australian & New Zealand Journal of Criminology* 481, 484.

⁷ Kate E Murray, Graham R Davidson and Robert D Schweitzer, [Psychological Wellbeing of Refugees Resettling in Australia: A Literature Review Prepared for the Australian Psychological Society](#) (August 2008) 28.

⁸ Marie Segrave, [Temporary Migration and Family Violence: An Analysis of Victimisation, Vulnerability and Support](#) (Report, Monash University, 2017) 50.

⁹ Refugee Council of Australia, [Intake Submission on Australia’s 2015-2016 Refugee and Humanitarian Program](#), cited in Fiona MacDonald, ‘Positioning Young Refugees in Australia: Media Discourse and Social Exclusion’ (2017) 21 *International Journal of Inclusive Education* 1182, 1184.

¹⁰ Trauma and Grief Network, [Refugees and Asylum Seekers: Supporting Recovery from Trauma](#) (Information Sheet, Australian National University, 2013).

¹¹ Australian Institute of Family Studies, [Intimate Partner Violence in Australian Refugee Communities](#) (CFCA Paper No 50, December 2018) 8.

¹² Trauma and Grief Network, [Refugees and Asylum Seekers: Supporting Recovery from Trauma](#) (Information Sheet, Australian National University, 2013) 1–2.

¹³ Joint Select Committee on Australia’s Immigration Detention Network, Parliament of Australia, [Final Report](#) (March 2012) 113.

¹⁴ Julia Huemer et al, ‘[Mental Health Issues in Unaccompanied Refugee Minors](#)’ (2009) 3(13) *Child and Adolescent Psychiatry and Mental Health*; Stephane M Shepherd, Danielle Newton and Karen Farquharson, ‘Pathways to Offending for Young Sudanese Australians’ (2018) 51 *Australian & New Zealand Journal of Criminology* 481, 484; Australian Human Rights Commission, [The Forgotten Children: National Inquiry into Children in Immigration Detention](#) (Final Report, November 2014) 63; Kate E Murray, Graham R Davidson and Robert D Schweitzer, [Psychological Wellbeing of Refugees Resettling in Australia: A Literature Review Prepared for the Australian Psychological Society](#) (August 2008) 13–14; Australian Centre for Posttraumatic Mental Health, [Australian Guidelines for the Treatment of Acute Stress Disorder and Posttraumatic Stress Disorder](#) (2013) 139.

¹⁵ Australian Human Rights Commission, [The Forgotten Children: National Inquiry into Children in Immigration Detention](#) (Final Report, November 2014) 37.

¹⁶ Kate E Murray, Graham R Davidson and Robert D Schweitzer, [Psychological Wellbeing of Refugees Resettling in Australia: A Literature Review Prepared for the Australian Psychological Society](#) (August 2008) 13–14.

¹⁷ Stephane M Shepherd, Danielle Newton and Karen Farquharson, ‘Pathways to Offending for Young Sudanese Australians’ (2018) 51 *Australian & New Zealand Journal of Criminology* 481, 488.

¹⁸ Australian Human Rights Commission, [Lives on Hold: Refugees and Asylum Seekers in the ‘Legacy Caseload’](#) (Report, 2019) 58. See also Garry Coventry et al, [Sudanese Refugees’ Experiences with the Queensland Criminal Justice System](#) (Final Report, June 2015) 55.

¹⁹ *Ibid* 59.

²⁰ Stephane M Shepherd, Danielle Newton and Karen Farquharson, ‘Pathways to Offending for Young Sudanese Australians’ (2018) 51 *Australian & New Zealand Journal of Criminology* 481, 484.

²¹ Australian Institute of Family Studies, [Intimate Partner Violence in Australian Refugee Communities](#) (CFCA Paper No 50, December 2018) 4.

²² *Ibid* 5–6.