



Australian
Human Rights
Commission

Children's Rights Report 2013

NATIONAL CHILDREN'S COMMISSIONER



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Children's Rights Report 2013

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**Australian
Human Rights
Commission**

5 November 2013

Senator the Hon George Brandis QC
Attorney-General
Parliament House
CANBERRA ACT 2600

Dear Attorney

Children's Rights Report 2013

I am pleased to present to you the *Children's Rights Report 2013*, in accordance with section 46MB of the *Australian Human Rights Commission Act 1986* (Cth) (the Act). The Act requires that I submit a report relating to the enjoyment and exercise of human rights by children in Australia on an annual basis.

The Report covers the period from the date of the commencement of Schedule 1 of the Act, 1 July 2012 to 30 June 2013. I note that I was appointed to the position on 25 February 2013, and commenced my duties on 25 March 2013.

The Report examines the key international human rights treaty on children's rights, the *Convention on the Rights of the Child* (CRC), and its implementation in Australia. Current statistics are used in the report to show how children are faring in Australia. The Report also refers to the outcomes of my national listening tour, the *Big Banter*, which concluded on 30 September 2013.

Based on this, the Report outlines five key themes that I have identified for progressing better protection of children's rights in Australia.

The Report includes six recommendations on actions that should be taken to ensure the enjoyment and exercise of human rights by children in Australia.

I look forward to discussing the Report with you.

Yours sincerely

Megan Mitchell
National Children's Commissioner

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About the

National Children's Commissioner

There have been calls to establish a National Children's Commissioner since Australia took on obligations in relation to children's rights by ratifying the *Convention on the Rights of the Child* (CRC) in December 1990.

Legislation establishing the position was passed by the federal Parliament on 25 June 2012. I was appointed as the inaugural National Children's Commissioner on 25 February 2013. I commenced my role on 25 March 2013.

The selection process for the position of National Children's Commissioner included children's views about the criteria and characteristics required for the role. Children who participated in my interview process, from Kingsford Smith Primary School in the Australian Capital Territory, were 9 to 11 years of age.

Section 46MB of the *Australian Human Rights Commission Act 1986* (Cth) (the Act) describes the functions that are to be performed by the National Children's Commissioner, as follows:

- to submit a report to the Minister as soon as practicable after 30 June in each year. This report must deal with matters, relating to the enjoyment and exercise of human rights by children in Australia, as the National Children's Commissioner considers appropriate; and may include recommendations that the Commissioner considers appropriate as to the action that should be taken to ensure the enjoyment and exercise of human rights by children in Australia
- to promote discussion and awareness of matters relating to the human rights of children in Australia
- to undertake research, or educational or other programs, for the purpose of promoting respect for the human rights of children in Australia, and promoting the enjoyment and exercise of human rights by children in Australia
- to examine existing and proposed Commonwealth enactments for the purpose of ascertaining whether they recognise and protect the human rights of children in Australia, and to report to the Minister the results of any such examination.

In performing these functions, I may give particular attention to children who are at risk or vulnerable. I may also consult with children; Departments and authorities of the Commonwealth, and of the States and Territories; non-governmental organisations; international organisations and agencies; and other organisations, agencies or persons as I consider appropriate.

I must, as appropriate, have regard to the following human rights instruments:

- *Universal Declaration of Human Rights*
- *International Convention on the Elimination of All Forms of Racial Discrimination*
- *International Covenant on Economic, Social and Cultural Rights*
- *International Covenant on Civil and Political Rights*
- *Convention on the Elimination of All Forms of Discrimination Against Women*
- *Convention on the Rights of the Child*
- *Convention on the Rights of Persons with Disabilities*
- and such other instruments relating to human rights as I consider relevant.¹

I am also responsible, along with the President and all other Commissioners, for performing a range of statutory functions that are conferred on the Australian Human Rights Commission (the Commission) as a whole. Section 8(2) of the Act states that I, as a member of the Commission, must act in a way that promotes the collegiate nature of the Commission.

The Commission is able to receive complaints from or about the treatment of children in relation to discrimination and breaches of their human rights. The complaint handling role is vested solely in the Commission President and, accordingly, I do not have a complaint-handling role or a role in dealing with individual children. This includes individual children's cases in the context of child protection or family law. Nor do I have any guardianship role. However, in court cases that involve human rights, including children's rights, I may seek leave of the court to appear as an intervener or as *amicus curiae*.

Megan Mitchell

National Children's Commissioner



All Australian states and territories have Children's Commissioners and/or Guardians. The legislative functions of these Children's Commissioners and Guardians differ between jurisdictions. Some have a broad focus, which includes all children, whereas others have specified responsibilities relating to children who are at risk or who are vulnerable. Their primary focus is state laws, programs and issues affecting children.

I will be working collegiately with the state and territory Children's Commissioners and Guardians through the Australian Children's Commissioners and Guardians group. The existence of Children's Commissioners and Guardians explains why my functions to examine laws, and compel the production of documents, are limited to the Commonwealth level.

I have extensive experience working with children from all types of backgrounds, including undertaking significant work with vulnerable children. I have practical expertise in child protection, foster and kinship care, juvenile justice, children's services, childcare, disabilities, and early intervention and prevention services.

My previous roles include NSW Commissioner for Children and Young People, Executive Director of the ACT Office for Children, Youth and Family Support, Executive Director for Out-of-Home Care in the NSW Department of Community Services, and CEO of the Australian Council of Social Service.

I hold qualifications in social policy, psychology and education, having completed a Bachelor of Arts from the University of Sydney (1979), a Diploma of Education from the Sydney Teachers College (1980), a Master of Arts (Psychology) from the University of Sydney (1982), and a Master of Arts (Social Policy) from the University of York (1989).

On my first day as National Children's Commissioner, I said 'I want the views of our youngest citizens, who make up a quarter of our population, to be sought, heard and taken up by adults in our community. I want children's participation to become the norm.'²

For information on the work of the National Children's

Commissioner, please visit: <http://www.humanrights.gov.au/our-work/childrens-rights>.

1 Note: when the draft bill for a National Children's Commissioner was considered, concern was expressed by the Australian Human Rights Commission and non-government organisations at the lack of explicit recognition of the *International Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*.

2 Australian Human Rights Commission, 'Children's Commissioner outlines key priorities as she begins her new role' (Media Release, 25 March 2013).

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A child from Adelaide, South Australia (10 July 2013)

Overview

Introduction

The Australian Government announced the establishment of the role of the National Children's Commissioner within the Australian Human Rights Commission on 27 April 2012. The potential role of a National Children's Commissioner was a priority of the First Action Plan of the National Framework for Protecting Australia's Children 2009-2020.¹ The creation of the role was supported by many organisations, including over 100 child rights focused groups which came together as the Child Rights Taskforce, co-convened by UNICEF Australia and the National Children's and Youth Law Centre,² as well as the Coalition of Organisations Committed to the Safety and Wellbeing of Australia's Children, which represents 124 organisations and academics.

Amendments to the *Australian Human Rights Commission Act 1986* (Cth) established the position with one of the primary functions of the role being to monitor and report annually on the status of the enjoyment and exercise of human rights by children in Australia. The Act also includes the capacity for the National Children's Commissioner to make recommendations as to any action that should be taken to ensure the enjoyment and exercise of human rights by children in Australia.

In announcing the creation of the role of the National Children's Commissioner, the then Attorney-General stated that:

For the first time, Australia will have a dedicated advocate focused on the human rights of children and young people at the national level...The Children's Commissioner will ensure the voices of children and young people are heard in the development of Commonwealth policies and programs.³

The Australian Government later stated, 'We want every child to grow up safe, happy and well. The new Commissioner will make sure the needs of children and young people are put front and centre'.⁴

The Report plays an important ongoing role in monitoring the enjoyment and exercise of the human rights of children in Australia. The voices of children have been privileged throughout the Report by including quotes from those children that I have heard from so far.

Section 46MB(3)(b) of the Act states that I may make recommendations in my report relating to actions which should be taken to ensure the enjoyment and exercise of human rights by children in Australia. Recommendations with accompanying follow up actions are included, where appropriate, at the end of each chapter.

Chapter 1: Australia's responsibilities under the *Convention on the Rights of the Child* (CRC)

Chapter 1 examines the key international human rights treaty on children's rights, the CRC, and looks at how Australia is implementing this treaty. It reports on the Concluding Observations made by the United Nations Committee on the Rights of the Child (UN Committee) in 2012 in its monitoring of Australia's implementation of the CRC and its Optional Protocols, including recommendations for action by Australia. Currently available statistics are used in my report to show how children are faring in Australia.

Chapter 2: Measures to protect and ensure children's rights in Australia

Chapter 2 provides an overview of national data collection on children, national policy reforms and initiatives, and the scrutiny of existing and proposed Commonwealth legislation. It points to where these could be more strongly aligned to child rights outcomes, and where some current data gaps exist.

Chapter 3: The *Big Banter* and other activities of the National Children's Commissioner

The voices and views of Australia's children are reported in Chapter 3. This chapter documents how I have listened to children and child advocates, and it identifies the main issues from my discussions with them.

Chapter 4: Equal life chances for all children in Australia

Chapter 4 concludes my report by considering the five key themes arising from the *Big Banter*, the Concluding Observations made by the United Nations Committee on the Rights of the Child, and existing national policy initiatives. These themes are:

1. **A right to be heard** – children's voice and participation in decision-making processes; specifically involving children in issues that affect them; and ensuring that existing mechanisms for resolving disputes are accessible and available to children.
2. **Freedom from violence, abuse and neglect** – ensuring safe environments and respect for the dignity of the child; specifically making sure that the commitments made in national frameworks are achieved and built upon, through adequate resourcing and action; encouraging a proactive approach to issues of child safety that places a premium on prevention, through enabling safe communities and environments for children; and building resilience among our children.
3. **The opportunity to thrive** – safeguarding the health and wellbeing of all children in Australia, which includes promoting and supporting children through early intervention and prevention; and identifying and focusing on the most marginalised and vulnerable children.
4. **Engaged citizenship** – promoting engaged civics and citizenship through education and awareness-raising.
5. **Action and accountability** – taking deliberate and proactive steps to protect the wellbeing and rights of children, specifically by collecting comprehensive national data about the wellbeing and human rights of Australia's children; progressing a national vision for Australia's children through intergovernmental partnerships and agreements; developing outcome based reporting and monitoring of government service delivery and policy development; and developing a children's impact assessment process for law, policy practice.

1 Australian Government, *Protecting Children is Everyone's Business – National Framework for Protecting Australia's Children 2009-2020* (2009). At <http://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business> (viewed 22 October 2013).

2 Child Rights Taskforce, *Listen to Children*, 2011 Child Rights NGO Report (2011). At <http://www.childrights.org.au/> (viewed 22 October 2013).

3 The Hon Nicola Roxon MP, Attorney-General, Minister for Emergency Management and The Hon Jenny Macklin MP Minister for Families, Community Services and Indigenous Affairs, 'Gillard Government to establish National Children's Commissioner' (Joint Media Release, 29 April 2012).

4 Prime Minister Julia Gillard, Mark Dreyfus MP, Attorney-General, Minister for Emergency Management, Jenny Macklin MP, Minister for Families, Community Services and Indigenous Affairs, Minister for Disability Reform, 'First national Children's Commissioner appointed' (Joint Media Release, 25 February 2013).

Recommendations

Chapter 1: Australia's responsibilities under the *Convention on the Rights of the Child* (CRC)

Recommendation 1

That the Australian Government respond formally to the Concluding Observations of the United Nations Committee on the Rights of the Child on Australia's fourth report of progress under the *Convention on the Rights of the Child* and its Optional Protocols. The response should indicate how it intends to progress addressing the recommendations, and timelines and benchmarks for their implementation.

Recommendation 2

That the Australian Government accedes to the *Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure* and ratifies the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT).

Recommendation 3

That the Australian Government finalises its review of Australia's reservations and withdraws its reservation under article 37(c) of the *Convention on the Rights of the Child* which relates to the obligation to separate children from adults in prison.

Chapter 2: Measures to protect and ensure child rights in Australia

Recommendation 4

That the Australian Institute of Health and Welfare (AIHW) extends its current cohort of Australian children in *A picture of Australia's children* from 0 to 14 years to 0 to 17 years, consistent with the *Convention on the Rights of the Child* definition of the child.

Recommendation 5

That the Australian Government establishes relevant data holdings and analytics covering all the key domains of children's rights outlined in the *Convention on the Rights of the Child*, including comparable data across jurisdictions, which the National Children's Commissioner can use to monitor the enjoyment and exercise of human rights by children in Australia.

Recommendation 6

That the Australian Government includes in its regular monitoring and evaluation of national policy reforms and initiatives, a component that reports on how it is giving effect to the articles of the *Convention on the Rights of the Child*.

Follow up actions by the National Children's Commissioner

In the next *Children's Rights Report*, I will report on the actions taken by the Australian Government in response to the recommendations in my report.

The Australian Government is not due to submit its combined fifth and sixth periodic reports on progress under the *Convention on the Rights of the Child* and its Optional Protocols until 15 January 2018. Each year, I will provide an update in the *Children's Rights Report* on the Australian Government's progress in addressing specific recommendations made by the United Nations Committee on the Rights of the Child, and on particular thematic issues.

I will also report in the next *Children's Rights Report* on gaps and inconsistencies in data collection and monitoring processes, to assist in providing a more comprehensive focus on children's rights nationally.

Chapter 1: Australia's responsibilities under the *Convention on the Rights of the Child*



Australian
Human Rights
Commission

THE
Big
Banter

Children's rights

You have the right to:

1.
be treated fairly
no matter what

2.
have a say
about decisions
affecting you

3.
live and grow
up healthy

4.
have people
do what is best
for you

5.
know who you
are and where
you come from

6.
believe what
you want

7.
privacy

8.
find out
information and
express yourself

9.
be safe no
matter where
you are

10.
be cared for and
have a home

11.
education,
play and cultural
activities

12.
help and
protection if
you need it

Adapted from the Convention on the Rights of the Child.
For more information on children's rights, go to www.humanrights.gov.au/childrights
To tell a story about your rights, go to somethingincommon.gov.au/thebigbanter

1.1 Introduction

The CRC is the guiding document for my work. In this chapter I provide an overview of the CRC, its Optional Protocols, the role of the United Nations Committee on the Rights of the Child (UN Committee), and Australia's responsibilities in this context.

Despite Australia having obligations under the CRC for over two decades, there remains a low level of awareness of the existence of the treaty in the community, including among children.

1.2 The *Convention on the Rights of the Child* (CRC)

The United Nations General Assembly adopted the CRC in November 1989 and Australia ratified it in December 1990.

The CRC recognises that children have the same basic human rights as adults, while also needing special protection due to their vulnerability. When it came into effect, children were recognised as rights-bearers for the first time in the international human rights treaty system.

The CRC is a legal document that sets out standards and assigns responsibility for ensuring these standards are met. On ratification of a convention, such as the CRC, a country becomes a State Party to it. By ratifying the CRC, the Australian Government has specific obligations to children under international law.

Kids rights are
human rights!

*Child in after-school
care from the ACT*

1.3 What are the rights enshrined in the CRC?

The CRC is the most widely ratified human rights treaty in the world. It covers a comprehensive spectrum of human rights and sets out the specific ways these rights should be ensured for children.

The CRC integrates the economic, social, cultural, civil and political rights inherent in other United Nations conventions and covenants. It reframes those rights as they apply to children. The rights included in the CRC are necessary to the basic development of a child. No one right is given more importance than any other. They function as integrated components.

The CRC sets out children's rights in 54 articles. Articles 1-41 (Part I) outline the substantive rights of all children and the obligations of governments in relation to these rights; articles 42-45 (Part II) focus on implementation and how compliance will be monitored; articles 46-54 (Part III) detail the conditions under which the CRC comes into force.

Substantive rights in the *Convention on the Rights of the Child*

The substantive rights are structured according to the following clusters. This is not an exhaustive list of all relevant articles under each cluster.

General measures of implementation

Articles

These general measures require States Parties to:

- undertake all appropriate legislative, administrative and other measures for the implementation of the rights in the CRC. In the case of economic, social and cultural rights, to undertake such measures to the maximum extent of their available resources article 4
- make the principles and provisions of the CRC widely known to adults and children alike article 42
- to make their reports to the UN Committee widely available to the public in their own countries. article 44.6

Definition of the child

Under the CRC, a child means every human being below 18 years of age unless under the law applicable to the child, majority is attained earlier.

article 1

General principles

The four rights known as the ‘general principles’ are considered pivotal to the implementation of all of the other rights contained within the CRC:

- the right to non-discrimination article 2
- the child’s best interests as a primary consideration article 3
- the right to life, survival and development article 6
- respect for the views of the child. article 12

Civil rights and freedoms

Civil rights and freedoms include the child’s right to:

- birth registration, a name, a nationality, and to know and be cared for by the child’s parents article 7
- preserve the child’s identity article 8
- freedom of expression article 13
- freedom of thought, conscience and religion article 14
- freedom of association and peaceful assembly article 15
- privacy article 16
- access to information article 17
- education article 28
- not be subjected to torture and other cruel, inhuman or degrading treatment or punishment article 37(a)
- recovery and reintegration when a victim of neglect, exploitation or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment. article 39

Substantive rights in the *Convention on the Rights of the Child*

Family environment and alternative care

Articles

These include States Parties obligations to:

- respect the rights, duties and responsibilities of parents, or where applicable the members of the extended family or community article 5
- ensure a child is not separated from the child's parents against their will, except when in the best interests of the child, and can maintain contact with both parents on a regular basis article 9
- deal with family reunification applications in a positive, humane and expeditious manner article 10
- take measures to combat the illicit transfers and non-return of children abroad article 11
- recognise that parents, or legal guardians, have the primary responsibility for the upbringing of a child and provide assistance to them in this responsibility article 18
- take measures to protect the child from all forms of physical and mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse article 19
- ensure care and protection for a child temporarily or permanently deprived of the child's family environment article 20
- ensure that the best interests of the child is the paramount consideration in systems of adoption article 21
- recognise the right of the child being treated for physical and mental health to a periodic review of their treatment article 25
- take measures to secure the recovery of maintenance for the child from the parents or other persons with financial responsibility for the child article 27.4
- take measures to promote the physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment. article 39

Disability, basic health and welfare

These include:

- the right of children of working parents to benefit from childcare services and facilities for which they are eligible article 18.3
- the right of a child with mental or physical disabilities to enjoy a full and decent life in conditions which ensure dignity, self-reliance and promote their active participation in the community. Children with disabilities also have the right to special care article 23
- the right to enjoy the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation article 24
- the right to benefit from social security article 26
- the right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. article 27

Substantive rights in the *Convention on the Rights of the Child*

Education, leisure and cultural activities

Articles

These include:

- the right to education article 28
- the right to education directed to the development of the child's personality, talents and mental and physical abilities, to their fullest potential; respect for human rights; respect for the child's parents, cultural identity, language and values; national values and different civilisations, preparing the child for a responsible life in a free society and respect for the natural environment article 29
- the right to enjoy, profess or practice the child's own culture, religion or language in community with other members of the child's own group article 30
- the right to rest and leisure, to engage in play and recreational activities, and participate freely in cultural life and the arts. article 31

Special protection measures

The CRC requires States Parties to take additional measures to specially protect the rights of certain groups of children, such as:

- children who are seeking refugee status or who are considered refugees, regardless of whether unaccompanied or accompanied by the child's parents or any other person article 22
- children belonging to an ethnic, religious or linguistic minority, or of indigenous origin article 30
- children deprived of liberty article 37
- children who are the victims of any form of neglect, exploitation or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment article 39
- children affected by armed conflict, including those recruited into the armed forces article 38
- children alleged as, accused of, or recognised as having infringed the penal law. article 40

It also requires States Parties to provide all children with special protection from:

- economic exploitation and from work that is likely to be hazardous, interfere with education or harmful to the child article 32
- the illicit use of narcotic drugs and psychotropic substances article 33
- all forms of sexual exploitation and sexual abuse article 34
- the abduction, sale or traffic of children article 35
- all other forms of exploitation prejudicial to any aspects of the child's welfare article 36
- torture or other cruel, inhuman or degrading treatment or punishment article 37(a)
- unlawful or arbitrary deprivation of liberty; deprivation of liberty only as a last resort and for the shortest appropriate period of time. article 37

I would like every child to be treated in the same good way.

11 year old child from Victoria

1.4 What are the rights covered by the three Optional Protocols to the CRC

There are also two Optional Protocols to the CRC that Australia has ratified: the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography* (OPSC); and the *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* (OPAC). These Optional Protocols endeavor to strengthen specific aspects of the CRC and increase protection for children. Optional Protocols can also address emerging concerns.

Australia has not ratified the *Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure* (the third Optional Protocol) which provides that individual children can submit complaints to the UN Committee about specific violations of their rights under the CRC, OPSC and OPAC. The Australian Government is considering whether to sign the third Optional Protocol. The initial public consultation by the Australian Government ended on 10 April 2012. There were 19 submissions made and these mainly supported ratification. The Commission first wrote to the Australian Government in support of the third

Optional Protocol in April 2012. The UN Committee also encouraged Australia, in its Concluding Observations in 2012, to accede to the third Optional Protocol.

Ratification of the third Optional Protocol would provide significant new protections for children. It would mean that children's rights are given a similar level of accountability that exists for other rights, such as those under the *International Covenant on Civil and Political Rights* (ICCPR), *Convention on the Elimination of all Forms of Discrimination Against Women* (CEDAW), *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT), *Convention on the Elimination of Racial Discrimination* (CERD) and the *Convention on the Rights of People with Disabilities* (CRPD).

It would also establish the means for children to make complaints about breaches of their rights across the whole spectrum of rights under the CRC. Children cannot currently complain under the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), as Australia is not a party to its communication mechanism.

Life would be better for children if we had a chance to be heard.

Child from Victoria

Before a child or their representative could make a complaint to the UN Committee under the third Optional Protocol, they would be required to have exhausted domestic remedies that are available. I am concerned that domestic remedies for breaches of children's rights are not always accessible or available to children. A starting point for addressing this significant concern would be an audit of existing complaint mechanisms provided at the Commonwealth level. With additional resourcing, the Commission would be well placed to complete this work.

While the CRC is the most comprehensive outline of children's rights, and articulates the special rights accorded to children, the human rights set out in other treaties belong to children as well. In recognition of the indivisibility and interdependence of human rights, the UN Committee consistently urges States Parties to ratify the other major international human rights treaties.¹

The rights contained in other treaties are especially important with respect to children in need of special protection. For example, the CRC includes articles to protect children in detention from mistreatment, including protection from torture, and other cruel, inhuman or degrading treatment or punishment. *The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT), which Australia has ratified, provides greater detail on Australia's obligations for preventing torture and other mistreatment of detainees. Further, the Optional Protocol to CAT (OPCAT), which Australia has signed but not yet ratified, develops preventative monitoring mechanisms to ensure that all detainees, including children, are protected from mistreatment. OPCAT, if ratified and implemented, will provide an important system of monitoring the rights of children in all forms of detention in Australia, including immigration detention and juvenile justice detention. The Commission has called for the Australian Government to expedite ratification of OPCAT on a number of occasions.²

The full text of the CRC can be found on the Australian Human Rights Commission website at www.humanrights.gov.au/crc.

1.5 Reservations and Declarations on the CRC

States Parties can, within reason, enter reservations or declarations on a convention.

When Australia ratified the CRC, it entered a reservation under article 37(c). The obligation under article 37(c) to separate children from adults in prison is accepted only to the extent that such imprisonment is considered by the responsible authorities to be feasible and consistent with the obligation that children be able to maintain contact with their families, having regard to the geography and demography of Australia. The UN Committee believes, as does the Commission, that Australia's reservation should be withdrawn.

The Australian Government committed to reviewing whether Australia's reservations under United Nations human rights treaties can be withdrawn, in response to recommendations made during Australia's appearance before the Universal Periodic Review mechanism of the United National Human Rights Council in 2011.³ The National Human Rights Action Plan 2012 reflects this commitment and identifies all of Australia's reservations, including those concerning the treatment of children in the justice and penitentiary system (see articles 10(2) and 10(3) of the ICCPR and article 37(c) of the CRC).⁴



I think that everyone
should be safe.

10 year old child
from South Australia

Life would be better for children and young people if we were treated fairly.

Child in secondary school from NSW

The Australian Government Attorney General's Department is coordinating the review of Australia's reservations. The review involves consultation across whole-of-government, including the states and territories, to determine current law, policies and practices and what action would be required to withdraw the reservations. Any withdrawal of a reservation will ultimately be a decision for the Australian Government in consultation with states and territories, and a withdrawal may need to be tabled in Parliament for an inquiry by the Joint Standing Committee on Treaties.⁵

When Australia ratified the *Optional Protocol on the Involvement of Children in Armed Conflict*, it entered a declaration that it would continue to observe a minimum voluntary recruitment age of 17 years.

1.6 The role of the United Nations Committee on the Rights of the Child

The UN Committee is a United Nations body that monitors the implementation of the CRC and its Optional Protocols by States Parties to the Convention. It is made up of 18 independent experts from a range of countries. The UN Committee holds regular sessions every year to review reports by the States Parties on their progress in fulfilling their obligations under the CRC. All States Parties report on their progress in implementing the CRC every five years. The UN Committee can make suggestions and issue recommendations to governments, called Concluding Observations. The UN Committee also issues General Comments on specific articles of the CRC, which provide an interpretation of the rights contained in the CRC.⁶

In 2008 the Australian Government submitted to the UN Committee its fourth report under the CRC. The Australian Government was invited to appear before the UN Committee in 2012 to discuss the report in more detail. In the period leading up to Australia's appearance, the UN Committee compiled a *List of Issues* requesting further information from Australia, which Australia provided in 2012. Australia then appeared before the UN Committee in Geneva on 4 and 5 June 2012.

I really want people to have the opportunities that I have.

12 year old child from Victoria

In order to consider a report of a State Party, the UN Committee meets to discuss the report during a plenary session and in pre-sessional working groups. It also considers information submitted by the government in response to its *List of Issues* and alternative information submitted to it by national human rights institutions and non-government organisations.⁷

At the end of the process on 15 June 2012, the UN Committee adopted its Concluding Observations on Australia's report. These outline the UN Committee's view on the main achievements and challenges facing the country, and provide detailed recommendations for action by the Australian Government.

1.7 The UN Committee's Concluding Observations on Australia

Compared to many children in the world, Australia's children are well placed to fully enjoy their human rights. Because of our wealth and economic opportunities, our systems of social security and health care, legal protections, access to housing, food and water and education, there are significant opportunities for all children to grow up healthy, happy and safe.

However, while there is certainly a lot to celebrate about our children, and the systems we have in place to protect children's fundamental rights, many children in Australia are falling through the gaps in human rights protection, and their wellbeing is threatened in fundamental and serious ways. This was highlighted in the Concluding Observations on Australia issued by the UN Committee on 15 June 2012.

This section provides an overview of the UN Committee's Concluding Observations on Australia's fourth report of progress under the CRC and its Optional Protocols. Throughout this section, information and data about children is used to show both progress made, and priority areas which must be addressed, to protect the human rights of children in Australia.

There are approximately 5.1 million children in Australia:

- 1.5 million in their infancy or early childhood (aged 0 to 4)
- 2.2 million primary school-aged children (aged 5 to 12)
- 1.4 million adolescents (aged 13 to 17).⁸

In its Concluding Observations, the UN Committee welcomed the adoption of various legislative and policy measures to address the rights of children in Australia, which had taken place since Australia's previous report in 2005.

These included the adoption of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth), the *Family Law Legislation Amendment (Family Violence and Other Measures) Act 2011* (Cth) and the *Education and Care Services National Law Act 2012* (Cth); the ratification and signature of a number of relevant human rights treaties; and some important institutional and policy measures at the national level such as the National Framework for Protecting Australia's Children 2009-2020, and the National Apology to the Stolen Generations in 2008.

The UN Committee also welcomed the introduction of legislation for a National Children's Commissioner, which had not passed Parliament at the time of the UN Committee's Concluding Observations.

(a) General implementation of children's rights

The UN Committee was concerned that many of the issues relating to the general implementation of children's rights in Australia, which had been raised in previous Concluding Observations, had not been addressed. These Concluding Observations largely related to a lack of overarching legislative and policy measures to specifically address implementation of the CRC.

These include:

- Australia's ongoing reservation to article 37(c) of the CRC, which provides that a child deprived of their liberty be separated from adults. It recommended that Australia **strengthen its efforts towards a full withdrawal of this reservation.**

Comprehensive Australian national data about the number of children held in adult prisons could not be located.

In 2013, the Australian Human Rights Commission was granted leave to intervene in proceedings in the Supreme Court of Western Australia in a matter concerning the transfer of children from the Banksia Hill Detention Centre to Hakea Prison, which is an adult facility in Western Australia.

As at 10 October 2013, the Western Australian Department of Corrective Services reported that 58 juveniles remained at Hakea Prison.⁹

- lack of comprehensive child rights legislation at the national level, with only two states, the ACT and Victoria, passing specific human rights laws which offer limited protection of children's rights. The UN Committee noted that federalism in Australia has led to the implementation of children's rights being fragmented and inconsistent where children in similar situations have been subject to variations in the fulfilment of their rights depending on which state or territory they reside. It recommended Australia strengthen efforts to **bring domestic laws into conformity with the CRC, and consider enacting a Child Rights Act** at the national level.¹⁰
- lack of coordination of activities on children's rights, resulting in disparities in the implementation of the CRC across Australia. It recommended that Australia **consider establishing a technical body or mechanism for advising the Council of Australian Governments** on the coherence of policies for

implementing the CRC, and that the **Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) be given specific mandate, capabilities and resources** for coordinating children's rights. In September 2013, there was a change of government in Australia and FaHCSIA became part of the Australian Government Department of Social Services.

- lack of a comprehensive national plan of action for implementing the CRC as a whole. It recommended Australia develop and implement **a comprehensive strategy for realising the CRC**, and allocate adequate resources for this strategy and plan of action.
- while welcoming the introduction of legislation for a National Children's Commissioner, the UN Committee expressed concerns that inadequate resources will hamper the National Children's Commissioner's fulfilment of its mandate, particularly with regard to dealing with complaints from children, and also that Aboriginal and Torres Strait Islander representation in existing child rights independent monitoring mechanisms were inadequate. It recommended Australia ensure the **National Children's Commissioner is provided with adequate resources**, and that it **consider appointing a Deputy Commissioner for Aboriginal and Torres Strait Islander children's issues** at national and/or state and territory level.

In July 2013 the Victorian State Government appointed Australia's first Aboriginal Children's Commissioner, Mr Andrew Jackomos. This is a significant and positive development for vulnerable children in Victoria.

Commissioner Jackomos will oversee a five year plan for Aboriginal children in out-of-home care. Commissioner Jackomos will provide advice to government and service providers about policies and practices that promote the safety and well-being of Aboriginal children.

- lack of a child-specific approach for budget planning and allocation in national and state and territory budgets makes it impossible to identify, monitor, report and evaluate the impact of investments on children. It recommended Australia **establish a budgeting process taking into account children's needs** at national, state and territory levels, with clear allocations to children in relevant sectors, specific indicators and tracking and monitoring systems. Also, **strategic budgetary lines for children in vulnerable situations**.
- gaps in data on important areas of the CRC, for example on ethnicity, refugee children or child abuse, are sparse or not available, and existing data is not disaggregated or analysed. It recommended that Australia strengthen its existing mechanisms of data collection to ensure that **data allows for disaggregation** by reference to children who require special protection.
- limited knowledge and awareness of the CRC among children, professionals with or for children and the general public. It recommended Australia includes **education on child rights in its National Human Rights Action Plan**, and include **modules on human rights in its school curriculum and professional training programs**.

Access to comprehensive disaggregated national data about children is essential to monitor the enjoyment and exercise of their human rights. Australia's primary national report on children's health and wellbeing, *A picture of Australia's Children*, only considers a cohort aged 0 to 14 years. This is not consistent with the CRC definition of the child.

In 2013, UNICEF issued a report card to monitor and compare the performance of economically advanced countries in securing the rights of their children. 29 countries were compared according to child wellbeing, but UNICEF was not able to rank Australia because of a lack of data on a number of key indicators.

UNICEF indicators to determine overall child wellbeing include: material wellbeing; health and safety; education; behaviours and risks; and housing and environment.¹¹

Australia is implementing a new national school curriculum in all states and territories. The Australian Curriculum provides significant opportunities for children and young people to learn about human rights. The Commission has been engaged in the curriculum development process and has advocated for the inclusion of curriculum content that promotes and protects human rights. The Commission is also developing human rights education resources for teachers and students that are linked to the Australian Curriculum.

Children who completed the *Big Banter* online survey were asked if they were aware that they had special rights. 61% of the children who responded to that question (138 children) said that they did not know, or were unsure, that they had special rights.

During face-to-face consultations, most children were unaware that they had special rights.

- the low levels of overseas development assistance, and the lack of a specific policy requiring overseas aid programs to be consistent with human rights-based approach. It recommended Australia **adopt a consistent human rights approach** for all development aid policy and programs, and a **child rights based approach to its assistance programs**. It also recommended Australia **accelerate its road map for achieving the Overseas Development Assistance target** of 0.7% of Gross National Income.

- concerns about the complicity of Australian companies in human rights violations in overseas countries, where children are the victims of human rights breaches. It recommended that Australia **ensure legal accountability of Australian companies** and subsidiaries regarding abuses of human rights, especially child rights, committed in Australia or overseas, and **establish monitoring mechanisms, investigation and redress** for such abuses. It also recommended that Australia **strengthen cooperation with other countries**, in which Australian companies or their subsidiaries operate, to ensure respect for child rights, and to establish a human rights impact assessment, including an assessment of children's rights, when entering into trade agreements with other countries.

(b) General principles of the CRC

(i) Right to non-discrimination

The UN Committee was concerned that **racial discrimination** remains a problem in Australia. It cited a number of issues relating to discrimination towards Aboriginal and Torres Strait Islander children, in particular disparities in access to basic services; overrepresentation in both the criminal justice and out-of-home care systems; absence of evaluation of effectiveness of some programs under Closing the Gap targets; the nature of the *Northern Territory Emergency Response Bill (2007)* (Cth); and inadequate consultation of Aboriginal and Torres Strait Islander people in policy formulation, decision-making and implementation of programs affecting them.

An Australian Human Rights Commission survey of 2,380 children aged 13 to 17 found that 89% had either experienced or witnessed racism. 43% of children said that racism happened at school and 33% said racism happened online.¹²

In a survey of 15 to 18 year old school students conducted by the Foundation for Young Australians in 2009, 70.1% of students reported experiencing at least one out of eleven racist behaviours. Students experienced racist behaviour on an occasional basis, and school was the main setting where it occurred.¹³

It recommended that Australia **regularly evaluate disparities in the enjoyment by children of their rights, and on the basis of that evaluation take steps to prevent these disparities**. It recommended that Australia **strengthens its awareness-raising and other preventative activities against discrimination**, including integrating them in school curricula and taking affirmative action for children in vulnerable situations. It also called on Australia to:

- take urgent measures to address these disparities in access to services by Aboriginal and Torres Strait Islander children and their families
- consider establishing and resourcing a steering group to report on the development, planning, implementation, and review of Closing the Gap targets on child development, wellbeing, and protection
- evaluate the Northern Territory Emergency Response Bill to ensure its measures are proportionate and non-discriminatory
- ensure effective and meaningful participation of Aboriginal and Torres Strait Islander people in policy and programs affecting them.

The UN Committee also raised concern at the absence of federal legislative protection against discrimination on the basis of **sexual orientation or gender identity**, and recommended its enactment.

In June 2013, the Australian Government amended the *Sex Discrimination Act 1984* (Cth) to ensure federal protections against discrimination on the basis of sexual orientation, gender identity and intersex status.¹⁴

In a 2010 survey, 61% of same-sex attracted and gender questioning young people reported verbal abuse because of homophobia, 18% reported physical abuse and 26% reported 'other' forms of homophobia. Young men and gender questioning young people reported more abuse than young women. School was the most common place of abuse.¹⁵

(ii) Best interests of the child

The UN Committee recommended that Australia strengthen its efforts to **make sure the best interests of the child principle is widely known, appropriately integrated and consistently applied** in all legislative, administrative and judicial proceedings, and in policies, programs and projects relevant to and with an impact on children. It encouraged Australia to develop guidelines for determining the best interests of the child in every area, and disseminate them widely, and also specified that judicial and administrative judgments and decisions should be based on the principle. It recommended that Australia pay particular attention to making sure policies and procedures for children in asylum-seeking, refugee and/or immigration detention situations give primacy to the principle.

(iii) Respect for views of the child

While the UN Committee welcomed measures to seek the views of young people, such as the establishment of the Australian Youth Forum, it raised concerns about inadequate fora for taking into account the views of children below the age of 15 years and Aboriginal and Torres Strait Islander children; inadequate mechanisms for meaningful child participation in schools; and the absence of separate interviewing by immigration officials of children who arrive with their families.

It recommended that Australia continue to **ensure the implementation of the right of the child to be heard**, in accordance with article 12 of the CRC, by promoting the meaningful and empowered participation of children at all levels of government and within the family, community and schools, with particular attention to children in vulnerable situations. It also recommended that the **Migration Act 1958 guarantees respect for the views of the child** at all stages of the migration process.

(c) Civil rights and freedoms

On **birth registration**, the UN Committee noted the difficulties faced by Aboriginal people in relation to birth registration, and recommended that Australia review its birth registration process to make sure that no child is disadvantaged due to procedural barriers to registration. It also urged Australia to issue birth certificates without cost.

There is evidence some children, mostly Aboriginal and Torres Strait Islander children, are missing out on birth registration and birth certificates, which impacts their ability to access certain services. For example, 2.5% of all births in Victoria in 2008 were not registered. Initial evidence suggests that the majority of these unregistered births may be Aboriginal and Torres Strait Islander children, and that the problem of unregistered births of Aboriginal and Torres Strait Islander children may be even higher in other Australian states and territories.¹⁶

On **preservation of identity**, the UN Committee raised concerns about the large numbers of Aboriginal and Torres Strait Islander children separated from their homes and communities and placed into care that does not adequately facilitate their right to preserve their cultural and linguistic identity. Also, it was concerned that a child's citizenship can be revoked where a parent loses citizenship.

It recommended that Australia review its progress on implementing the recommendations of the *Bringing Them Home Report*, to ensure full respect for the rights to identity, name, culture, language, and family relationships. It also recommended that Australia take measures to make sure no child is deprived of citizenship on any ground, regardless of parental status.

The UN Committee reiterated its previous concerns about legislation in some states and territories allowing police to remove children who assemble peacefully in groups, threatening their **freedom of association**. It recommended that Australia address the problem with measures that are alternative to policing or criminalisation, and consider reviewing the legislation.

On the **protection of privacy**, the UN Committee was concerned about the lack of comprehensive legislation protecting the right to privacy of children, and the lack of child-specific and child-friendly mechanisms for hearing complaints about breaches of children's right to privacy. It was also concerned about the lack of privacy protection for children involved in penal proceedings and children receiving health services. It recommended that Australia consider enacting national legislation on the right to privacy; establish child-specific mechanisms for complaints of privacy; and urged Australia to abolish legislation which allows the publication of child offender details.

On **corporal punishment** of children, the UN Committee reiterated its previous concerns that corporal punishment in the home and in some schools and alternative care settings remains lawful in Australia, and recommended that corporal punishment be explicitly prohibited in all states and territories. It also recommended that Australia strengthen and expand awareness-raising and education campaigns to promote alternative forms of discipline and raise awareness of consequences of corporal punishment. It recommended that 'reasonable chastisement' not be used as a defence to the charge of assault of a child; that all professionals working with children be trained to identify and report all cases of violence against children; and consider undertaking an independent study on the links between domestic violence and corporal punishment.

The UN Committee was concerned about the **levels of violence against women and children** in Australia, and noted that there is an inherent risk that the coexistence of domestic violence, lawful corporal punishment, bullying and other forms of violence in society are interlinked. It was particularly concerned about the levels of violence against Aboriginal women and children; continuation of sterilisation of women and girls with disabilities; inadequate programs for reintegration of child victims of domestic violence; inadequate handling of cases where family members and women are perpetrators of violence; and the lack of regular and systematic evaluations of existing measures addressing violence against children in the school, the internet and other contexts. It recommended

that Australia develop federal legislation as a general framework to reduce violence and promote similar legislation at the state and territory level, and adopt a plan of action to make the provisions of the National Plan to Reduce Violence against Women and their Children operational. It recommended that Australia:

- ensure that the factors contributing to violence against Aboriginal and Torres Strait Islander women and children are well understood and addressed in state and territory plans
- develop and enforce guidelines to prevent the sterilisation of women and girls with disabilities
- establish mechanisms for follow up support for child victims of domestic violence
- develop alternatives for cases where a parent or other family member is a perpetrator
- monitor the implementation of anti-violence measures within specific plans and the National Framework for Protecting Australia's Children 2009-2020.

It also encouraged Australia to implement the recommendations of the United Nations study on all forms of violence against children,¹⁷ and to provide information about this implementation in its next periodic report.

In July 2013, A Senate Committee report into the involuntary or coerced sterilisation of people with disabilities recommended banning sterilisation without consent for a person with a disability who has the capacity to consent.¹⁸

The committee also recommended banning sterilisation without consent for a person with a disability who has the capacity to consent when provided with appropriate decision-making support.

(d) Family environment and alternative care

The UN Committee was concerned about the number of children in care and that the **availability and quality of care** remains inadequate. It recommended that Australia undertake a systemic evaluation of the efficacy of existing measures for all family types and all children, including the collection of disaggregated data, and that the findings be used to guide appropriate measures to strengthen current programs of family support.

The UN Committee highlighted the significant **increase in the number of children placed in out-of-home care** and the absence of data documenting the criteria and decision-making process leading to the placement. It was also concerned at reports of inadequacies and abuse occurring in the systems of out-of-home care including inappropriate placement; inadequate screening, training, support and assessment of carers; shortage of care options; poorer outcomes for children in care compared with the general population; abuse and neglect of children in care; inadequate preparation for children leaving care; and placement of Aboriginal and Torres Strait Islander children outside their communities and the need for more Aboriginal carers.

Across Australia during 2011-2012 there were 37,781 children aged 0 to 17 who were the subject of one or more substantiations of abuse or neglect, an 18% increase from 2007-2008.¹⁹

The most commonly reported type of abuse in 2011-2012 was emotional abuse, followed by neglect. Neglect was the most commonly reported abuse type among Aboriginal and Torres Strait Islander children who had 39.7% of substantiations compared to 24.9% for non-Indigenous children.²⁰

As of 30 June 2012, there were 39,621 children living in out-of-home care in Australia.²¹ This was an increase of 27% since 2008.²²

In 2011-2012, Aboriginal and Torres Strait Islander children were nearly ten times as likely to be in out-of-home care than non-Indigenous children.²³ Around 69% of these children were placed with the child's extended family, Indigenous community, or with other Indigenous people.²⁴

In the year 2011-2012, it is estimated that 522 children living in out-of-home care were the subject of a child protection substantiation, and the person believed responsible was living in the household providing out-of-home care.²⁵ This estimate excludes the Northern Territory, as it was unable to provide data for this measure.

In 2011-2012, nearly two-thirds (63%) of children exiting out-of-home care had one or two placements during the time they were in care. The out-of-home care experience was less stable for the 15% of children exiting care who had five or more placements; of this group, most were in care for two years or more.²⁶

There is no national data available on the reasons why children are placed in out-of-home care.²⁷

It recommended that Australia take all necessary efforts to examine the root causes of the extent of child abuse and neglect and provide general data on the reasons children are placed in care. It recommended measures to strengthen programs for family support by targeting the most vulnerable families. It called on Australia to:

- periodically review placements
- develop criteria for selection, training and support of childcare workers, and out-of-home care workers and regularly evaluate them
- increase the number of social workers
- ensure equal access to health care and education for children in care
- establish accessible and effective child-friendly mechanisms for reporting neglect and abuse

- prepare and support young people prior to leaving care and making assistance available to them following departure
- fully implement the Aboriginal Child Placement Principle and cooperate with Aboriginal and Torres Strait Islander community leaders to find suitable solutions for children in need of alternative care within their families and communities.

In 2012 the National Framework for Protecting Australia's Children 2009-2020 finalised the National Out-of-Home Care Standards. The National Standards are designed to improve the outcomes and experiences for children by focusing on the following key areas that directly influence positive outcomes: health; education; care planning; connection to family; culture and community; transition from care; training and support for carers; belonging and identity, and safety, stability and security.

A schedule of national measurement and reporting arrangements for the National Standards has been established. Measures will be progressively introduced so that by 2015, there will be 22 measures reported against the full set of National Standards across Australian State and Territory Governments.

The Royal Commission into Institutional Responses to Child Sexual Abuse commenced in early 2013. It will inquire into what institutions and governments should do to better protect children against child sexual abuse.

The UN Committee was concerned that only three jurisdictions in Australia require the consent of the adopted child prior to **adoption**, and that adoption proceedings are not undertaken with the best interests of the child as a paramount consideration. It recommended that Australia, in all its states and territories, amend legislation on adoption to give full effect to the CRC and the Hague Convention on Protection of Children provisions on consent, access to legal representation in adoption proceedings, and to ensure the best interests of the child are a paramount consideration.

The UN Committee welcomed amendments to the Family Law Act to prioritise safety of children, but remained concerned that the rates of **domestic violence** continue to be high, and training approaches to professionals working with children remain inadequate. It recommended that Australia prioritise early intervention approaches to provide support to families in vulnerable situations, and this be complemented with a national review of stigma-free best practice policy and programs that prioritise and support positive reunification of child victims of abuse with their families at the various stages of child protection decision-making.

Violence is often experienced in the family context. In 2010-2011, 39% of hospitalised cases for assault against children aged 0 to 14 years involved a perpetrator who was a parent, carer or other family member.²⁸

Children can be profoundly affected by witnessing domestic and family violence. The 2005 ABS Personal Safety Survey found that of all women who had experienced partner violence since the age of 15 years, and had children in their care during the relationship, 59% reported that the violence was witnessed by their children.²⁹

Family violence is a serious issue for Aboriginal and Torres Strait Islander people.³⁰ 42% of Aboriginal and Torres Strait Islander children reported witnessing violence against their mother or stepmother, compared with 23% of all children.³¹

Around 6700 children aged 0 to 14, or 157 in every 100000 children, were the reported victims of sexual assault, and three-quarters of these reported sexual assault victims were girls.³²

There is no national data on how rates of reported physical and sexual assault of children vary across population groups.³³

In 2011, there was variability in the interpretation of the National Crime Recording Standard. This means that a recent national rate for victims of physical assault is not available.³⁴

(e) Disability, basic health and welfare

The UN Committee raised a number of concerns about children with disabilities including the inadequacy of the disability support system; significant disparity between educational attainments for children with disabilities compared to children without disabilities; the absence of legislation prohibiting non-therapeutic sterilisation; and legislation that allows disability to be the basis for rejecting an immigration request. It recommended that Australia:

- establish a clear legislative definition of disability with the aim of promptly and accurately identifying children to effectively address their needs in a non-discriminatory manner
- strengthen support measures for parents to care for their children with disabilities, and to ensure that where placement is considered it is with regard to the best interests of the child principle

- adopt a social model approach which addresses attitudinal and environmental barriers to participation of children with disabilities in society, and train all professionals accordingly
- make greater efforts to make available professional and financial resources, especially at the local level, and promote and expand community-based rehabilitation programs
- ensure children with disabilities can exercise their right to education and provide their inclusion in mainstream education, including by developing a disability education action plan with clear objectives
- enact non-discriminatory legislation prohibiting non-therapeutic sterilisation of all children regardless of disability, and that therapeutic sterilisation is subject to the free and informed consent of children
- ensure that Australia's laws, including migration and asylum laws, do not discriminate against children with disabilities in compliance with the *Convention on the Rights of Persons with Disabilities*.

The most recent reported data from 2009 indicates that around 7% of Australia's children aged 0 to 14 had some form of disability. Of these children, more than half had severe or profound core activity limitation.³⁵ More recent data could not be located.

Corresponding data for children aged 15 to 17 was not available at the unit record level. Available data was aggregated from 15 to 24 years of age, which is inconsistent with the CRC definition of the child.

Early intervention is a priority area under the National Disability Agreement (NDA). The number of children receiving NDA early childhood intervention services increased by 16% between 2007-2008 and 2011-2012, from around 22,200 to 25,800.³⁶

In 2012, a review of the *Disability Standards for Education* was undertaken. Serious concerns were raised in this review about children with disability who continue to be denied equal access to inclusive education.³⁷

The UN Committee was generally satisfied with the level of children's health in Australia but was concerned about **health disparities of children in rural and remote areas, children in out-of-home care, children with disabilities and Aboriginal children**. It reiterated previous recommendations that Australia take all necessary measures to ensure all children enjoy the same access to and quality of health services, especially children in vulnerable situations, and address socio-economic disadvantages. It also recommended the implementation of mandatory training on child rights for all health professionals.

Low birthweight is a significant risk factor for survival and good health. In 2009, around 6.2% of liveborn babies were of low birthweight, with babies of Aboriginal and Torres Strait Islander mothers twice as likely as those born to non-Indigenous mothers to be of low birthweight.³⁸

The UN Committee was concerned that only about 15% of all mothers continue to exclusively **breastfeed** until their child is six months old, and that the International Code of Marketing of Breastmilk Substitutes is not effectively enforced in Australia. It recommended that Australia review its Paid Parental Leave Scheme and other measures to consider amendments that support exclusive breastfeeding for working mothers; establish a mechanism for monitoring the International Code of Marketing of Breastmilk Substitutes; adequately fund the National Breastfeeding Strategy; promote the Baby-Friendly Hospitals Initiative, and encourage breastfeeding to be included in nurses training.

According to the 2010 Australian National Infant Feeding Survey, exclusive breastfeeding was initiated for 90% of infants at birth. However, only two in five infants were exclusively breastfed to around four months. The proportion of babies exclusively breastfed decreased to 61% before the end of their first month of life.³⁹

The UN Committee was concerned that the level of funding for **mental health** is well below that of other developed countries, and that children face limited access and delays in mental health services, combined with the high rates of youth suicide, especially among Aboriginal communities. It was also concerned that current diagnosis procedures of Attention Deficit Hyperactivity Disorder and Attention Deficit Disorder may not be adequately addressing the underlying mental health issues resulting in increases and/or erroneous prescription of psycho-stimulants. It recommended:

- measures to address the direct and underlying causes of the high rates of mental health problems in children
- allocating specific resources for improving availability and quality of early intervention services; training and development of teachers, counsellors, health professionals, and others working with children and parents
- developing specialised health services and targeted strategies for children at particular risk of mental health problems and their families
- consulting with children in the development of these measures, while raising awareness on mental health
- carefully monitoring the prescription of psycho-stimulants to children; taking initiatives to provide access to a greater range of measures and treatments; and consider collecting and analysing disaggregated data to monitor possible abuse of psycho-stimulant drugs by children.

One of the key national indicators for children's wellbeing is the intentional self-harm hospitalisation rate for children aged 10 to 14. In 2010-2011, there were 553 hospital separations of children for intentional self-harm. 82% of these involved girls. This is a 20% increase in self-harm hospitalisations among girls since 2000-2001.⁴⁰

Unfortunately, the most recent data available about children with mental health problems is the ABS 2004-2005 National Health Survey, which is now eight years old.⁴¹

In 2012, the National Mental Health Commission recommended that the Australian Government commit to conducting reliable and regular national mental health population surveys, including on the mental health of children.⁴²

It is promising that data from the recent Child and Adolescent Survey will be available in late 2014 for inclusion in *A picture of Australia's children*.⁴³

The UN Committee was deeply concerned at the marked increase in the rates of **sexually transmissible infections** (STIs) among youth in Australia, the low proportion practicing safe-sex, and the low level of awareness on STIs other than HIV/AIDS. It also noted the higher rates of infection among Aboriginal people and those in the most socio-economically disadvantaged areas. It recommended that Australia intensify its efforts to provide adolescents with education on sex and reproductive health, improve the accessibility of contraception, counselling and confidential health services.

It is difficult to locate disaggregated data relating to STIs among children across Australia. However, information from the National Notifiable Diseases Surveillance System indicates a significant increase in the number of notifications being received for STIs, especially chlamydia.

The largest increases for diagnosis in chlamydia were for those aged 15 to 19 years. For females aged 15 to 19 years, the notification rate increased from 569 per 100,000 in 2001, to 2,228 per 100,000 in 2011. For males, the rate increased nearly five times, from 150 per 100,000 in 2001, to 714 per 100,000 in 2011.⁴⁴

Data about STIs for children aged 0 to 17 was not available at the unit record level. In the instance of chlamydia, available data was aggregated from 15 to 19 years of age. This is not consistent with the CRC definition of the child.

On **standard of living**, the UN Committee welcomed the Paid Parental Leave Scheme for 18 weeks for eligible parents but was concerned that it was fixed at the national minimum wage and was shorter than the required six months to exclusively breastfeed children. It was also concerned that despite the range of measures to support lower income families, these measures are not equitably available to all families in need. It recommended that the Paid Parental Leave Scheme be monitored to ensure that parents are still able to earn an adequate living while caring and breastfeeding. It also recommended Australia develop a holistic anti-poverty strategy that allows a better understanding of its determinants, and adopt specific measures according to gender, age, origin, place of residence, level of education and other factors.

In 2010, after taking account of housing costs, an estimated 575,000 children (17.3% of all children), lived in households below the most austere poverty line widely used in international research (50% of the median disposable income for all Australian households).⁴⁵

Joblessness is one of the indicators of a poor standard of living. In 2009-2010, almost 1 in 7 or 15% of children, aged 0 to 14, lived in jobless families, where no parent was employed.⁴⁶ This ranks Australia in the bottom third of OECD countries.⁴⁷

The UN Committee welcomed additional funding of housing reforms for Aboriginal Australians, but was deeply concerned at the extent of **child and youth homelessness** in Australia, and the inability to provide culturally appropriate housing services to reflect the specific needs of different groups. It recommended that Australia expeditiously review its efforts to address child homelessness, and develop specific strategies for Aboriginal children, children from newly arrived communities, children leaving care and children in regional and remote communities. It also recommended improvement in social services, health systems, disability service systems, and employment systems. It also recommended coordination across these systems to respond to the needs of children at risk of homelessness.

In 2011-2012, around 107,200 people aged 0 to 24 were assisted by specialist homelessness agencies. Of these, around 19% were under the age of 12, and around 13% were aged 12 to 18.⁴⁸

The UN Committee was concerned that the serious **overrepresentation of Aboriginal women in prison** has resulted in their children being subject to ad-hoc and insecure placement in alternative care that is not culturally appropriate and with low rates of family reunification. It recommended that Australia review judicial and administrative arrangements to prevent imprisonment by providing support services to families at risk and using alternatives to imprisonment and separation of children from family; resource and support targeted programs to tackle the root causes of offences and provide early intervention to families at risk; resource and support the maintenance of the relationship between the parent and child during the parent's incarceration, when in the child's best interests; respect the child's right to information, and provide this in a child-friendly manner.

In 2011, the Australian Institute of Family Studies indicated that on any given day in Australia, approximately 38,000 children have a parent in prison. However, this figure is cited from a study completed in 2005.⁴⁹

Comprehensive Australian national data about the number of children with parents in prison could not be located.

(f) Education, leisure and cultural activities

The UN Committee welcomed the National Indigenous Education Plan and the National Partnership Agreement on Indigenous Early Childhood Development. It, however, reiterated its previous concerns about the **serious difficulties Aboriginal and Torres Strait Islander children and children living in remote areas face in accessing education** with attendance, literacy, numeracy and other attainment levels for Aboriginal students continuing to be significantly lower than for non-Aboriginal students. The Committee was concerned that this is exacerbated by inadequate measures for catering for the needs of non-English speaking children. It recommended that Australia provide effective oversight and coordination of state and territory governments under the Closing the Gap policy, to ensure Aboriginal education strategies are based on previous policy successes and are approached with collaboration with Aboriginal communities, the education sector, community organisations and professional groups. Further, it recommended that Australia ensure adequate resources to protect and promote bilingual models of education.

Attendance rates for Aboriginal and Torres Strait Islander primary students ranged from 65% to 99%, compared with 90% to 95% for non-Indigenous students. In the context of junior secondary students, attendance rates for Aboriginal and Torres Strait Islander students ranged from 55% to 100%, compared with 85% to 95% for non-Indigenous students.⁵⁰

In 2012, around 81% of non-Indigenous students were enrolled full time in secondary education from the start of secondary school to Year 12. The rate for Aboriginal and Torres Strait Islander students was 51%, which, although poor, has increased from 32% in 1998.⁵¹

Again in 2012, Aboriginal and Torres Strait Islander students were less likely to have achieved at or above the National Assessment Program – Literacy and Numeracy (NAPLAN) National Minimum Standards (NMS) for Years 3, 5, 7 and 9.⁵²

Students in Years 3, 5, 7 and 9 attending school in remote and very remote areas were less likely than those in metropolitan areas to meet the NAPLAN NMS.⁵³

The UN Committee noted that **early childhood care and education** continues to be inadequate for children under four years of age. It was concerned that the majority of early childhood care and education in Australia is provided by private, profit-driven institutions, resulting in the services being unaffordable for most families, and was further concerned that the private nature of the services limited the applicability and compliance with the National Quality Framework for Early Childhood Education and Care. It recommended that Australia:

- prioritise the provision of early childhood care to children between the age of 0 and 3 years
- increase the availability of early childhood care and education for all children by considering providing free or affordable early childhood care
- ensure adherence by all providers of early childhood care and education to the National Quality Framework for Early Childhood Education and Care.

Estimates from the ABS National Early Childhood Education and Care (ECEC) Collection for 2012, indicate that 89% of children were enrolled in a preschool program in the year before full-time schooling.⁵⁴

Data from the ABS National ECEC Collection also shows that in 2011 around 91% of Aboriginal and Torres Strait Islander children in remote communities were enrolled in a preschool program in the year before full-time schooling. Based on this data, the Closing the Gap target of ensuring that all Aboriginal and Torres Strait Islander four-year-olds in remote communities have access to early childhood education by 2013 is expected to be met.⁵⁵

The UN Committee was concerned that **bullying in schools** continues to be widespread. It recommended that Australia intensify its efforts to address bullying in schools.

Australian research in 2009 indicates that approximately 27% of students are affected by bullying at school, and approximately 7% reported cyberbullying.⁵⁶ Another study, which canvassed the views of 24,500 girls aged up to 17, identified that 68% admit to being bullied, and one fifth of those aged 10 to 14 experienced online bullying.⁵⁷

Just under a quarter of children and young people surveyed by Mission Australia in its 2011 survey were concerned about bullying. This is consistent with survey results dating back to 2009. Bullying is a particular concern for 11-14 year olds, with 28.3% of children in this age group raising it as an issue of concern.⁵⁸

Special protection measures

The UN Committee noted Australia's efforts to move children and families in immigration detention facilities into alternative forms of detention, but was deeply concerned about the **mandatory detention of child asylum seekers** without time limits and judicial review; **the best interests of the child** not being the primary consideration in refugee determinations, and, when it is, not being consistently undertaken; the **conflict of interest where the legal guardianship** of unaccompanied minors is vested in the Minister for Immigration and Border Protection; the continuation of a policy of **off-shore processing** of asylum and refugee claims. It recommended that Australia bring its immigration and asylum laws into full conformity with the CRC and other relevant international standards. It urged Australia to:

- reconsider its policy of detaining children who are seeking asylum, refugees and/or irregular migrants, and ensure that where detention is imposed it is subject to time limits and judicial review
- ensure that migration and asylum legislation and procedures have the best interests of the child as a primary consideration, and that determinations of the child's best interests are consistently applied by trained professionals
- expeditiously establish independent guardianship of unaccompanied minors
- abandon the policy of offshore processing of asylum claims and 'refugee swaps', and evaluate reports of hardship suffered by children returned to Afghanistan without a best interests determination.

Further, the UN Committee recommended that Australia consider implementing the United Nations High Commission for Refugees Guidelines on International Protection No.8: Child Asylum Claims under articles 1(A)2 and 1(F) of the 1951 Convention and ratifying the 1967 Protocol relating to the Status of Refugees.⁵⁹

As at 30 September 2013, there were 1,078 children in immigration detention facilities and alternative places of detention. Another 1,760 children were living in the community after being approved for a residence determination.⁶⁰ Many children who arrive in Australia seeking asylum are especially vulnerable because they are without their parents.⁶¹

The UN Committee was concerned that, despite its previous recommendations, Australia's **juvenile justice system still needs substantial reforms** to conform to international standards. In particular, no action has been taken to increase the minimum age of criminal responsibility; no measures have been taken to ensure that children with mental illness and/or intellectual difficulties in conflict with the law are dealt with using measures alternative to judicial proceedings; mandatory sentencing still exists in Western Australia, and all 17 year old offenders continue to be tried under the criminal justice system in Queensland. Further, it is concerned that there are still cases of children being held within adult correctional centres, and instances of abuse of child detainees in some detention centres. It recommended that Australia bring its juvenile justice systems fully in line with the CRC and other relevant international standards,⁶² and:

- consider raising the minimum age of criminal responsibility to an internationally acceptable level
- deal with children with mental illness and/or intellectual deficiencies in conflict with the law without resorting to judicial proceedings
- take measures with a view to abrogating mandatory sentencing in Western Australia and consider refraining from a similar law in Victoria
- remove children who are 17 years from the adult justice system in Queensland
- allocate necessary resources to ensure that all child offenders are held in separate correctional centres
- expeditiously establish an accessible and effective mechanism for investigating cases of abuse at youth detention centres.

On an average day in 2011-2012, there were 6,940 children and young people aged 10 or older under youth justice supervision.⁶³ 83% were male and 79% were between 14 to 17 years old.⁶⁴ Almost two out of five children and young people under supervision on an average day were from the lowest socio-economic status.⁶⁵ About 39% of children and young people under youth justice supervision on an average day were Aboriginal and Torres Strait Islander.⁶⁶

Comprehensive national data for children aged 10 to 17 was not available at the unit record level. Additionally, Western Australia and the Northern Territory did not supply Juvenile Justice National Minimum Data Set data for 2011-2012, so national figures consist of estimations.

Most young people are supervised in the community rather than in juvenile detention. There were 1,024 children aged 10 to 17 in juvenile detention on an average night in the June quarter of 2012. Most of these children were male, and over half were Aboriginal and Torres Strait Islander.⁶⁷

Nationally, 54% of all juveniles in detention, on an average day, are on remand.⁶⁸ The Australian Institute of Criminology (AIC) is undertaking a national study of juvenile bail and remand. The AIC, with the support of the Australasian Juvenile Justice Administrators, will study the main reasons for the increasing use of remand for juveniles, and the impacts these changes have on children. The research will also compare trends across jurisdictions to understand why patterns vary.

(g) Ratification of international human rights instruments

The UN Committee also urged Australia to accede to the *Optional Protocol to the Convention on the Rights of a Child on a Communications Procedure* and all core human rights instruments.

1.8 The UN Committee's Concluding Observations on the Optional Protocols

The UN Committee adopted separate Concluding Observations for the two Optional Protocols which Australia has ratified, to be read in conjunction with the Concluding Observations of Australia's fourth report under the CRC. These cover some specific rights in the CRC.

(a) *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC)*

The OPSC requires Australia to criminalise the sale of children for the purposes of sexual exploitation, organ transfer, forced labour and certain adoptions, as well as offences relating to child prostitution and pornography. While Australia has laws to address some offences described in the OPSC, the UN Committee pointed out some deficiencies in general measures of implementation, prevention and prohibition of the sale of children, child prostitution, child pornography, and protection of child victims.

The UN Committee also noted some positive initiatives in areas relevant to the Optional Protocol, including the National Plan of Action to Combat Trafficking in Persons: Tomorrow's Children; Australia's National Plan of Action against the Commercial Sexual Exploitation of Children and the Australian Policing Strategy to Combat Trafficking in Persons 2011-2013. It also welcomed the support extended by Australia to eliminate offences in the Asia-Pacific region, and urged it to continue to strengthen its international cooperation in this regard.

(b) *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC)*

In Australia, the minimum voluntary age for service in the defence forces is 17 years. This is declared by Australia under the OPAC.⁶⁹ The UN Committee welcomed the legislative amendments of the Defence Instructions (General) PERS 33-4 in 2005 and 2008, aimed at preventing children who are members of the Australian Defence Force from taking part in hostilities. However, the UN Committee had some concerns about Australia's general measures of implementation of the OPAC, the extent of its measures for prevention and prohibition, and the protection, recovery and reintegration of former child soldiers.

The UN Committee also recommended that Australia introduce legislation specifically prohibiting the sale of arms to countries known to be, or who may potentially be, recruiting or using children in armed conflict or hostilities, and that Australia revise the proposed Criminal Code Amendment (Cluster Munitions Prohibition) Bill to make sure that Australian forces do not engage in activities prohibited by the Convention on Cluster Munitions.

1.9 Ongoing monitoring of the Concluding Observations

Australia is due to submit its combined fifth and sixth periodic reports on progress under the CRC and its Optional Protocols by 15 January 2018.

In the meantime, what should be done to ensure that the Concluding Observations on its fourth report are considered and acted on?

And how should we ensure that the Australian Government monitors progress in these areas over the next five years?

The UN Committee does not give extensive guidance on how States Parties should monitor the implementation of its Concluding Observations.

In its Concluding Observations on the CRC and the Optional Protocols, the UN Committee recommended that Australia undertake to disseminate the Concluding Observations widely. This includes transmitting them to appropriate government agencies, parliaments, regional bodies and local government for consideration and action. It also recommended that the Concluding Observations be made widely available, including (but not exclusively) through the internet, to the public at large, civil society organisations, youth groups, professional groups, communities and children, in order to generate debate and awareness about them, and their implementation and monitoring.

The Australian Government Attorney-General's Department, as the agency which coordinated Australia's response to the UN Committee, has posted information about the Concluding Observations on its website, along with the written responses to the *List of Issues* by the Australian Government. This information is available online at www.ag.gov.au/RightsAndProtections/HumanRights.

The Concluding Observations were also disseminated to relevant Australian Government ministers and all state and territory premiers and chief ministers in October 2012. In December 2012, the Attorney-General's Department held a roundtable to seek the views of non-government organisations on the Concluding Observations.

The Australian Government tabled the Concluding Observations in federal Parliament on 30 May 2013. As part of the United Nations Universal Periodic Review, Australia committed to tabling all concluding observations made by United Nations treaty bodies so as to increase monitoring of Australia's human rights obligations domestically.

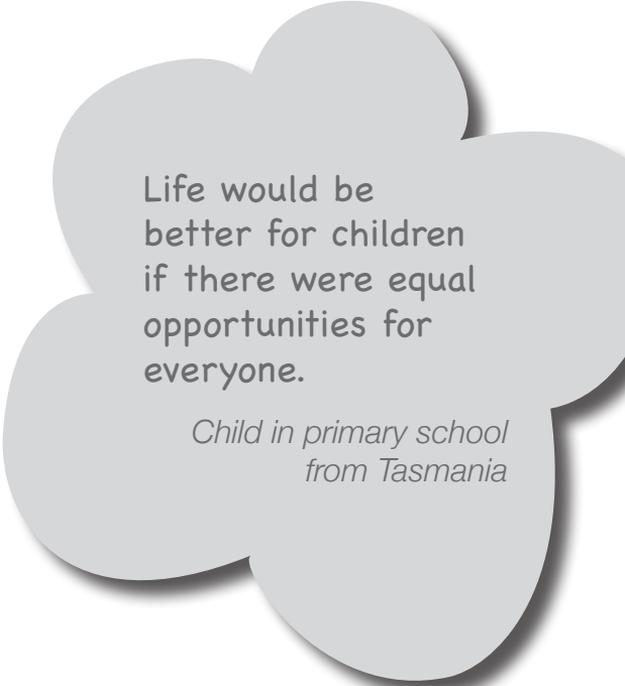
However, there has been no formal response by the Australian Government in relation to each of the UN Committee's recommendations, nor has a plan been developed to monitor the implementation of the recommendations over the next five years.

1.10 Conclusion and Recommendations

The CRC is the most comprehensive outline of children's rights in the international human rights system. Together with its Optional Protocols, it provides a roadmap for the protection of the human rights of all children in Australia.

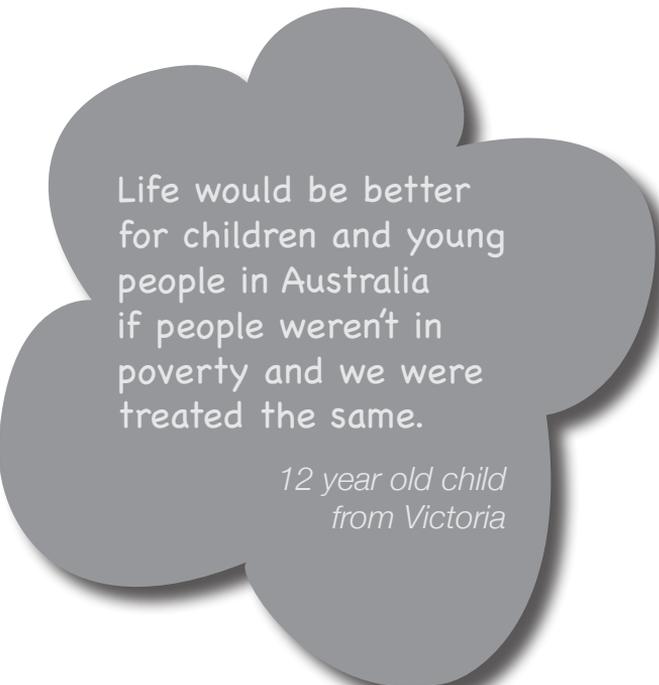
The UN Committee's Concluding Observations give an important means of assessing Australia's progress in implementing the CRC. While the UN Committee in its Concluding Observations in 2012 noted some positive moves taken by the Australian Government to ensure the implementation of children's rights, it also highlighted many areas of concern, especially regarding the general implementation of the CRC and the needs of vulnerable children. Given the Australia Government has promised to protect the human rights of children guaranteed by the CRC, it should also consider seriously the UN Committee's recommendations on Australia's implementation of children's rights.

I will use the Concluding Observations to monitor Australia's progress on key child rights issues leading up to 2018.



Life would be better for children if there were equal opportunities for everyone.

*Child in primary school
from Tasmania*



Life would be better for children and young people in Australia if people weren't in poverty and we were treated the same.

*12 year old child
from Victoria*

I make the following recommendations:

Recommendation 1:

That the Australian Government respond formally to the Concluding Observations of the United Nations Committee on the Rights of the Child on Australia's fourth report of progress under the *Convention on the Rights of the Child* and its Optional Protocols. The response should indicate how it intends to progress addressing the recommendations, and timelines and benchmarks for their implementation.

Recommendation 2:

That the Australian Government accedes to the *Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure* and ratifies the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT).

Recommendation 3:

That the Australian Government finalises its review of Australia's reservations and withdraws its reservation under article 37(c) of the *Convention on the Rights of the Child* which relates to the obligation to separate children from adults in prison.

Follow up Actions by the National Children's Commissioner

In the next *Children's Rights Report*, I will report on the actions taken by the Australian Government in response to the recommendations in this report.

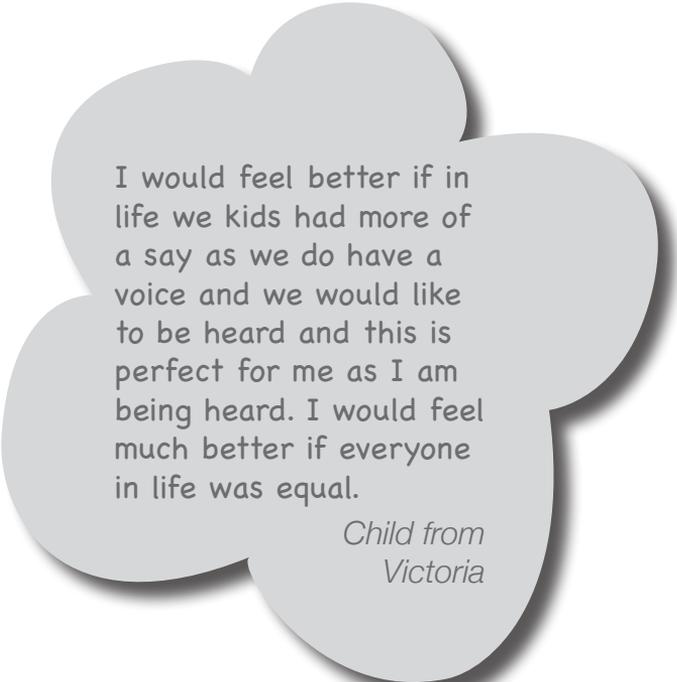
The Australian Government is not due to submit its combined fifth and sixth periodic reports on progress under the *Convention on the Rights of the Child* and its Optional Protocols until 15 January 2018. Each year, I will provide an update in the *Children's Rights Report* on the Australian Government's progress in addressing specific recommendations made by the United Nations Committee on the Rights of the Child, and on particular thematic issues.

Endnotes

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- 61 The Department of Immigration and Citizenship does not publish numbers of unaccompanied minors in its detention statistics.
- 62 Relevant international standards include the *Standard Minimum Rules for the Administration of Juvenile Justice* (the Beijing Rules), the *Guidelines for the Prevention of Juvenile Delinquency* (the Riyadh Guidelines), the *Rules for the Protection of Juveniles Deprived of their Liberty* (the Havana Rules), the *Vienna Guidelines for Action on Children in the Criminal Justice System*; and the Committee's *General Comment No 10 – the rights of the child in juvenile justice* (2007).
- 63 Australian Institute of Health and Welfare, *Youth justice in Australia 2011-12: an overview*, Bulletin 115, Cat No AUS 170 (2013), p 3, 18. At <http://www.aihw.gov.au/publication-detail/?id=60129543149> (viewed 22 October 2013).
- 64 Australian Institute of Health and Welfare, *Youth justice in Australia 2011-12: an overview*, Bulletin 115, Cat No AUS 170 (2013), p 1.
- 65 Australian Institute of Health and Welfare, *Youth justice in Australia 2011-12: an overview*, Bulletin 115, Cat No AUS 170 (2013), p 6.
- 66 Australian Institute of Health and Welfare, *Australia's welfare 2013*, Australia's Welfare Series No 11, Cat No AUS 174 (2013), p 181.
- 67 Australian Institute of Health and Welfare, *Juvenile detention population in Australia: 2012*, Juvenile Justice Series No 11, Cat No JUV 11, p vii. At <http://www.aihw.gov.au/publication-detail/?id=60129542553> (viewed 22 October 2013).
- 68 Australian Institute of Health and Welfare, *Youth justice in Australia 2011-12: an overview*, Bulletin 115, Cat No AUS 170 (2013), p 14.
- 69 Under article 3 of the OPAC, each State Party shall deposit a binding declaration on ratification of or accession to the OPAC that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces, and a description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced.



I would feel better if in life we kids had more of a say as we do have a voice and we would like to be heard and this is perfect for me as I am being heard. I would feel much better if everyone in life was equal.

*Child from
Victoria*

Chapter 2:

Measures to protect child rights in Australia



Two children at after school hours care
in Newtown, NSW (29 July 2013)

2.1 Introduction

Australia has promised the international community that it will respect, protect and promote the rights of children through its voluntary commitment to uphold the rights set out in the CRC.

Our obligation in meeting the right to healthy development demands that we create an optimal experience of childhood, an environment that builds resilience and conditions that nurture a positive future for each child.

This includes the obligation to take all administrative, legislative and other measures required to protect and ensure children's rights, and to develop policies and take action in the best interests of the child.¹

While there are a variety of Australian Government measures that affect children, these are not always reflective of child rights and are disparate, making it difficult to monitor and measure the extent of child rights protection.

This chapter provides an overview of current initiatives across the following three areas at the national level, and indicates how these could be further aligned to child rights outcomes:

- national data collection on children, including the views of children
- national policy reforms and initiatives
- scrutiny of existing and proposed Commonwealth legislation.

2.2 National data on Australia's children

An early issue that I have identified is the lack of comprehensive and comparable data about children in Australia aged 0 to 17 years.

In order to effectively monitor Australia's progress in implementing its commitments under the CRC, access to comprehensive national statistical information about children's wellbeing is a key priority.

While a range of data holdings exist relating to children across the states and territories and at the national level, they invariably use different age groupings and cover differing aspects of child wellbeing, depending on the purpose of the collection.² Some data is available at the unit record level but much is still at the aggregate level. Aggregated data is not always helpful because it cannot be broken down in a way that has the capacity to set benchmarks or reveal patterns and trends.

This issue was raised as a concern by the UN Committee in its 2012 Concluding Observations on Australia. It recommended that the data cover all children below the age of 18 years, paying particular attention to children in situations that require special protection.



Having children's rights is very important.

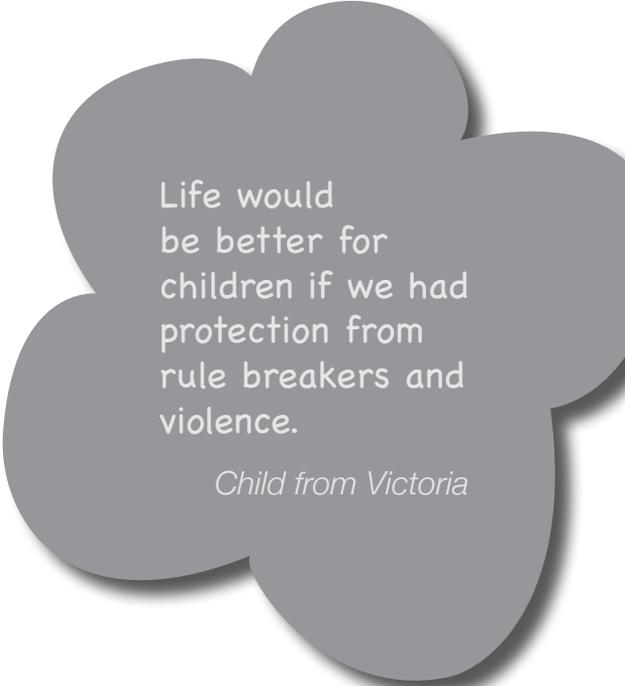
*12 year old child
from South Australia*

For example, *A picture of Australia's children 2012* published by the Australian Institute of Health and Welfare (AIHW) provides the latest collated information on the health and wellbeing of Australia's children.³ It covers children aged between 0 to 14 years. By not including the 15 to 17 age group, the AIHW as a key resource is unable to provide an inclusive picture of all Australia's children.

A picture of Australia's children 2012 was funded by the Australian Government Department of Health and Ageing. A number of Australian Government departments and other organisations provided data for and/or refereed various sections of the report. These included the Australian Bureau of Statistics, Australian Government Department of Health and Ageing, Australian Government Department of Human Services, Australian Government Department of Immigration and Border Protection, Australian Institute of Criminology, Cancer Council Victoria, and the Melbourne Institute of Applied Economic and Social Research (HILDA Survey).⁴

Currently the AIHW's *A picture of Australia's children* covers:

- Australian children and families (number of children, their cultural profiles, where they live and their family profiles)
- Mortality
- Chronic conditions
- Disability
- Breastfeeding
- Dental health
- Early learning
- Transition to primary school
- Attendance at primary school
- Literacy and numeracy
- Teenage births
- Smoking in pregnancy
- Alcohol use in pregnancy
- Birthweight
- Overweight and obesity
- Environmental tobacco smoke in the home
- Tobacco use
- Alcohol misuse
- Family economic situation
- Children in non-parental care
- Parental health and disability
- Neighbourhood safety



Life would be better for children if we had protection from rule breakers and violence.

Child from Victoria

- Social capital
- Injuries
- Child abuse and neglect
- Children as victims of violence
- Homelessness
- Children and crime
- Childhood immunisation
- Survival for leukaemia
- Child protection re-substantiations.

The AIHW identifies current data gaps relating to children as including:

- Congenital anomalies
- Mental health
- Physical activity
- Attending early childhood education programs
- Social and emotional wellbeing
- Family functioning
- School relationships and bullying
- Neonatal hearing and screening
- Quality of child care.

There are also other gaps and limitations that have been identified in key national data sources, which are relevant to monitoring children's rights.

The National Framework for Protecting Australia's Children 2009-2020 is working towards developing a child protection unit data collection.⁵ However, a number of limitations and gaps in current data sources for the key national indicators under the National Framework have been identified.⁶ Not all of the National Framework's indicators have an associated data source to evaluate progress. For example, there is currently no existing data source to measure indicator 4.5 under the National Framework, which is the 'proportion of children on guardianship and custody orders achieving at or above national minimum standards for literacy and numeracy'. The AIHW is currently developing a data source for this indicator, which will require linking NAPLAN and child protection data at the national level.

I am happy at the moment with my life but I understand that for some children this is not the case and more awareness about this topic should be raised.

*13 year old child
from Victoria*

Another gap in the area of child protection data is the lack of prevalence studies on child abuse and neglect.⁷ In March 2013, the Australian Institute of Family Studies noted that 'there has been no methodologically rigorous, nation-wide study of the prevalence or incidence of child abuse and neglect in Australia'.⁸ Gaps in data such as these make it difficult to measure trends in child abuse and neglect.

I welcome efforts to identify and address these data gaps, while also noting that the AIHW conducts other important data analysis that gives an additional picture of Australia's children in term of their welfare.⁹

As an initial step, the AIHW should be encouraged to extend its current cohort of Australian children aged 0 to 14 years in *A picture of Australia's children* to include Australian children aged 0 to 17 years. Preliminary discussions with AIHW about data issues have already commenced.

This is a fundamental resource required to effectively carry out my monitoring role as National Children's Commissioner. The need for this type of data was acknowledged by the Commonwealth Children and Family Roundtable, which I addressed on 29 April 2013.

2.3 Data based on the views of Australian children

As well as having statistical information relating to all of Australia's children, there is a need for initiatives to include the views and participation of Australian children at the national level. I have commenced some preliminary work to gather children's views through online surveys, face-to-face discussions and other mechanisms. However, I recognise that this initial work is not inclusive of all the mechanisms available to listen to children.



Life would be better
for children if we
were included in a
lot more things.

12 year old child
from NSW

I have begun early discussions with the architects of two key longitudinal studies, *Footprints in Time: the Longitudinal Study of Indigenous Children* (LSIC),¹⁰ and *Growing up in Australia: the Longitudinal Study of Australian Children* (LSAC),¹¹ about ways of gathering additional data to monitor children's rights. Longitudinal studies such as these are essential in order to effectively monitor child wellbeing, and develop informed policy and program responses.

LSIC has followed more than 1,200 Aboriginal and Torres Strait Islander children in 11 sites around Australia since 2008. Its interviewers started asking questions of children in Wave 2 (collected in 2009) when the older group were 4 and 5 years old, and have asked questions annually since then, some with answer options and others where the interviewers record the child's open ended responses. Wave 5 (collected in 2012) surveyed 659 children who live with both birth parents; 475 who live with their birth mother but not their birth father; 23 with birth father; and 89 who live with neither a birth mother nor a birth father.

The LSIC Steering Committee agreed to include and pilot the question 'What makes you most happy?' with its remote, regional and urban pilot samples in August to September 2013. This is a parallel question to the question I have been asking as part of the *Big Banter*. The Steering Committee has offered to provide me with the pilot answers to this question for more than 50 children aged around 9, 10 and 11 in November 2013. This will include age and gender but not state or territory and all the children will be either Aboriginal or Torres Strait Islander. LSIC has indicated that the question could then be included in the data collected in 2014 from at least 500 children in its different sites, with the data becoming available in 2015. I thank the LSIC for its early engagement and look forward to further collaboration.

I will seek to work with the LSAC as it commences consultation with stakeholders regarding proposed content for its Wave 7 collection, later in 2013.

A range of other organisations also conduct surveys of children's views on particular topics. These provide essential data for understanding the views of children about issues affecting their rights.

For example, since 2002, Mission Australia has conducted an annual nationwide survey of young Australians on a range of topics, including what they value, who they turn to for advice, what activities they engage in and their thoughts about the future. 15,351 young people aged 15 to 19 years completed the Youth Survey in 2012.¹²

Another example is the Young Minds Matter survey in 2013, funded through the Australian Government Department of Health and Ageing. This survey, last conducted 15 years ago, covers the mental health of children and adolescents. Families will take part in the survey but children between 11 to 17 years will also complete their own separate electronic survey.¹³

Life would be better
for children if every
kid had a carer.

*Child in after-school care
from the ACT*

The Australian Council for Educational Research offers schools the ability to survey the social and emotional growth of their students aged 3 to 18 years. The anonymous survey asks students to make judgments about aspects of their life, including school, home, and their emotional wellbeing. This information is valuable because it is not collected elsewhere and it provides us with data about how children understand their emotional wellbeing, relationships with others, and school achievements. To date, 32,000 survey results have been collected.

With respect to children in out-of-home care, the Commonwealth Government, through its Second three-year action plan (2012-2015) of the National Framework for Protecting Australia's Children 2009-2020, has committed to fund a biennial national survey with children in out-of-home care, combined with a funded survey of a nominated concern for these children in the alternate years. These surveys could be pivotal to effectively hearing the

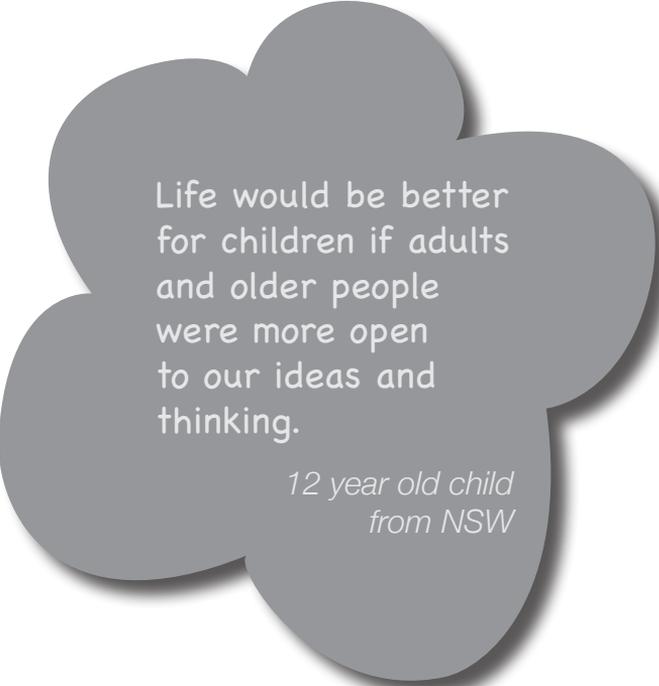
voices of Australia's children in out-of-home care, to monitoring their ongoing wellbeing, and ideally the survey should reflect the relevant rights in the CRC. I understand that the survey is currently being piloted in a number of jurisdictions and I will consider the results of these pilots with the view to addressing concerns raised by the children who participate.

Another valuable resource relating to children in out-of-home care is the survey 'Experiencing Out-of-Home Care in Australia: The Views of Children and Young People, CREATE Report Card 2013', commissioned by the CREATE Foundation.¹⁴ Doctor Joseph McDowall spent twelve months conducting interviews with 1,069 children aged 8 to 17 years, living in out-of-home care across Australia. The Report Card focuses on seven life domains: health; emotional and behavioural development; education; family and social relationships; identity; social presentation; and self-care skills. CREATE has been issuing regular Report Cards since 2006.

As well as collaborating with others who are listening to the voices of children and who are facilitating their participation in decisions that have an impact on them, I have conducted my own listening tour, ending in September 2013, the *Big Banter*. Work in this area is presented in Chapter 3 of this report.

Children have a right
to have a future even
when in Resi care.

*Child in residential
care in Victoria*



Life would be better
for children if adults
and older people
were more open
to our ideas and
thinking.

*12 year old child
from NSW*

Across Australia, local, state and territory governments along with the federal government, share responsibility for the healthy development of Australia's children. Within these jurisdictions, there are many policy initiatives that focus on children.

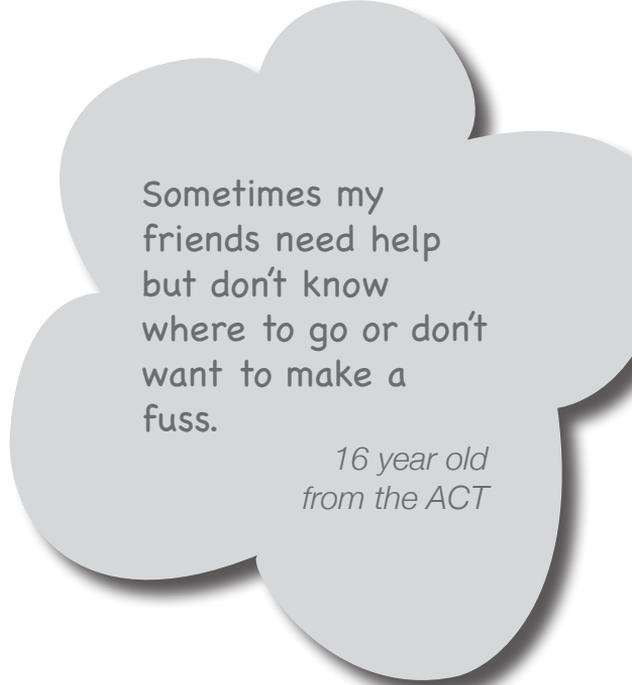
The Council of Australian Governments (COAG) is the peak intergovernmental forum. COAG consists of the Prime Minister, State and Territory Premiers and Chief Ministers and the President of the Australian Local Government Association. COAG is assisted by Councils that work with all the jurisdictions in policy areas of national significance. These Councils develop policy reforms for consideration by COAG, and oversee the implementation of policy reforms agreed to by COAG. The Councils have working parties to support them.

As National Children's Commissioner, I am currently working to facilitate my membership on some of the national working parties and processes that focus on issues relating to children. It is important for me to have input at this national level in order to help facilitate a rights-based approach to issues of national significance to children, especially those children who may be at risk of harm.

2.4 National policy reforms and initiatives

As described in Chapter 1, the UN Committee identified a lack of overarching legislative and policy measures to specifically address the implementation of the CRC in Australia. These include the absence of a national action plan to fully implement the CRC, no comprehensive coordination of policy initiatives to give effect to child rights, and the lack of a child-specific approach to budget planning and allocation.

The United Nations Children's Fund (UNICEF) provides expert guidance as to how States Parties such as Australia can integrate a child rights approach at the overarching policy level.¹⁵ I commend the practical tools outlined by UNICEF to implement the principles and provisions of the CRC.



Sometimes my
friends need help
but don't know
where to go or don't
want to make a
fuss.

*16 year old
from the ACT*

Currently COAG's national reform agenda includes:

- Early Childhood
- Schools and Education
- Skills and Training
- Housing and Homelessness
- Disability Care and Support
- Health and Ageing
- Closing the Gap in Indigenous Disadvantage
- A Seamless National Economy
- Infrastructure and Transport
- Water, Climate Change and the Environment
- National Security and Community Safety

While arguably all children are affected by the priorities on COAG's reform agenda, particular priority areas, along with their related national agreements, have a direct impact on children's enjoyment and exercise of their human rights. Some of these, and this list is not exhaustive, include:

• **Early Childhood**

- » National Early Childhood Development Strategy – Investing in the Early Years

Related Agreements are:

- » National Quality Framework for Early Childhood Education and Care
- » National Partnership Agreement on Early Childhood Education
- » Closing the Gap: National Partnership Agreement on Indigenous Early Childhood Development.

• **Schools and Education**

Related Agreements include:

- » National Education Agreement
- » National Partnership Agreement on Rewards for Great Teachers
- » Project Agreement – Investing in Focus Schools
- » Project Agreement for Helping Our Kids Understand Finances – Professional Learning and MoneySmart Schools
- » National Partnership Agreement for More Support for Students with Disabilities
- » National Partnership Agreement on Empowering Local Schools
- » National Partnership on Low Socio-Economic Status School Communities

- » National Partnership Agreement on Literacy and Numeracy
- » National Partnership on Improving Teacher Quality
- » National Partnership on the Digital Education Revolution
- » National Partnership on National Solar Schools Program
- » National Partnership on Youth Attainment and Transitions.

• **Skills and Training**

Related Agreements include:

- » National Agreement for Skills and Workforce Development
- » National Partnership Agreement on TAFE Fee Waivers for Childhood Qualifications
- » National Partnership Agreement on Training Places for Single and Teenage Parents
- » National Partnership Agreement on Skills Reform
- » National Partnership on Youth Attainment and Transitions.

• **Housing and Homelessness**

Related agreements include:

- » National Affordable Housing Agreement
- » National Partnership Agreement on Remote Indigenous Housing
- » National Partnership Agreement on Homelessness.

• **Disability Care and Support**

- » National Disability Strategy

Related Agreements include:

- » National Disability Agreement
- » National Disability Insurance Scheme
- » National Partnership Agreement for More Support for Students with Disabilities.

• **Health and Ageing**

Related Agreements include:

- » National Health Reform Agreement
- » National Healthcare Agreement
- » National Partnership Agreement on Preventative Health

- » National Partnership Agreement on Closing the Gap in Indigenous Health
- » National Partnership Agreement on Essential Vaccines
- » National Partnership Agreement Supporting National Mental Health Reform
- » National Partnership Agreement on Health Services.

• **Closing the Gap on Indigenous Disadvantage**

Related Agreements include:

- » National Indigenous Reform Agreement (Closing the Gap)
- » Project Agreements for Indigenous Dental Infrastructure
- » Project Agreements for Improving Trachoma Control Services for Indigenous Australians
- » National Partnership Agreement on Indigenous Clearinghouse
- » National Partnership Agreement on Remote Indigenous Housing
- » National Partnership Agreement on Remote Service Delivery
- » National Partnership Agreement on Indigenous Economic Participation
- » National Partnership Agreement on Closing the Gap in Indigenous Health Outcomes
- » National Partnership Agreement on Native Title
- » Closing the Gap: National Partnership Agreement on Remote Indigenous Public Internet Access
- » Closing the Gap: National Partnership Agreement on Indigenous Early Childhood Development.

• **Community Safety**

Related Agreements include:

- » National Framework for Protecting Australia's Children 2009-2020
- » National Plan to Reduce Violence against Women and their Children 2010-2022
- » Memorandum of Understanding for a National Exchange of Criminal History Information for People Working With Children.

There are other national initiatives that directly relate to children that are not part of COAG. These include:

- National Anti-Racism Strategy
- National Mental Health Strategy
- National Strategy for Young Australians
- National Suicide Strategy
- National Framework for Universal Child and Family Health Services
- National Human Rights Action Plan.

Clearly Australia has many policy initiatives at the national level that focus on children, and there are many more at the state and territory levels.

The connections between the national initiatives are easy to see. For example, the outcome of the National Framework for Protecting Australia's Children 2009-2020 that all children are safe and well cannot be realised if the outcome of the National Plan to Reduce Violence against Women and their Children 2010-2022 for children to live free from violence in safe communities is not progressed. Similarly, unless all children can live safe and well and free from violence, the National Early Childhood Development Strategy is compromised.

I think that all children and teenagers should have the right to have things that they really need like play, a healthy diet and an education.

*14 year old child
from Victoria*

In the absence of a national plan for Australia's children, the co-ordination of these major national policy initiatives becomes an important consideration. The UN Committee noted in its Concluding Observations of Australia in 2012 'the lack of a clear mechanism to link the implementation of these plans'.

While many of the initiatives may cite the relevance of other frameworks and plans in their work, it is not clear how they actually work or intend to work in an integrated way to give effect to their interdependence. For example, the Progress Report on the National Plan to Reduce Violence Against Women and their Children 2010-2022 clearly acknowledges its connection with other COAG reforms, such as the National Framework for Protecting Australia's Children 2009-2020, the National Partnership Agreement on Homelessness, and the National Disability Agreement. The National Early Childhood Development Strategy also recognises that other policy reform agendas contribute to its outcomes. However, from publically available information, it is difficult to see how these initiatives are coordinated in practice.

The Second three-year action plan (2012-2015) of the National Framework on Protecting Australia's Children 2009-2020 describes its linkages to other major reform agendas. In this plan, it specifically states that it will be looking for 'opportunities to link in' and 'strengthen links' with other policy reform initiatives in early childhood, education, domestic and family violence, health and mental health, and disability.¹⁶ It has already embedded in its priorities specific outcomes relating to Closing the Gap and the National Indigenous Reform Agreement. This more integrated approach is encouraging and I will monitor how the National Framework for Protecting Australia's Children 2009-2020 consolidates its links with other policy reform agendas, and how this will be reflected in those other policy reform agendas.



Life would be better for children if there was no violence.

Child in primary school from Tasmania

Since 13 March 2012, a Statement of Compatibility with human rights must accompany all new Bills introduced into Parliament. Given this, it is reasonable to expect that all national initiatives would now be seeking to align or include the seven core United Nations human rights instruments into their work.

Unfortunately, with respect to children, few national initiatives recognise the CRC. Two initiatives that do recognise the CRC are the National Framework for Protecting Australia's Children 2009-2020 which states that the CRC underpins its work. The National Early Childhood Development Strategy also refers to the CRC, and includes a statement about Australia's commitment to ensure that children's rights and needs are at the centre of policy development and service delivery. However, it is not always clear how the CRC is actualised in the work of these policy initiatives because they do not report on their outcomes with reference to the CRC.

One possible way to create a mechanism to link the implementation of national policy initiatives to the CRC would be for national policy reforms and initiatives to include, in their ongoing monitoring and evaluation processes, a component that reports on how they are giving effect to the articles of the CRC. Ultimately, it would be possible to co-ordinate these responses into a consolidated report which would indicate how the rights of children were being given effect at a national level.

Given that some national policy reform initiatives are already engaging with the CRC, the impost of reporting on how they are giving effect to the articles of the CRC as a component of their monitoring and evaluation should not require extensive extra work.

2.5 Scrutiny of existing and proposed Commonwealth legislation

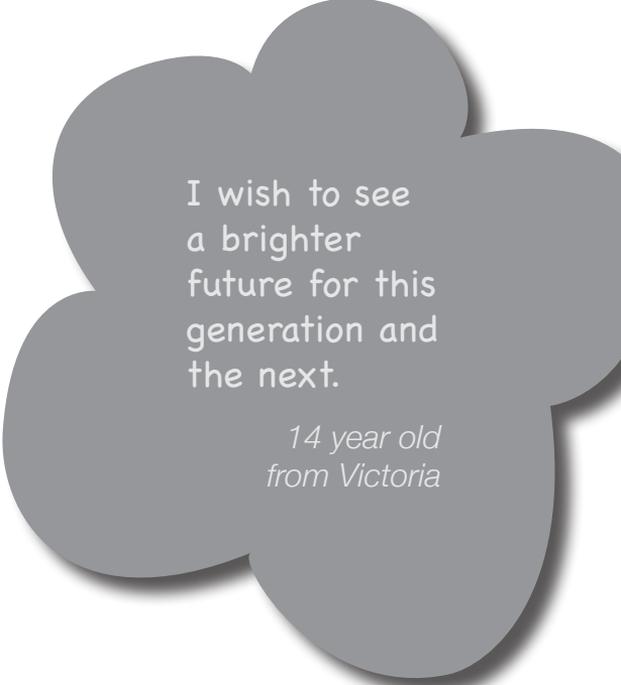
On 13 March 2012, the Parliamentary Joint Committee on Human Rights (PJCHR) was established under the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth). The PJCHR's functions include examining all new Bills and legislative instruments for compliance with Australia's human rights obligations. The PJCHR can also examine the compliance of existing Acts and report the results of these examinations to the Parliament.¹⁷

Human rights are defined in relation to the seven core human rights instruments which Australia is a party to, including the CRC.¹⁸ A Statement of Compatibility with human rights must accompany all new Bills and certain legislative instruments introduced into Parliament.¹⁹

This new scrutiny process is designed to ensure that human rights are given due consideration in the policy development and drafting stages of the legislative process. While the Parliament may still pass laws where the PJCHR has expressed human rights concerns, the process creates a dialogue between Parliament and Government which raises the profile of human rights in policy and legislative development and aims to minimise the risks of legislation giving rise to breaches of human rights in practice.²⁰ In the medium to long term, this is expected to improve the quality of legislation and Australia's compliance with its international human rights obligations.

In the first 18 months of operation, the PJCHR has made some significant headway. It has scrutinised every Bill introduced into Parliament, as well as legislative instruments, and tabled 18 reports in Parliament. These have included unanimous, bipartisan reports on substantial, complex and controversial pieces of legislation such as the *Social Security Legislation Amendment (Fair Incentives to Work) Bill 2012* (Cth), the *Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012* (Cth) and related legislation, and the *Stronger Futures in the Northern Territory Act 2012* (Cth) and related legislation. Where the PJCHR has concerns that certain rights are engaged and their interference not appropriately justified, it has tabled such concerns in its reports.

As important as the volume of scrutiny the PJCHR has managed – and perhaps integral to it – is the PJCHR's work in seeking to improve the processes and quality of scrutiny and dialogue. The Statement of Compatibility is used as a starting point and improving the quality of the Statements has been a focus and a preliminary success for the PJCHR.²¹



I wish to see
a brighter
future for this
generation and
the next.

14 year old
from Victoria

When the PJCHR identifies potential human rights concerns which are not adequately justified in the relevant Statement of Compatibility, the PJCHR writes to the relevant Minister requesting further information about the justifications for potential interferences with specific human rights. The PJCHR writes more than once if it deems that further information or clarification is necessary. The PJCHR then reports, taking into account the Ministerial responses, and noting whether the Government's justification for any interferences satisfies the proportionality requirements necessary for compliance with human rights obligations.

Periodically, the PJCHR also releases practice notes and reports which identify emerging themes across all legislation – such as areas of human rights compliance which proposed legislation repeatedly fails to adequately account for.

The work of the PJCHR is a useful mechanism for me to access, when performing my legislative functions as National Children's Commissioner, one of which is the examination of existing and proposed Commonwealth enactments. The PJCHR's work assists in several ways:

- through its reports, the PJCHR is building up a body of knowledge on the practical meaning of Australia's human rights obligations, including child rights
- the PJCHR scrutiny process assists in highlighting Bills, legislative instruments and Acts which are of particular relevance to my role
- the Commission and the PJCHR have established a fruitful relationship with a dialogue on key emerging human rights issues. The Commission has engaged with the PJCHR when it is deliberating on certain Bills, either through hearings or by making submissions. For example, the Commission made a submission on the PJCHR examination of the Migration (Regional Processing) package of legislation, raising concerns about the impact of the Bill, including on asylum seeker and refugee children's rights.²²

Children should be able to have the same rights as adults, but the law about drinking and smoking should stay as it is.

*12 year old child
from NSW*

Life would be better for children and young people in Australia if schools got better funding.

*15 year old child
from Queensland*

The PJCHR's consideration of children's rights

282 Bills were introduced into Parliament between 1 July 2012 and 30 June 2013.

20 of these Bills had accompanying Statements of Compatibility which referred to the CRC in some way:

Bill	Date of introduction
Guardian for Unaccompanied Children Bill 2013 (Private Members Bill)	27 June 2013
Fair Trade (Workers' Rights) Bill 2013 (Private Members Bill)	20 June 2013
Homelessness Bill 2013	5 June 2013
Australian Citizenship Amendment (Special Residence Requirements) Bill 2013	30 May 2013
Early Years Quality Fund Special Account Bill 2013	30 May 2013
Intellectual Property Laws Amendment Bill 2013	30 May 2013
Crimes Legislation Amendment (Law Enforcement Integrity, Vulnerable Witness Protection and Other Measures) Bill 2013	29 May 2013
Social Security Amendment (Supporting More Australians into Work) Bill 2013	29 May 2013
Social Security Legislation Amendment (Public Housing Tenants' Support) Bill 2013	29 May 2013
Fair Work Amendment Bill 2013	21 March 2013
Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013	21 March 2013
Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013 (Private Members Bill)	19 March 2013
Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2013 (Private Members Bill)	26 February 2013
Family Assistance and Other Legislation Amendment Bill 2013	13 February 2013
National Disability Insurance Scheme Bill 2012	29 November 2012
Australian Education Bill 2012	28 November 2012
Biosecurity Bill 2012	28 November 2012
Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012	31 October 2012
Social Security and Other Legislation Amendment (Further 2012 Budget and Other Measures) Bill 2012	12 September 2012
Migration Amendment (Health Care for Asylum Seekers) Bill 2012 (Private Members Bill)	11 September 2012

In its reports, the PJCHR has noted where a Statement of Compatibility contained either inadequate or no analysis of the human rights engaged by a Bill.

Between 1 July 2012 and 30 June 2013, the PJCHR reported that eight Bills had the potential to restrict CRC rights, despite the Statements of Compatibility failing to recognise or justify this:

Bill	Comment
Australian Citizenship Amendment (Special Residence Requirements) Bill 2013 ²³	The Statement of Compatibility did refer to the CRC and did not identify any compatibility concerns; the PJCHR reported that the child's right to a nationality and the requirement to act in the best interests of the child may be restricted by the Ministerial discretion granted by the Bill to revoke a person's citizenship. ²⁴
Social Security Legislation Amendment (Public Housing Tenants' Support) Bill 2013 ²⁵	The Statement of Compatibility did refer to the CRC and claimed that the Bill promotes the child's right to benefit from social security and the child's right to an adequate standard of living; the PJCHR reported that the child's right to equality and non-discrimination may be restricted because the compulsory deduction of social security payments proposed by the Bill would only be from public housing tenants and not from other social security recipients. ²⁶
DisabilityCare Australia Fund Bill 2013 ²⁷	The Statement of Compatibility did not refer to the CRC and did not identify any compatibility concerns; the PJCHR reported that the child's right to equality and non-discrimination and the child's right to benefit from social security may be restricted because the Bill excludes certain Australian residents who are New Zealand citizens from the National Disability Insurance Scheme but still subjects them to an increased Medicare levy to help fund the Scheme. ²⁸
Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013 ²⁹	The Statement of Compatibility did refer to the CRC and claimed that the Bill promotes the child's right to life; the PJCHR reported that the right to access health services and the right to social security may be restricted because the Bill would end Medicare funding of gender selective abortions, and because no information was provided to show that gender selective abortions in Australia is an area of pressing public or social concern, these limitations may not be warranted. ³⁰
Family Assistance and Other Legislation Amendment Bill 2013 ³¹	The Statement of Compatibility did refer to the CRC and claimed that the Bill promotes the child's right to benefit from social security; the PJCHR reported that the child's right to benefit from social security may be restricted because the Bill reduces the baby bonus and, although this would free up resources to make other social security payments, it may negatively impact less well-off families. The PJCHR sought clarification as to the basis for considering that the baby bonus reduction is a justifiable limitation on the right to social security. ³²
Migration Amendment (Reinstatement of Temporary Protection Visas) Bill 2013 and Migration Amendment (Reinstatement of Temporary Protection Visas) Bill 2013 [No 2] ³³	The Statement of Compatibility did not refer to the CRC and did not identify any compatibility concerns; the PJCHR reported that the child's right to family life, the child's right to health, the child's right to social security and the child's right to an adequate standard of living may be restricted because the Bill would introduce temporary protection visas. ³⁴
Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012 ³⁵	The Statement of Compatibility did refer to the CRC and did not identify any compatibility concerns; the PJCHR reported that children's rights may be restricted because the Bill involves holding children in detention and may involve transferring them to other countries as part of a regional processing framework. ³⁶
Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Bill 2012 ³⁷	The Statement of Compatibility did not refer to the CRC and did not identify any compatibility concerns; the PJCHR reported that children's rights may be restricted because the Bill has the potential to limit the ability of Commonwealth employees convicted of corruption offences to meet their family's basic needs by imposing financial penalties on the offender's superannuation. ³⁸

The PJCHR also reported that eight Bills introduced into Parliament had the potential to promote the CRC, and in three cases the Statements of Compatibility did not recognise this:

Bill	
Broadcasting Services Amendment (Advertising for Sports Betting) Bill 2013 ³⁹	The Statement of Compatibility did not refer the CRC and did not identify any compatibility concerns; the PJCHR reported that children's rights may be promoted by restricting advertising of sports betting. ⁴⁰
Tax Laws Amendment (2013 Measures No. 1) Bill 2013 ⁴¹	The Statement of Compatibility did not refer to the CRC and did not identify any compatibility concerns; the PJCHR reported that the child's right to freedom of conscience, thought and religion may be promoted because the Bill grants deductible gift recipient status to eligible organisations which provide ethics classes. ⁴²
Royal Commissions Amendment Bill 2013 ⁴³	The Statement of Compatibility did not refer to the CRC and did not identify any compatibility concerns; the PJCHR reported that the child's right to freedom from all forms of violence would be promoted because the Bill permits sensitive evidence, such as evidence about child sexual abuse, to be given by oath or affirmation as well as through private sessions. ⁴⁴
Fair Work Amendment Bill 2013 ⁴⁵	The Statement of Compatibility did refer to the CRC and claimed that the Bill promotes the child's rights under articles 3, 5 and 18 of the CRC; the PJCHR reported that children's rights were likely to be promoted because the Bill introduces new family friendly work arrangements. ⁴⁶
Indigenous Education (Targeted Assistance) Amendment Bill 2013 ⁴⁷	The Statement of Compatibility did refer to the CRC and claimed that the Bill promotes the child's right to education; the PJCHR reported that the child's right to education, the child's right to an adequate standard of living and the child's right to equality and non-discrimination would be promoted because the Bill provides extra funding to targeted programs that assist Aboriginal and Torres Strait Islander children. ⁴⁸
Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2013 ⁴⁹	The Statement of Compatibility did refer to the CRC and claimed that the Bill promotes the child's right to freedom from all forms of violence; the PJCHR reported that the right to freedom of expression and the right to privacy may be restricted because the Bill creates new offences relating to online communications with children, but that these limitations are permissible as they are aimed at the legitimate objective of seeking to protect children. ⁵⁰
Australian Education Bill 2012 ⁵¹	The Statement of Compatibility did refer to the CRC and claimed that the Bill promotes the child's right to education; the PJCHR reported that the child's right to education would be promoted because the Bill introduces a new statement of commitment to national school reform and a needs-based school funding model. ⁵²
Migration Amendment (Health Care for Asylum Seekers) Bill 2012 ⁵³	The Statement of Compatibility did refer to the CRC and claimed that the Bill promotes the child's right to health; the PJCHR reported that children's rights would not be restricted by establishing an independent expert panel proposed by the Bill to monitor and report to Parliament on the health of offshore entry persons. ⁵⁴

After only 18 months in existence, and with a newly constituted Committee under the 44th Parliament imminent, it is too early to thoroughly assess the impact of the PJCHR's scrutiny on the policy and legislative processes of Government and Parliament. Such assessment is a medium to long term project. In the meantime, I will continue to utilise the PJCHR's growing body of reports as one way to monitor how the CRC is integrated into Commonwealth legislation.

Life would be better for children if people were able to get a shelter, health and access to education so when they are older then they get a job and a happy life will be the result.

*12 year old child
from Victoria*

2.6 Conclusion and Recommendations

This chapter looks at some of the existing measures at the national level which are critical for ensuring children's rights in Australia. Overall, these measures provide some good foundations for promoting the wellbeing of children at the national level.

However, greater alignment of national policy initiatives and reforms with children's rights as outlined in the CRC, including in the area of national data collection, will create a stronger framework for advancing children's rights.

The scrutiny of legislation for its compatibility with children's rights is a welcome Australian Government initiative. This scrutiny will assist in educating legislators and policy-makers on how to safeguard children's rights, and the importance of doing so. The Commission looks forward to the PJCHR's increasing impact as it further consolidates its role in the legislative process.

I love to go to school and I would like it if everyone in my family would help me to go to school every day.

*10 year old child from
the Northern Territory*

I make the following recommendations:

Recommendation 4:

That the Australian Institute of Health and Welfare (AIHW) extends its current cohort of Australian children in *A picture of Australia's children* from 0 to 14 years to 0 to 17 years, consistent with the *Convention on the Rights of the Child* definition of the child.

Recommendation 5:

That the Australian Government establishes relevant data holdings and analytics covering all the key domains of children's rights outlined in the *Convention on the Rights of the Child*, including comparable data across jurisdictions, which the National Children's Commissioner can use to monitor the enjoyment and exercise of human rights by children in Australia.

Recommendation 6:

That the Australian Government includes in its regular monitoring and evaluation of national policy reforms and initiatives, a component that reports on how it is giving effect to the articles of the *Convention on the Rights of the Child*.

Follow up Actions by the National Children's Commissioner

In the next *Children's Rights Report*, I will report on the actions taken by the Australian Government in response to the recommendations in my report.

I will also report in the next *Children's Rights Report* on gaps and inconsistencies in data collection and monitoring processes, to assist in providing a more comprehensive focus on children's rights nationally.

Endnotes

- 1 *Convention on the Rights of the Child*, 1989, articles 3 and 4.
- 2 See data sources relevant to children's rights and wellbeing collected and collated by the Australian Institute of Health and Welfare, Australian Institute of Family Studies, Australian Bureau of Statistics, Longitudinal Study of Australian Children, the Longitudinal Study of Indigenous Children and the Australian Early Development Index, among others.
- 3 Australian Institute of Health and Welfare, *A picture of Australia's children 2012*, Cat No PHE (2012).
- 4 Australian Institute of Health and Welfare, *A picture of Australia's children 2012*, Cat No PHE 167 (2012), p v.
- 5 Australian Government, *Protecting Children is Everyone's Business – National Framework for Protecting Australia's Children 2009-2020 – Second Action Plan 2012-2015* (2012). At <http://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyone-s-business-national-framework-for-protecting-australia-s-children-2009-2020-second-action-plan-2012-2015> (viewed 22 October 2013).
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- 8 Australian Institute of Family Studies, *The prevalence of child abuse and neglect* (2013). At <http://www.aifs.gov.au/cfca/pubs/factsheets/a144254/index.html> (viewed 22 October 2013).
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- 14 JJ McDowall, *Experiencing out-of-home care in Australia: The views of children and young people (CREATE Report Card 2013)* (2013). At <http://www.create.org.au/create-report-card-2013> (viewed 22 October).
- 15 UNICEF, *Implementation Handbook for the Convention on the Rights of the Child*, Fully Revised Third Edition (2007), p 47-72. At http://www.unicef.org/publications/index_43110.html (viewed 22 October 2013).
- 16 Australian Government, *Protecting Children is Everyone's Business – National Framework for Protecting Australia's Children 2009-2020 – Second Action Plan 2012-2015* (2012). At <http://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyone-s-business-national-framework-for-protecting-australia-s-children-2009-2020-second-action-plan-2012-2015> (viewed 22 October 2013), p 26-27.
- 17 Section 7, *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth). The Committee's reports are at http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/Completed_inquiries (viewed 22 October 2013).
- 18 Section 3, *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).
- 19 Part 3, *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).
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- 21 See JCHR, *Practice Note 1: Statements of Compatibility*. At http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/Practice_Notes (viewed 22 October 2013).
- 22 Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Human Rights Examination of the Migration (Regional Processing) package of legislation, January 2013. At http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/Committee_Activity/migration/submissions/index (viewed 22 October 2013).
- 23 PJCHR Eighth Report of 2013, p 1, para 1.1.
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- 26 PJCHR Eighth Report of 2013, p 15, para 1.50.
- 27 PJCHR Seventh Report of 2013, p 9, para 1.30.
- 28 PJCHR Seventh Report of 2013, p 11, para 1.41.
- 29 PJCHR Sixth Report of 2013, p 36, para 1.135.
- 30 PJCHR Sixth Report of 2013, p 36, para 1.147.
- 31 PJCHR Third Report of 2013, p 18, para 1.70.
- 32 PJCHR Third Report of 2013, p 20, para 1.82.
- 33 PJCHR Third Report of 2013, p 37, para 1.147.
- 34 PJCHR Third Report of 2013, p 37, para 1.163.
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 - 38 PJCHR Sixth Report of 2012, p 11, para 1.51.
 - 39 PJCHR Seventh Report of 2013, p 27, para 1.89.
 - 40 PJCHR Seventh Report of 2013, p 28, para 1.92.
 - 41 PJCHR Seventh Report of 2013, p 43, para 1.157.
 - 42 PJCHR Seventh Report of 2013, p 44, para 1.162.
 - 43 PJCHR Third Report of 2013, p 42, para 1.165.
 - 44 PJCHR Third Report of 2013, p 43, para 1.170.
 - 45 PJCHR Sixth Report of 2013, p 108, para 1.45.
 - 46 PJCHR Sixth Report of 2013, p 110, para 1.51.
 - 47 PJCHR Sixth Report of 2013, p 111, para 1.52.
 - 48 PJCHR Sixth Report of 2013, p 113, para 1.62.
 - 49 PJCHR Third Report of 2013, p 5, para 1.17.
 - 50 PJCHR Third Report of 2013, p 6, para 1.27.
 - 51 PJCHR First Report of 2013, p 12, para 1.45.
 - 52 PJCHR First Report of 2013, p 13, para 1.51.
 - 53 PJCHR Third Report of 2012, p 20, para 1.70.
 - 54 PJCHR Third Report of 2012, p 20, para 1.72.

Chapter 3:

The *Big Banter*
and other
activities of
the National
Children's
Commissioner



A child in out of school hours care in Adelaide,
South Australia (10 July 2013)

3.1 Introduction

In this chapter, I provide an overview of my activities as National Children's Commissioner since starting in the role on 25 March 2013. During this period, I have been involved in two main activities:

- the *Big Banter* national listening tour, and
- collaborative projects at the Australian Human Rights Commission, on particular child rights issues.



Letting Australian teenagers have a bigger say in how their schools are run would be a fantastic thing to do.

*14 year old
from Victoria*

3.2 The *Big Banter* listening tour

(a) What is the *Big Banter*?

The *Big Banter* is the listening tour that I have conducted with children and child advocates across Australia in city, rural and remote areas.

Fundamental to my role is respect for the views of the child. It is therefore significant that my initial work has been to listen to the views of children, and take them into account in deciding my priorities for action. Respect for the views of the child is a guiding principle of the CRC, and is provided for in article 12:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

The *Big Banter* listening tour commenced with my inaugural speech at the Families Australia Conference in Melbourne on 11 April 2013. A survey and website were launched at the Secretariat of National Aboriginal and Islander Child Care (SNAICC) Conference in Cairns on 4 June 2013. Where possible, I was accompanied by a child who acted as a reporter of events in their jurisdiction. The *Big Banter* officially ended on 30 September 2013.



It is a great feeling to know that someone stands up for the voice of young people.

*16 year old child
from NSW*

The *Big Banter* was undertaken to:

- facilitate the input and engagement of children and child advocates in setting my priorities
- enhance the understanding and awareness of human rights with children and child advocates engaged in the *Big Banter*
- understand what is important to children as experts in their own lives
- increase awareness of the existence of my role as National Children's Commissioner
- identify mechanisms to provide ongoing ways to communicate with children and their advocates
- develop a group of 'critical friends' across Australia who can inform me on current research and data relevant to my role, and provide advice on policy and law reform proposals.

(b) How the National Children's Commissioner conducted the *Big Banter*

During the *Big Banter*, I facilitated the input and engagement of children and their advocates in a number of ways:

- Face-to-face consultation with groups of children. I engaged with children from a variety of backgrounds; including Aboriginal and Torres Strait Islander children; children in primary, secondary and specialised educational settings; children disengaged from education; unaccompanied minors in immigration detention as well as asylum seeking children living in the community; children in juvenile detention settings; children in out-of-home care; teenage parents; children in disadvantaged communities; and children involved in child protection and family court matters (Appendix 1).
- Children's rights forums (Appendix 2) and individual meetings (Appendix 3) with child advocates and organisations representing children.
- Youth reporters from different jurisdictions attended face-to-face consultations and forums to tape proceedings, interview participants and produce a short video about my visit. These videos are available for viewing on the Australian Human Rights Commission website.
- Pre-paid postcards were distributed to children and children's advocates so that they could send their messages to me about what would make life better for children in Australia.
- An online survey to obtain information directly from children about what was most important to them. Children in the face-to-face consultations were also encouraged to provide further information by completing the survey.
- The Australian Human Rights Commission's *Something in Common* website was adapted to allow children to upload stories about issues affecting them.

Young children from different countries who come on the ships should be allowed to stay in Australia because they're young and they need to be safe from what's happening in their country.

*10 year old child
from Victoria*

- An email address kids@humanrights.gov.au was established so that individual children and child advocates are able to email me directly with their ideas and feedback on issues that are concerning them.
- Face-to-face information provided by children and child advocates at forums. From April 2013 to September 2013 I have given 27 speeches. Many participants at these events put forward particular issues that they would like me to give attention to during my term. Issues raised include: children's voice; child protection and family support; children in out-of-home care; child safety, bullying, and cyberbullying; family law; and asylum seeking and refugee children. Other speeches and presentations have covered a variety of children's rights topics. A full list of my speeches is included in Appendix 4.

(c) Views from the *Big Banter*

(i) The views of children

During the *Big Banter*, I heard the views of children from a variety of backgrounds and ages. I met face-to-face with over 1000 children. The online survey has provided me with the views of approximately 726 children aged up to 17 years. I also received 602 postcards. I would like to thank GoodStart Early Learning for their assistance in distributing our postcards to younger children.

I asked children who participated in the *Big Banter* to identify what was most important to them. In face-to-face meetings with children, I asked if they knew about human rights, and children's rights in particular. I asked about what kinds of things made them feel safe and happy in their communities and neighbourhoods. I also asked children about what issues concerned them most and what they would like more help with. Children attending the forums participated in an exercise where they identified the features of what their ideal world would be like, what rules they would put in place, and what rights, freedoms and responsibilities were most important to them. The face-to-face meetings with children provided a deeper opportunity to explore the concerns that children have as they grow and develop. Children who completed the online survey were presented with a list of children's rights and asked to rank which rights were most important to them.

Life would be better for children if we had a say in what changes.

*Child in primary school
from Tasmania*

This is a significant area of inquiry because it helps to identify what children perceive as contributing to their wellbeing. The diversity of the children combined with the number who participated in the *Big Banter* has meant that a wide range of subject areas and issues have been raised, which cannot all be reflected in this report. However, the majority of the children's views about what is important to them fall within some common broad areas.

Many children raised the importance of having a say in decisions which affect them, and for their views to be taken seriously.

They wanted to have their views respected, and for people to be treated fairly, no matter what race, culture, sex and/or gender identity or where they have come from.

Life would be better for children and young people in Australia if we were all treated with equality and we were all treated fairly. Life would be better if everyone learned the meaning of freedom.

*10 year old child
from Victoria*

I have Asperger's Syndrome. Life in primary school was very difficult. Life would be better if people that were different, disabilities, races, religions and any other differences, all accepted each other. If there was no bullying. If schools were supportive of kids with disabilities, especially invisible disabilities like Asperger's Syndrome.

*14 year old child
from Victoria*

Life would be better for children and young people in Australia if there was no drugs and violence. I've been beaten up and bullied. I complained about it but it didn't fix the problem.

13 year old child from the Northern Territory

Life would be better for children and young people in Australia if the government banned drugs and smoking, not just around children. This would make life better for not only young people but for people who have lost members of their family from drugs and smoking.

11 year old child from Victoria

Many of the issues raised by children involved concern for their own safety and the safety of their siblings and friends, in the context of both the physical and the online world. They enjoy their freedoms and they enjoy being able to play, being active and having fun, but they also appreciate fair boundaries and rules. They are particularly concerned about the level of violence and bullying in the community, and they would like to live in an environment that is free from drugs, alcohol and smoking.

Some children worry that they cannot afford to do or have the things they would like, and they want more things to be available for free. They also have an awareness of poverty and other disadvantages faced by some children, and the need for children and their families to get more help with basic living costs, health and education.

Children also feel like they want to be able to get help, and be cared for, when they need it and they want other children to be helped as well. They want adults to take action.

Life would be better for children if the government made sure every child had all the rights. I think every child should have food and water.

An Australian child

The *Big Banter* survey asked children what was important to them. For those under eight years old, home and family were most important. Being safe was ranked as very important followed by being healthy, playing and having fun, learning and saying what you think.

Children from 8 to 17 years of age who completed the online survey placed being safe as most important, followed closely by being with their families. Having a home, being with friends, going to school, having healthy food and being able to play were also rated highly.

Additionally, many of the postcards I received from younger children aged 3 to 5 focused on the importance of play, family and safety in their lives.

Life would be better if nobody got hurt and children felt safe all the time.

An Australian child

Learning makes me happy, if it's something I'm interested in, and I do this with access to the internet and other resources, as well as teachers at my school.

I like going online and being part of the conversation on the freedom centre website, because it makes me feel like I'm not alone, and it helps me through unique struggles related to my sexual and gender identity. I have a passion about human rights, which is how I got to this website, so I really get a buzz out of doing good in the world.

14 year old child from Western Australia

Some things that children said made them happy ...

seeing my friends and family happy

other people are happy

I'm playing with my friends at school

I have my family around me

I'm playing with my friends

my family is happy and healthy





I'm with my family and friends

I'm spending time with my parents

I'm living happily with the people I love

I'm around friends, family and having fun

I'm helping other people

I'm reading, writing and laughing

I have downtime with my family

I'm doing art and craft

I dance, act, sing, play piano and paint

I'm at pre-school and have a nice teacher

I'm playing with my little brother

Some things that children said would make life better ...

there were no bullies

kids were involved in political life

everyone gets a voice

there was housing for everyone

everyone was safe

everyone had supportive parents

everyone could be themselves

if we weren't stereotyped

there was no physical violence

we have freedom to choose

we all feel safe no matter where we are

there was peace





all kids
are treated
fairly

everyone
had a family

there
was equal
access to
education

all
different
cultures
were
allowed

Children at a remote primary school in Darwin,
Northern Territory (7 August 2013)

(ii) Views of child advocates

During the course of the *Big Banter*, I held individual meetings and forums designed to hear from adults working with or for children. A number of state and territory Children's Commissioners and Guardians, and other children's organisations hosted these forums. Other meetings took place in conjunction with conferences, symposiums or roundtables.

Child advocates discussed and offered their views on what they considered to be key children's rights concerns in Australia. Given the breadth of those who have participated in the *Big Banter*, it is unsurprising that there has been a wide coverage of issues which are influenced by the advocacy areas and working contexts of those involved.

Having said this, some recurring issues were raised across all jurisdictions. These included:

Respect for the views of the child

Not listening to children and taking their views into account, both broadly and in specific contexts, was consistently raised.

Many noted that, in the main, complaints systems did not facilitate the participation of children.

Both the Family Court and child protection systems were seen as needing to be more child friendly, with many pointing to the lack of child voice in the courts. In addition, several comments were made about the need for greater education and guidance for judicial officers, expert reporters and judges on how to listen to children, the developmental needs of children, and in relation to child protection and abuse more generally. Some said that the voices of teenage parents were not being heard in particular. Many argued for safe public platforms for the voices of children. Advocates in a number of forums raised the need to develop a central hub of children's participation resources and best practice examples.

Children at risk

One of the strongest themes to emerge in meetings with child advocates was the call for a comprehensive and coordinated investment across the nation in early intervention and preventative services for children and families, in order to build resilient children within families and communities, and break the cycle of disadvantage. This would also divert children from costly tertiary systems.

Issues related to alternative care placements included appropriate placement matching processes to facilitate stability; tracking children in multiple placements; providing health and education for children in alternative placements; properly resourcing the child's transition to adulthood; and supporting the capacity and skills of staff and carers.

There were serious concerns about the respect for and the implementation of the Aboriginal Child Placement Principle and the need to directly engage and empower local people in decision-making. The overrepresentation of Aboriginal and Torres Strait Islander children in the care and protection and juvenile justice systems was repeatedly raised.

Many participants pointed out that despite knowing the poor trajectory of children who come into contact with the child protection, out-of-home care and juvenile justice systems, little progress was being made in terms of improving the outcomes for these children.

Juvenile justice

Concerns in this area related to the very few diversionary options available, poorly supported rehabilitation programs and a lack of post-release supports. Issues were also raised about the high number of children on remand, the impact of bail conditions, and the access to justice issues faced by children living with disabilities. Additionally, advocates noted that in some cases children under 18 years of age are being detained in adult facilities. Other issues included the poor physical and mental health outcomes faced by children in custody, and the overrepresentation of Aboriginal and Torres Strait Islander children in the justice system.

Asylum seeking and refugee children

There was concern about child asylum seekers and refugees, both for those in detention and those living in the community. For example, concerns that unaccompanied minors are held in immigration detention facilities not as a last resort and not for the shortest possible time, as required by the CRC. In addition, those on bridging visas or in community detention have physical health, mental health and education needs which are not always being identified or met. The conflict of interest inherent in the Minister for Immigration and Border Protection acting as the guardian of unaccompanied minors was also raised.

Child rights education

Some raised the need for general education on children's rights, including the need for human rights education in schools. The need for education about children's rights was also raised in the context of child protection, childcare, political life and parenting. The issue of the CRC not being embedded in law, practice, or policy frameworks was pointed out on numerous occasions.

Education

Many concerns were raised about education, including provisions made for children facing suspensions from school and school exclusion, and addressing the needs of children who were disengaged from school, especially those aged 9 to 15 years. There was also discussion about the need for schools to be more reflective of children's interests, locally managed, connected with youth services and families, and delivering a broad range of educational experiences, including vocational courses. Bullying, discrimination and alienation at school for children from vulnerable groups, for example, children from diverse genders, sexes and sexualities, was also raised as a concern.

The Australian Human Rights Commission has functions to resolve discrimination and human rights complaints through conciliation. This includes discrimination and human rights complaints involving children. The Commission's national Information Service also provides information about rights and responsibilities under federal human rights and anti-discrimination law and the associated complaint process. In 2012-2013:

- the Information Service assisted over 17,000 people and organisations with information, problem solving and referrals to other services
- the Commission received 2,177 complaints.

The Commission continually seeks to refine its complaints and information services to ensure that they are accessible and appropriate to different communities and stakeholders. The Commission will continue to consider ways of ensuring there is widespread awareness of these services for children. Some of the main complaints involving children focus on disability, race and age discrimination, including in the area of cyberbullying.

Examples of complaints concerning children that have been resolved through the Commission's Conciliation Service include:

Complaint of disability discrimination and harassment from a student

The complainant, who has cerebral palsy and uses a wheelchair, was a pupil at the respondent private secondary school. The complainant said a teacher harassed her by actions which included failing to provide sufficient support with toileting, abusing her, failing to provide a reader and failing to provide sufficient support to enable her to participate in sporting and external activities. The complainant said the school did not take appropriate steps to prevent her being harassed or to provide her with reasonable adjustments.

continued on page 75

Children with disability

The lack of access to education, after school care and play for children with disability, as well as the disadvantage these children experience in juvenile justice settings, were consistent themes. Concerns about the provision of information regarding the National Disability Insurance Scheme and its application in relation to children were also expressed. The use of restraints on children with disability, and the abuse of children with disability were recurring issues. The needs of teenagers with disability who are parents and those in alternative care, as well as the importance for children with disability to have their voices heard, featured strongly.

Other issues

There were many other concerns raised by individual advocacy groups. These included protection against violence, sexting and cyberbullying, shortage of housing, lack of employment opportunities for young people, mental health, physical health, the plight of children with incarcerated parent(s) and poor service coordination.

(d) Ongoing mechanisms to hear from children

As National Children's Commissioner, I have also been asking children and child advocates during the *Big Banter* about possible mechanisms that will assist me to hear from children on an ongoing basis.

Children clearly indicated that they prefer face-to-face contact. Many said that it was easier to talk about their issues and concerns face-to-face. However, some children also nominated email, e-magazines, Facebook, blogs and online polls as additional means to connect with them.

Some child advocates indicated that they thought that I should establish a reference group of children who could meet with me regularly throughout the year. Others maintained that I should consult face-to-face with children on specific issues that related to their circumstances. This was seen as a way to engage with children who were most affected by particular issues. In addition to these types of face-to-face mechanisms, child advocates recommended developing a child-friendly interactive website which could seek the views of children through online surveys and polls as well as updating children on my activities.

Plans are underway to build an interactive child-friendly web presence. This can be used as one means to facilitate ongoing engagement with children and to seek their views on issues that affect them.



We should be able to have a right and say in what we think and what we do.

*11 year old
from NSW*

3.3 Collaborative projects at the Australian Human Rights Commission

(a) Justice reinvestment

In May 2013, I joined the Aboriginal and Torres Strait Islander Social Justice Commissioner as a Justice Reinvestment Champion. Justice reinvestment is about redirecting public funds from prisons and other tertiary systems and investing the money into the community, for example in family support and youth engagement activities. When implemented, justice reinvestment programs benefit entire communities.

To date, most of the thinking around justice reinvestment in Australia has been in relation to Aboriginal and Torres Strait Islander communities given the high levels of disadvantage they face. The principles of a justice reinvestment approach, which include localism, community control and better cooperation between local services, also align with what we know about human rights based practice in Aboriginal and Torres Strait Islander service delivery.

Since the scoping research on justice reinvestment in the *Social Justice Report 2009*, justice reinvestment has been the subject of recommendations in a number of reports. Notably, the Australian Government indicated its support for justice reinvestment in its response to the *Doing Time-Time for Doing* report on youth offending.

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The teacher denied harassing the complainant and claimed she provided appropriate support in accordance with recommendations from the complainant's physiotherapist. The school said it provided the complainant with reasonable adjustments and denied unlawful discrimination. The school advised it had undertaken an internal investigation of the complainant's allegations which resulted in the school issuing the teacher with a formal warning and requiring that she undertake professional development.

The complaint was resolved with an agreement that the respondent pay the complainant \$15,000 general damages. The school also agreed to develop and implement policies prohibiting bullying, discrimination and harassment on the ground of disability and to ensure that all teaching staff are properly informed about these policies. The teacher agreed to seek accreditation with the relevant statutory body and undertake training in disability awareness and communication skills.

Alleged racial discrimination in sport

The complainant and her son are Aboriginal persons. The complainant claimed a coach from the respondent under-12 sporting club did not respond appropriately to her complaint that another child had directed racially derogatory comments towards her son. She also claimed the coach regularly excluded her son and the club failed to investigate her complaint about this issue.

On being advised of the complaint the club indicated a willingness to try to resolve the matter by conciliation. The complaint was resolved with an agreement that the club would:

1. display the national sporting association's code of conduct in its entirety on the club's website and in the club house

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Life would be better for children if we had sexual health and drug and alcohol clinics especially for young people where you didn't get judged.

17 year old from Queensland

I was fortunate to be able to spend a week in Bourke, NSW with the Aboriginal and Torres Strait Islander Social Justice Commissioner discussing with the community, including children, the possibilities of a justice reinvestment approach in Bourke. We also co-hosted a follow-up meeting with potential supporters on 27 August 2013 to further explore opportunities for justice reinvestment in the Bourke community.

(b) Access to justice in the criminal justice system for people with disability

I have been working with the Disability Discrimination Commissioner on a project concerned with improving access to justice in the criminal justice system for people with disability, including children with disability who need communication supports or who have complex and multiple support needs.

The aim of the project is to:

- increase awareness and understanding of the rights of people and children with disabilities to access justice as articulated in the *Convention on the Rights of Persons with Disabilities* and the CRC
- identify gaps and barriers in access to justice in the criminal justice system for people, including children with disability who are victims, witnesses, defendants, offenders or accused of crimes
- identify best practices and solutions to address the range of barriers and gaps identified in accessing justice.

On 17 July 2013, the Disability Discrimination Commissioner and I co-hosted a roundtable examining the needs of children with disability in the criminal justice system. The information obtained at this roundtable has been included as input to the *Big Banter*.

(c) Cyberbullying

I have been involved in a range of cross-Commission work on cyberbullying and children. *BackMeUp* is an evidence-based social media campaign, conducted by the Australian Human Rights Commission that encourages 13 to 17 year olds to create a short video of less than two minutes on how they would 'back up' someone who has been cyberbullied. The competition encourages children to take positive and safe action if they witness cyberbullying. *BackMeUp* was first run in 2012. I am the *BackMeUp* spokesperson for the campaign this year. I launched the 2013 campaign on 20 August 2013 at Leichhardt High School. The entries will provide direct access to the views of children in relation to cyberbullying.

I have also been considering the benefits of a coordinated national response to children's e-safety, for example in the development of information and education resources for children, parents and internet providers.

(d) What you say matters!

In June 2013, I launched a new online anti-racism resource developed by the Commission, called *What you say matters!* This resource aims to educate and engage children about racism and to empower them to respond safely when they experience or witness racism.

The resource was developed after extensive consultation with children. It includes a hip-hop video clip and online educational content, and is designed to encourage 14 to 17 year olds to reflect and to act safely in response to racism at school, in their peer group, sports club or community. The music video clip features Aboriginal hip-hop artist Brothablack and was created with the participation of students from James Meehan High School in Sydney, NSW.



Life would be better
for children if
bullying was stopped.

*13 year old child from
Western Australia*

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2. use the state sporting association's dispute resolution process in handling future complaints
3. require its President to attend an external anti-discrimination training course and discuss its content with board members, officials and coaches
4. write to the complainant's son apologising for the events that gave rise to the complaint
5. organise at least one event per year intended to enhance cultural understanding and inclusion at the club.

Complaint of age discrimination from an apprentice

At the time of making the complaint, the complainant was 17 years old and completing an apprenticeship with a local council. The complainant claimed that his supervisor at the council bullied and harassed him because of his age.

In response to the complaint the supervisor denied age discrimination but said that he did have a difficult working relationship with the complainant. The council said it had comprehensive policies and procedures in place in relation to bullying, harassment and discrimination and was unaware of the complainant's concerns prior to his complaint to the Commission.

The complaint was resolved through a conciliation process with an agreement that the council would pay the complainant an amount equivalent to four weeks pay, provide a contact point for a reference and provide him with a statement expressing regret for the distress he experienced during his apprenticeship. The council also agreed to review aspects of its apprenticeship program. The complainant's former supervisor agreed to attend management training and re-familiarise himself with the council's policies and procedures regarding equal employment opportunity.

Life would be better for children if everyone had the right to love and marry who you like.

Child in secondary school from NSW

(e) Homophobic bullying in schools

I am also working collaboratively on a Commission project aimed at addressing homophobic bullying in Australian schools. Same-sex attracted, gender questioning and intersex young people experience high rates of bullying and harassment because of their sexual orientation or gender identity. This project will develop a report aimed at addressing homophobic bullying in Australian schools.¹ It will include best practice examples and recommendations for schools, education departments and decision-makers at all levels of school responsibility. As part of this project, an animated film about the prevalence and impact of homophobic bullying in schools has been created for the Commission's Something in Common website.

(f) Review of A last resort?

Child asylum seekers and refugees constitute a vulnerable group of children who require special protection. As part of the *Big Banter* I visited unaccompanied minors in immigration detention at Pontville Alternative Place of Detention in Tasmania and some unaccompanied minors now living in the community.

I will participate in a cross-Commission project to review some of the key findings of *A last resort? National inquiry into children in immigration detention*, planned for 2014.

In its report of the Inquiry in 2004, the Commission found that Australia's system of mandatory immigration detention was fundamentally inconsistent with Australia's obligations under the CRC; in particular a child's right to be detained only as a measure of last resort and for the shortest appropriate period; that children in detention for long periods were at high risk of serious mental harm; and that children in detention were not able to enjoy a range of human rights. It also raised concerns about the conflict of interest inherent in the role of Minister of Immigration and Border Protection as guardian of unaccompanied minors. While there have been some positive developments for child asylum seekers and refugees since 2004, the Commission's ongoing monitoring work shows that serious concerns remain.

I want to be treated with equality and to be treated fairly.

11 year old child from Victoria

(g) Human rights education in schools

As Australia adopts its first national school curriculum, the Commission has been submitting its views and providing feedback on the curriculum to the Australian Curriculum, Assessment and Reporting Authority (ACARA). The Commission released a resource analysing human rights and child rights content across subject and learning areas. I have been advocating for the participation of children in the development of the national school curriculum and classroom resources. The Commission has also begun updating its *Rights:Ed* resources and developing new resources exploring issues of disability, racism and cultural diversity.

Children need better education on topics that matter. Education is knowledge and knowledge is power. And all children should have the chance to use their power to better our country.

17 year old
from Victoria

In addition to this, the Commission has commenced a number of initiatives aimed at encouraging schools to take a stand on key issues and celebrate major days on the human rights calendar. The first initiative will focus on homophobic bullying in schools and WearItPurple day.

(h) Submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse

At 30 September 2013, the Commission has made three submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse. These submissions were in response to Issues Papers released by the Royal Commission. The Issues Papers focused on:

- Working With Children Checks
- *Towards Healing: Principles and Procedures in Responding to Complaints of Sexual Abuse against Personnel of the Catholic Church in Australia (Towards Healing)* complaints process
- Child Safe Organisations.

One of the concerns raised in these submissions is the need for effective and sensitive complaints processes for victims of child sexual abuse. I am interested in examining current complaints processes for their responsiveness to children, not only in cases of sexual abuse, but across a range of areas where child rights may be breached. Article 12 of the CRC obliges Australia to implement mechanisms, including complaint mechanisms, to hear the views of children. These mechanisms should be firmly anchored in laws and institutional codes.² Further, complaints mechanisms should provide children with:

- access to appropriate information
- adequate support, if necessary
- feedback on weight given to their views
- procedures for remedies or redress.³

I wish all people
could be happy, feel
safe, have a home to
enjoy and a family.

*11 year old child
from Victoria*

3.4 Conclusion

This chapter has covered my main activities from my commencement on 25 March 2013 up until 30 September 2013. Listening to children and their advocates, through the *Big Banter*, has been my early priority to respect the child's right to be heard.

I have also been involved in some important collaborative work at the Commission to protect the rights of some particularly vulnerable children.

There are a wide range of important child rights issues which children and their advocates have raised during the *Big Banter*. The consultations with children have revealed that they place primary importance on family and safety, although their views also reflect a wide diversity of interests and concerns. When asked open-ended questions, children raised a broad range of issues relevant to their freedoms; survival and development; rest, recreation, artistic and cultural activities; safety, bullying and violence; and their right to be heard and taken seriously.

Many of the issues raised by children correspond to the concerns raised by child advocates during the *Big Banter*. These included the importance of family support, especially for vulnerable children; protection from violence; the need for fair treatment of certain vulnerable groups of children; the importance of respect for the views of the child; and the need for more education about children's rights.

The issues put forward by children and child advocates throughout the *Big Banter* reflect the types of concerns raised in other arenas, including in submissions made by non-government organisations to the UN Committee during its consideration of Australia's fourth report under the CRC.⁴ Further, the issues raised by children and child advocates correspond to some of the key concerns raised by the UN Committee in its Concluding Observations, such as the prevalence of violence against women and children; bullying and discrimination; and the needs of especially vulnerable groups of children, particularly those not living with their families.

The *Big Banter* has also provided me with information and ideas on how to further engage children in my work.

Chapter 4 looks at the five key themes that have arisen from the *Big Banter*.

Life would be
better for children
if everyone had
healthy food, shelter,
water and medical
treatment.

Child from Tasmania

Endnotes

- 1 In this context homophobic bullying is referring to all violence, bullying and harassment on the basis of actual or perceived sexual orientation, gender identity or intersex status.
- 2 Committee on the Rights of the Child, *General Comment No 12 – The right of the child to be heard*, UN Doc CRC/C/GC/12 (2009), p 14, paras 48, 49.
- 3 Committee on the Rights of the Child, *General Comment No 12 – The right of the child to be heard*, UN Doc CRC/C/GC/12 (2009), p 14, para 48.
- 4 Child Rights Taskforce, *Listen to Children*, Child Rights NGO Report (2011). At <http://www.childrights.org.au/> (viewed 22 October 2013).

Chapter 4:

Equal life chances for all children in Australia



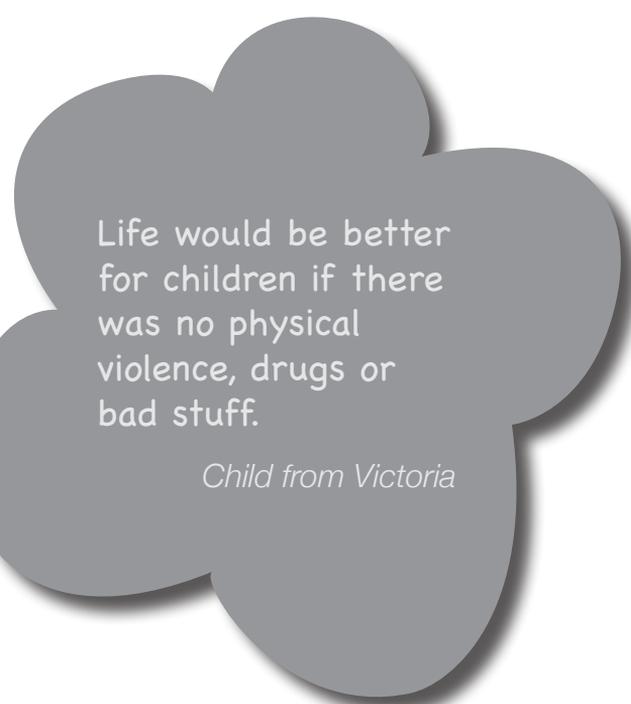
Two children in Adelaide, South Australia (10 July 2013)

4.1 Introduction

This report has examined children's rights in Australia from four viewpoints: in terms of compliance with Australia's obligations under the *Convention on the Rights of the Child*; as identified in national frameworks and action plans; from the perspective of those who work for and with children; and in the words of children themselves.

Overall, we can see a national picture in which many children thrive but where there are identifiable groups of children who face conditions that are much more uncertain. Many children, regardless of the socio-economic situation they face, share challenges such as being bullied and staying safe in both the physical and cyber world.

The commitment of governments to a safe and secure future for our children is not in doubt. The protective mechanisms required to ensure this, however, are not fully in place. So we still have work to do.



Life would be better for children if there was no physical violence, drugs or bad stuff.

Child from Victoria

Ultimately, we all strive for a common goal: a society and a community where all people, including children, can live 'in larger freedom', as described in the preamble to the Universal Declaration of Human Rights (1948). This refers to the fundamental dignity, worth, and equal rights of human beings and the promotion of social progress and better standards of life for all. For example, a person can choose to live the life they want, have the resources to make those choices meaningful, and to live a life that is safe.

We all strive for a society built on respect, where people are treated with dignity, and where we are all recognised as equals – regardless of our ethnicity, our skin colour, our gender, age, our abilities or disabilities.

I think we all want to contribute to an Australia, and to a world, where every child born has the chance to be whatever they want to be. Where a child's life course is not pre-determined for them because of where they are born, because their parents are poor, or because of their racial background.

In other words, we all strive for a world where every child has an equal chance at life, an opportunity to thrive, to make their own life choices and to forge their own path.

As National Children's Commissioner, my role is to encourage us all to do the very best by our children and to put into place the policies, programs, practices and laws that will enable our children to thrive both now and into the future.

There are five key themes that have emerged as being central to ensuring the maximum protection of the human rights and fundamental freedoms of our children:

1. **A right to be heard** – children's voice and participation in decision-making processes; specifically involving children in issues that affect them; and ensuring that existing mechanisms for resolving disputes are accessible and available to children.

2. Freedom from violence, abuse and neglect – ensuring safe environments and respect for the dignity of the child; specifically making sure that the commitments made in national frameworks are achieved and built upon through adequate resourcing and action; encouraging a proactive approach to issues of child safety that places a premium on prevention through enabling safe communities and environments for children; and building resilience among our children.

3. The opportunity to thrive – safeguarding the health and wellbeing of all children in Australia, which includes promoting and supporting children through early intervention and prevention; and identifying and focusing on the most marginalised and vulnerable children.

4. Engaged citizenship – promoting engaged civics and citizenship through education and awareness-raising.

5. Action and accountability – taking action to collect comprehensive national data about the wellbeing and human rights of Australia's children; progressing a national vision for Australia's children through intergovernmental partnerships and agreements; developing outcome based reporting and monitoring of government service delivery and policy development; and developing a children's impact assessment process for law, policy and practice.

Each of the themes are expanded upon in the following sections in terms of how they can be used to inspire action and positive change for our children.

4.2 A right to be heard: children's voice and participation in decision-making processes

Article 12 of the CRC sets out the requirement for governments to assure children a right to express their views on matters that affect them. These views are to be given due weight in accordance with the age and maturity of the child. There are limited processes in Australia for engaging children in decisions that affect them. This occurs at the individual level and the policy development level.

Having said this, we have seen a trend over the past decade of creating mechanisms for the participation of children in a variety of contexts. For example, schools have achieved this through their student representative councils. This is one example of how participation of children can be achieved and can be meaningful.

As National Children's Commissioner, I see two main barriers that must be overcome to ensure our children's right to be heard:

- **Involving children in issues that affect them:** There are a number of ways that governments and organisations can involve children in decisions and policy processes that affect them. When decisions are being made about an individual child, in certain contexts a legislative requirement to hear the views of children may be an option, as is the case in the family court system. Other mechanisms might be guidelines, information and education on the benefits of involving children in decisions. At the policy development level, there are a number of ways that governments can engage children in the process. Some options include through schools, formal youth advisory boards, web and face-to-face consultations on specific issues, targeted focus groups as part of research projects, youth parliaments and forums, as well as working in partnership with community organisations with significant child and youth representation. These options require specific engagement skills, the provision of adequate information and support for children to participate meaningfully, and, in some instances, additional resources.
- **Ensuring that existing mechanisms for resolving complaints and concerns are accessible and available to children:** Children are particularly vulnerable to having their rights and freedoms abused or restricted. Existing processes for receiving information about breaches of rights and freedoms should be accessible to children. For example, young people who are workers are particularly vulnerable to exploitation and harassment in the workplace and should be able to understand their rights at work and have them protected. Young people are also entitled to full protection under consumer laws. For example, in relation to mobile phone services

and billing, children should have ready access to clear information and support to ensure they are not overcharged. There should also be clear information about the rights of children in their interactions with police and law enforcement officials. Additionally, children should know the laws and their rights in respect of cyber safety and bullying, how they can be protected from online exploitation and abuse, and where they can go to for help. Accordingly, one area that I am keen to pursue over the coming years is an audit tool to determine the accessibility of information, complaint and feedback processes for children.

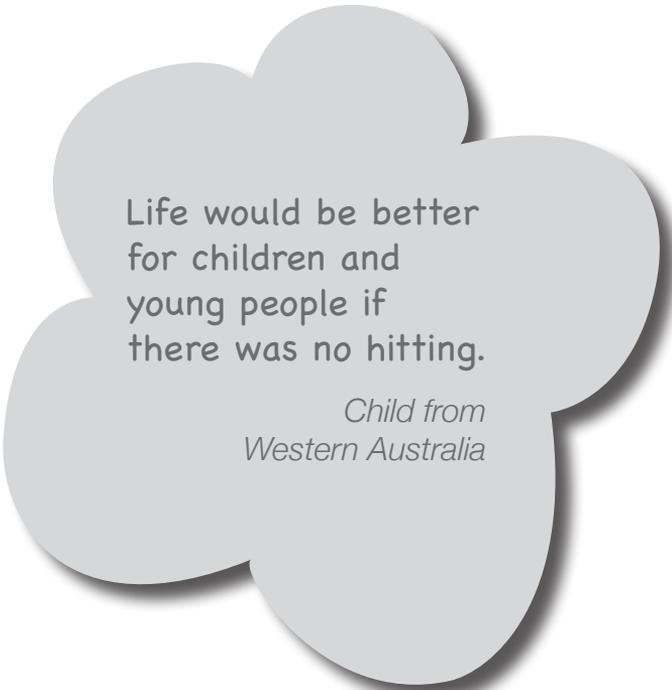
I will work with government and civil society organisations to facilitate the engagement of children in decisions and policy processes affecting them; providing a space for the voices of children to be heard.

Not only will I take action to inject the views of children directly into policy development and law reform, but I will also encourage others to engage children in decision-making.

4.3 Freedom from violence, abuse and neglect: ensuring safe environments and respect for the dignity of the child

Growing up without violence, abuse and neglect is fundamental to the wellbeing, growth and development of children.

This issue is already squarely on the agenda of governments. In particular, in recent years we have seen the establishment of national frameworks for reducing violence against women and children, and for protecting Australia's children.



Life would be better
for children and
young people if
there was no hitting.

*Child from
Western Australia*

As National Children's Commissioner, I see three main barriers that must be overcome to ensure our children's freedom from violence:

- **Ensuring that the commitments made in these national frameworks are achieved and built upon through adequate resourcing and action:** There remains significant work to be done to ensure that there are targets and benchmarks in place which can measure progress over time, as well as robust monitoring processes to learn what works, what must be improved and what must change. The issue of data collection is central to these challenges and has been discussed in detail in Chapter 2 of the Report.
- **Encouraging a proactive approach to issues of child safety that places a premium on prevention through enabling safe communities and environments for children:** Over the coming years, we can expect significant public debate about creating child safe communities. This will, in part, be a result of the findings of the Royal

Commission into Institutional Responses to Child Sexual Abuse. Already, the Royal Commission is uncovering instances where organisations have failed in their duty to protect children.

I have engaged with the Royal Commission and with Children's Commissioners and Guardians at the state and territory levels to help articulate standards and the cultural change required to deliver 'child safe organisations'. Our ongoing task will be to develop ways of entrenching such standards in governance and accountability models of business, community and government agencies.

Unfortunately, as we know, most abuse occurs in the home, and within family contexts. Addressing this remains an ongoing challenge for us all.

- **Building resilience among our children:** To date, the Commission has played a strong ongoing leadership role in helping children to deal with violence, bullying and harassment in their communities. This has involved research on the role of bystanders and the national *BackMeUp* campaign to encourage bystander action among children who witness cyberbullying. However, there is much work that remains to be done to ensure the protection of children in cyber space and to equip children to be able to engage safely online.

4.4 The opportunity to thrive: safeguarding the health and wellbeing of all children in Australia

We cannot guarantee that the economic, social and cultural outcomes for all children will be equal. However, what governments can do is ensure that every child has an equal opportunity to thrive, an equal chance to make their own way in the world and to aspire to be what they want to be.

This is not occurring for all children in Australia at the present time.

Service delivery varies significantly between urban, rural and remote areas. Access to adequate healthcare, education and housing can depend on your postcode. The availability of new technologies

and infrastructure to compete in the modern world is also variable. There are clearly groups of children, identifiable by race, immigration status and geographic location who fare far worse and who do not enjoy the same opportunity to thrive as other children in Australia. Many of these children find themselves streamed into the costly tertiary systems of juvenile justice and out-of-home care, invariably putting them on a path to replicate patterns of social exclusion and disenfranchisement through the generations. This situation must be turned around as a matter of urgency.

Addressing the following challenges must be a priority in order to ensure all children in Australia have the opportunity to thrive and enjoy a high quality of life.

- **Promoting and supporting the health and wellbeing of children through early intervention and prevention**

There is a clear case for Australia to review its investment in and coordination of early action, intervention and prevention services across the nation. In particular, building and supporting safe and resilient families where children can thrive and grow, is critical to giving children the opportunities they deserve. This is a view strongly echoed throughout the *Big Banter*. Research commissioned by the Benevolent Society in 2013 showed that most Australians believe that it is important to do more to tackle issues for children early on, before they become difficult to fix and expensive for the community.¹ Evaluations of some early intervention programs in the US found that children who were at risk of poor outcomes, who participated in early intervention, and whose parents received extra support with parenting, were more likely to finish school and find higher paying jobs, and were less likely to be involved in crime, compared with those children who did not receive extra support.² Despite this knowledge, current investment in early intervention, prevention and family support across the nation is patchy at best.

Having said this, there are promising models based around local empowerment and community engagement on which we can start to build a more strategic long-term national approach. For example, in Fitzroy Crossing in Western Australia, the Fitzroy Valley Futures Early Childhood Development Sub-Committee works collaboratively across disciplines to support local families and children in the home and in community settings with literacy, numeracy, parenting, and access to health and other essential services. Also in Fitzroy Crossing, Marninwarntikura Women's Resource Centre, a key partner in the Marulu Strategy along with local health, education and child service providers, is driving initiatives in community to prevent and appropriately respond to Foetal Alcohol Spectrum Disorders. Justice reinvestment which seeks to divert resources from correctional systems into programs that put children on pro-social pathways represents another example of preventative action.

- **Identifying and focusing on the most marginalised and vulnerable children**

We know that there are distinct categories of children who do not have the same opportunity to thrive as all other children in Australia. Whether it is the experience of Aboriginal and Torres Strait Islander children in being more susceptible to illness and death in early childhood, the particular vulnerabilities experienced by newly arrived migrant communities such as from sub-Saharan Africa, or the challenges in providing quality education and healthcare to children living in small regional and rural centres, it is incumbent on us to focus on how we can ensure that these children are not denied the opportunity to thrive. Better reporting and data collection will highlight the key differentials among different groups of children. I anticipate that I will use my report to federal Parliament to highlight the particular vulnerabilities experienced by certain groups of children, and to outline action that should be taken to assure them of their rights.

4.5 Engaged citizenship: promoting engaged civics and citizenship through education and awareness-raising

Consultations with children, children's advocates and organisations confirm that there is limited knowledge of children's rights among children and the general public. At the same time, being engaged and having their voices heard is important and empowering for children.

The UN Committee also noted this limited knowledge in its Concluding Observations, and made recommendations that Australia includes education on children's rights in its National Human Rights Action Plan, and includes modules on human rights in its school curriculum and professional training programs.



I want to feel
happy, safe and
know that I am
learning everything
I can possibly learn
at school.

*7 year old child from
Queensland*

An increasing understanding of rights and responsibilities, along with civics and citizenship, should be a fundamental part of a child's development. While children are provided with some civics education at school, this education is fragmented and inconsistent. The development of a National Curriculum has provided opportunities to ensure that learning on rights and responsibilities is integrated more fully across the school experience.

There are also other areas where there are opportunities to develop children's understanding of their own rights and responsibilities as citizens, which may be especially important to those disengaged from, or not yet attending, the school system. For example, education through early childhood development and care settings, youth support organisations, in work environments, and through the electronic media and social networks.

I'm a young
Indigenous person.
I'm locked up in a
Youth Detention
Centre. I want more
staff to prevent
fights between
other inmates. I also
want more help on
the outside instead
of being locked up
straight away.

Child from Victoria

Life would be
better for children
if there were more
outdoor activities/
free events like
fetes

Child from Queensland

Life would be better for children and young people in Australia if there were more worthy causes children could be involved in to make a difference.

10 year old child from South Australia

4.6 Action and accountability: taking deliberate and proactive steps to protect the wellbeing and rights of children

In the 22 years that Australia has been a party to the CRC, we have addressed children's rights in an ad hoc, uncoordinated manner. Many improvements in child wellbeing are not attributable to good planning, but rather flow on as a consequence of the general economic prosperity of the nation.

One of the consequences of this is that improvements in wellbeing are not enjoyed equally. There are clearly some groups in the community that have fallen behind, or who have not been in a position to benefit from the nation's overall prosperity.

We need to put in place a system which can give us a clear understanding of the big picture and the overall destination of Australia's children. This requires:

- understanding the rate of progress in relation to children's health, education and welfare
- providing a basis to prioritise action and resources
- setting realistic targets and benchmarks to drive actual achievement and improvements over time
- systematising the consideration of children's needs and interests in policy development and reform.

The main challenges to ensure that government takes a deliberate and proactive approach to child wellbeing include:

- **Collecting comprehensive national data about the wellbeing and human rights of Australia's children**

The jurisdictional challenges that come with our federated structure have led to an often incoherent narrative about the status and wellbeing of our children. Data about children is collected differently across states and territories. This means that it cannot be used reliably to draw comparisons. Some of the basic information that we require to monitor the wellbeing of Australia's children is not available. Too often, the administrative datasets which are available reflect the operations of various programs rather than measures of actual child wellbeing. As flagged in Chapter 2, I am keen to work towards establishing relevant data covering the key domains of children's rights and freedoms, including comparable data across jurisdictions. This will provide a more in depth picture of the status and wellbeing of our children.

- **Progressing a national vision for Australia's children**

We need to see a clearer focus on the overall vision for child wellbeing in Australia. The Closing the Gap approach to Indigenous disadvantage provides some valuable lessons in this regard. Over the past five years we have seen significant reforms to service delivery for Aboriginal and Torres Strait Islander peoples through the Closing the Gap commitments. These involve COAG commitments that then form the basis of national partnerships and funding arrangements with the states and territories, national reporting with the Prime Minister's annual Closing the Gap report card to Parliament, and an engaged civil society and community sector with the activities of the Close the Gap coalition and the National Indigenous Health Leadership Forum. Early results in achieving generational goals of eliminating disparities between Aboriginal and Torres Strait Islander peoples and non-Indigenous peoples are starting to be realised as a result.

A clearer identification of those issues on which the government seeks to achieve sustained improvements in child wellbeing, and of those issues on which reducing disparities between different groups of children in Australia is a priority, would be a welcome development. This could be given effect through national partnerships at the COAG level, through standardised data collection and regular reporting.

- **Developing outcome based reporting and monitoring of government service delivery and policy development**

The focus of government reporting and budgeting on inputs and outputs, results in limited accountability for outcomes over time. This enables an environment where under-achievement and under-performance goes unchallenged, and in some cases, unnoticed. We can see this from some areas of disadvantage experienced by marginalised groups that have not improved over generations. I aim to generate debate about options for achieving a more systemic focus on children's issues in budget, policy and program development, and in tracking and reviewing systems.

- **Developing a children's impact assessment process for law, policy and practice**

A focus of the Commission's engagement with the Joint Parliamentary Committee on Human Rights has been on highlighting where proposed laws positively advance the promotion and protection of human rights, as well as identifying where proposed laws may limit or restrict human rights. I am interested to explore opportunities to use this parliamentary scrutiny process to develop tools to assess the impact of proposed laws on children. This may also provide a basis for assessing the suitability of policy and practice from a children's rights perspective.



Life would be better for children if we all had the right to access services like headspace and healthcare.

Child from Victoria

I have a little sister who is 9 years old. We both know that kids and young people should be safe and be able to go to school and have food, but we'd never heard of the UN convention that puts all of this in writing. In fact, I don't think many young people know about the Convention. But we should know because it's important to see this in writing and for me, it was comforting to see that I and other young people are recognised this way.

*15 year old child
from Victoria*

4.7 Moving forward

It is an honour to be appointed as the inaugural National Children's Commissioner.

The Australian Human Rights Commission has a strong and proud record of working with different segments of our community and of facilitating collaborations and partnerships across them. I am excited to be in a position to uphold this tradition, building consensus among different stakeholders and providing a platform for the voices of children to be heard in relation to matters that affect them and their futures.

This report to the federal Parliament provides one tool by which I can take stock of progress in protecting the rights of children on an annual basis. I aim to use my future reports to showcase best practice and positive developments that have occurred over the reporting period. At the same time, I will identify children's issues on which we are making insufficient progress. I will also use my report to consider more in depth research on priority issues.

Clearly, addressing all of the challenges that have been raised in the five themes articulated in this chapter is beyond the resources and capacity that I have as National Children's Commissioner. Progressing these challenges will require collaboration, shared vision and purpose, and ongoing commitment to the ideals that are given expression through the CRC.

Taking action on these five themes will be central to the work of promoting children's rights which I will undertake during my term as National Children's Commissioner.

Endnotes

- 1 Woolcott Research, *Support for Investment in Early Action – OmniBus Results*, prepared for the Benevolent Society (2013). At www.benevolent.org.au/-/media/Benevolent/News/Reports/20130429_Early_Action_Survey%20pdf.ashx (viewed 22 October 2013).
- 2 T G Moore and M McDonald, *Acting Early, Changing Lives: How prevention and early action saves money and improves wellbeing*, prepared for the Benevolent Society by the Centre for Community Child Health at the Murdoch Children’s Research Institute and The Royal Children’s Hospital (2013). At <http://www.benevolent.org.au/media/latest--news/2013/10/08/prevention--and--early--action--changes--lives--and--saves--money> (viewed 22 October 2013).



Appendices

FUNCTIONS TRIGONOMETRIC FUNCTIONS



Primary school children in Gungahlin, ACT
(29 May 2013)

Appendix 1: Consultations with children

Date	Consultation	Location
24.04.13	Highwater Theatre – Gateway Community Health	Albury/ Wodonga, NSW
15.05.13	Bourke Alternate School	Bourke, NSW
15.05.13	Bourke Public School	Bourke, NSW
24.05.13 25.05.13	Hearing Young Voices workshop as part of the 2013 Aboriginal Power Cup	Adelaide, SA
29.05.13	Burgmann After School Care, accompanied by Alasdair Roy (Children and Young People Commissioner, ACT)	Gungahlin, ACT
12.06.13	James Meehan High School	Macquarie Fields, NSW
20.06.13	The Canberra College, accompanied by Alasdair Roy (Children and Young People Commissioner, ACT)	Canberra, ACT
21.06.13	Bimberi Youth Justice Centre, accompanied by Alasdair Roy (Children and Young People Commissioner, ACT)	Bimberi, ACT
23.06.13	Pontville Alternative Place of Detention	Pontville, TAS
24.06.13	The Friends' School	Hobart, TAS
24.06.13	Goulburn Street Primary School	Hobart, TAS
28.06.13	Youthlinks	Melbourne, VIC
04.07.13	Berry Street	Melbourne, VIC
04.07.13	Victorian Aboriginal Child Care Agency	Melbourne, VIC
05.07.13	Melbourne Youth Justice Centre	Melbourne, VIC

Date	Consultation	Location
08.07.13	Adelaide Youth Training Centre (Kurlana Tapa)	Adelaide, SA
10.07.13	Northfield Primary School	Adelaide, SA
10.07.13	Australian Red Cross: Stepping Out and Migration Support programs	Adelaide, SA
15.07.13	Milpera State High School, accompanied by Barry Salmon (A/Commissioner for Children and Young People and Child Guardian, QLD)	Brisbane, QLD
15.07.13	Albert Park Flexi School, accompanied by Barry Salmon (A/Commissioner for Children and Young People and Child Guardian, QLD)	Brisbane, QLD
29.07.13	Newtown Kids' Cottage	Newtown, NSW
06.08.13	Yirra House Secure Care Facility	Darwin, NT
07.08.13	Primary School in Belyuen	Darwin, NT
07.08.13	Save the Children	Darwin, NT
13.08.13	Fitzroy Valley District High School and Primary School	Fitzroy Crossing, WA
15.08.13	Sacred Heart Primary School	Perth, WA
05.09.13	Reiby Juvenile Justice Centre	Sydney, NSW
05.09.13	Bankstown PCYC Pacific Islander Mentoring Program	Sydney, NSW
30.09.13	Youth Affairs Council of Victoria	Melbourne, VIC

Appendix 2: Children's Rights Forums

Date	Meeting	Location
20.06.13	<p>Organisations invited to the Canberra Children's Rights Forum included:</p> <ul style="list-style-type: none"> • ACT Council of Social Service • Anglicare Canberra & Goulburn • Barnardos Canberra • Belconnen Community Service • Carers ACT • Centacare • Communities@Work • Companion House • Domestic Violence Crisis Service • CREATE Foundation • Institute for Child Protection Studies, Australian Catholic University • Junction Youth Health Service (Anglicare) • Marymead Child & Family Centre • Messengers Program (Tuggeranong Arts Centre) • Multicultural Youth Service • Oasis Youth Residential Service (Salvation Army Australia) • Northside Community Service • Richmond Fellowship • Shine for Kids • UnitingCare Kippax • Woden Community Service • Women's Legal Centre • Youth Coalition of the ACT • Youth Law Centre • YWCA Canberra • Office for Children, Youth & Family Support • Carers Australia • Families Australia • Family & Relationship Services Australia • Children's Week Council of Australia 	Canberra, ACT
24.06.13	<p>Organisations invited to the Hobart Children's Rights Forum included:</p> <ul style="list-style-type: none"> • Commissioner for Children, Tasmania • Anglicare • Australian Childhood Foundation • Baptcare Family Services • Centacare Tasmania • Colony 47 Inc. • CREATE Foundation • Foster Carers' Association of Tasmania 	Hobart, TAS

Date	Meeting	Location
24.06.13 (continued)	<ul style="list-style-type: none"> • Glenhaven Family Care Inc. • Good Beginnings Australia Ltd • Grandparent Advisory Council • Kennerley Children's Home Inc. • Life Without Barriers • Migrant Resource Centre • Mission Australia • Save the Children • Tasmanian Association of Community Houses • Salvation Army Australia • Australian Clearinghouse for Youth Studies • UnitingCare Youth Network of Tasmania • Tasmanian Council of Social Service • Tasmanian Aboriginal Centre • Early Years Foundation 	Hobart, TAS
05.07.13	<p>Organisations invited to the Melbourne Children's Rights Forum included:</p> <ul style="list-style-type: none"> • Australian Institute of Family Studies • Centre for Multicultural Youth • Childwise • Victorian Government Department of Education and Early Childhood Development • Eastcare Salvation Army • Family Care • Family Court of Australia • Family Life • Foster Care Association of Victoria • Foundation House • Grandparents Australia • Mental Health for the Young and their Families • Mental Health Foundation Australia • Victorian Department of Human Services • Salvation Army Australia • The Mirabel Foundation • Upper Murray Family Care (Wangaratta) • Victorian Council of Social Service • Youth Support and Advocacy Service • Save the Children • Melbourne City Mission • Berry Street • Centre for Excellence in Child and Family Welfare • Victorian Commission for Children and Young People • Whole New World 	Melbourne, VIC

Date	Meeting	Location
08.07.13	Organisations invited to the Adelaide Children's Rights Forum included: <ul style="list-style-type: none"> • The Child and Family Welfare Association • South Australian Government Department for Education and Child Development • Clinical Health Network • CREATE Foundation • National Disability Services • Multicultural Youth • Law Society of South Australia • Youth Affairs Council of South Australia • Save the Children • South Australian Commissioner for Equal Opportunity 	Adelaide, SA
15.07.13	Organisations invited to the Brisbane Children's Rights Forum included: <ul style="list-style-type: none"> • Children and Youth Research Centre • Goodstart Early Learning • Wesley Mission Brisbane • Commission for Children and Young People and Child Guardian, QLD • Life Without Barriers • CREATE Foundation • Youth Advocacy Centre 	Brisbane, QLD
06.08.13	Organisations invited to the Northern Territory Children's Rights Forum included: <ul style="list-style-type: none"> • CREATE Foundation • Northern Territory Office of Children and Families Foster Care • National Association for Prevention of Child Abuse and Neglect • Youth Justice Coalition • Northern Territory Council of Social Service • Office of Youth Affairs, Department of Northern Territory Chief Minister • Northern Territory Government Department of Education and Children's Services • Central Australian Aboriginal Congress • Aboriginal Medical Services Alliance of the Northern Territory • Northern Territory Children's Commissioner • Tangentyere Council • Save the Children • Strong Aboriginal Families Together 	Darwin, NT

Date	Meeting	Location
15.08.13	<p>Organisations invited to the Perth Children’s Rights Forum include:</p> <ul style="list-style-type: none"> • Perth Youth Advisory Council • Aboriginal Legal Service • Association of Independent Schools • National Aborigines and Islanders Day Observance Committee • Western Australia Children’s Court • David Wirrpanda Foundation • Australian Indigenous Psychologist Association • Save the Children • West Australian Primary Principals’ Association • YMCA of Perth Youth and Community Services Inc. • Yorganop Child Care Aboriginal Corporation • Yorgum Aboriginal Family Counselling Centre • Western Australian Government Department for Child Protection and Family Support • Western Australian Government Department for Communities • Western Australian Equal Opportunity Commission • Law Reform Commission of Western Australia • Health and Disability Services Complaints Office • Telethon Institute Child Health Research • MindMatters • Western Australian Council of Social Service • Inspire Foundation • Mission Australia • University of Western Australia • Youth Affairs Council of Western Australia • CREATE Foundation • Propel Youth Arts • Commissioner for Children and Young People Western Australia 	Perth, WA

Appendix 3: Face-to-face meetings and teleconferences

Date	Meeting	Location
10.04.13	Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Women's Council: organisation to relieve poverty among NPY Aboriginal communities	Melbourne, VIC
11.04.13	Secretariat of National Aboriginal and Islander Child Care (SNAICC): national peak body representing Aboriginal and Torres Strait Islander children and families	Melbourne, VIC
12.04.13	Associate Professor John Tobin from Melbourne University: academic, researcher and children's rights expert	Melbourne, VIC
15.04.13	South Australian Office of the Guardian for Children and Young People: government organisation to protect the rights of children under guardianship	AHRC, NSW
17.04.13	ChilOut: advocacy organisation for asylum seeking children	AHRC, NSW
19.04.13	Institute of Child Protection Studies: research organisation to promote the protection of children by conducting quality research and evaluation	AHRC, NSW
23.04.13	Janani Muhunthan: Youth Reporter, Australian Child Rights Taskforce	AHRC, NSW
23.04.13	King & Wood Mallesons: community and pro bono program focuses on helping children and young people at risk	Sydney, NSW
23.04.13	Paul Gibson: Disability Rights Commissioner, New Zealand Human Rights Commission	AHRC, NSW
30.04.13	South Australian Council for the Care of Children: independent statutory body which promotes the rights of children in South Australia	AHRC NSW
30.04.13	Secretariat of National Aboriginal and Islander Child Care (SNAICC): national peak body representing Aboriginal and Torres Strait Islander children and families	AHRC, NSW

Date	Meeting	Location
30.04.13	Aileen Ashford: Commissioner for Children, Tasmania	AHRC, NSW
02.05.13 03.05.13	Australian Children's Commissioners and Guardians: network of children's commissioners to promote children's rights	Hobart, Tasmania
07.05.13	Australian Government Attorney-General's Department	AHRC, NSW
08.05.13	Jesuit Social Services: organisation with a vision of building a just society	AHRC, NSW
08.05.13	Australian Community Children's Services: national peak body representing not-for-profit community owned children's services	AHRC, NSW
09.05.13	Australian Research Alliance for Children and Youth: organisation to progress strategies to improve the wellbeing of children	AHRC, NSW
09.05.13	Children with Disability Australia: national peak body representing children and young people with disability and their families	AHRC, NSW
14.05.13	Community forum at TAFE Hall in Bourke to discuss justice reinvestment: convened by Alistair Ferguson, Chair of the Bourke Aboriginal Community Working Party	Bourke, NSW
15.05.13	Bourke Children's Services: organisation providing a mobile child care and pre-school service	Bourke, NSW
16.5.13	Meeting with community members at Alice Edwards Park in Bourke to discuss community issues	Bourke, NSW
17.05.13	Alasdair Roy: Children and Young People Commissioner, ACT	AHRC, NSW
20.05.13	Multicultural Youth Advocacy Network: organisation to promote the ideals of Australia's multicultural policy	AHRC, NSW

Date	Meeting	Location
22.05.13	Queensland Association of Independent Legal Services Inc: state peak body representing Community Legal Centres operating in Queensland	AHRC, NSW
22.05.13	Contact Inc: organisation to help address the impact of isolation on children, families and the community	AHRC, NSW
23.05.13	Paediatrics and Child Health Division of the Royal Australasian College of Physicians: organisation representing 13,500 physicians and paediatricians	AHRC, NSW
27.05.13	Families Australia Policy Forum: organisation to promote national policies that improves the wellbeing of families	Sydney, NSW
27.05.13	HealingFoundation: independent Indigenous organisation with a focus on healing the community	AHRC, NSW
27.05.13	Royal Commission into Institutional Responses to Child Sexual Abuse: Royal Commission to inquire into how institutions with a responsibility for children have managed and responded to allegations and instances of child sexual abuse. Meeting with Justice Peter McClellan AM, Commissioner Robert Fitzgerald AM and Gail Furness SC	Sydney, NSW
27.05.13	Siblings Australian Inc: national organisation committed to improving the support available for siblings of children and adults with chronic conditions	AHRC, NSW
30.05.13	Indigenous Remote Communications Association: national peak body representing the media interests of remote Aboriginal and Torres Strait Islander communities	AHRC, NSW
31.05.13	Professor Ron Rapee from Macquarie University: academic, researcher and children's psychology expert	AHRC, Sydney
12.06.13	Marta Murras Perez: former country rapporteur for Australia, United Nations Committee on the Rights of the Child	AHRC, NSW

Date	Meeting	Location
13.06.13	Northern Territory Government Department of Education and Children's Services	AHRC, NSW
13.06.13	Australian Government Department of Immigration and Citizenship	AHRC, NSW
13.06.13	The Hon Paul Fletcher MP: Federal Member for Bradfield and Chair of the Coalition Online Safety Working Group	Lindfield, NSW
14.06.13	Telstra: digital inclusion program focuses on children and young people	Melbourne, VIC
20.06.13	Australian Government Department of Education and Workplace Relations	Canberra, ACT
24.06.13	Elizabeth Daly: A/Commissioner for Children, Tasmania	Hobart, TAS
25.06.13	Amnesty International: global organisation committed to defending those who are denied justice or freedom	Hobart, TAS
25.06.13	The Hon Michelle O'Byrne MP: State Member for Bass and Minister for Health	Hobart, TAS
27.06.13	Australian Council of State School Organisations: national peak body representing the interests of parents, families and school communities of state government schools	AHRC, NSW
28.06.13	Asylum Seeker Resource Centre and Bridgine Asylum Seekers Project: advocacy organisations for the rights of asylum seekers	Melbourne, VIC
02.07.13	Women's Legal Services NSW: community legal centre providing women with free legal services	AHRC, NSW
03.07.13	Dr Howard Bath: Children's Commissioner, NT	AHRC, NSW

Date	Meeting	Location
03.07.13	Australian Government Department of Families, Housing, Community Services and Indigenous Affairs, now known as the Department of Social Services	AHRC, NSW
04.07.13	Mental Health Foundation of Australia: coalition of mental health and business entrepreneurs	Melbourne, VIC
05.07.13	Bernie Geary OAM: Principal Commissioner for Children and Young People, VIC	Melbourne, VIC
08.07.13	Australian Centre for Child Protection, Advisory Board: organisation to prevent child abuse and neglect	Adelaide, SA
08.07.13	South Australian Council for the Care of Children, Community Council	Adelaide, SA
08.07.13	Anna Gale: Commissioner for Equal Opportunity, SA	Adelaide, SA
09.07.13	Aboriginal Community Engagement Group: organisation to work with the three tiers of government to improve service delivery for Aboriginal residents in Port Augusta	Port Augusta, SA
09.07.13	Port Augusta Youth Centre Inc: organisation to provide opportunities for youth in a safe and supported environment	Port Augusta, SA
09.07.13	South Australian Government Department of Premier and Cabinet	Port Augusta, SA
10.07.13	South Australian Council for the Care of Children	Adelaide, SA
12.07.13	Northern Territory Government Office of Children and Families	AHRC, NSW
15.07.13	The Alannah and Madeline Foundation: national charity protecting children from violence	Brisbane, QLD
22.07.13	Benevolent Society: not-for-profit organisation to empower and educate for societal change	AHRC, NSW

Date	Meeting	Location
22.07.13	Amnesty International: global organisation committed to defending those who are denied justice or freedom	AHRC, NSW
24.07.13	Institute of Child Protection Studies: research organisation to promote the protection of children by conducting quality research and evaluation	Canberra, ACT
24.07.13	Martin Hehir: Deputy Secretary, Schools and Youth, Department of Education, Employment and Workplace Relations	Canberra, ACT
24.07.13	Early Childhood Australia: national peak body representing the early childhood field	Canberra, ACT
25.07.13	Australian Government Department of Families, Housing, Community Services and Indigenous Affairs, now known as the Department of Social Services	Canberra, ACT
25.07.13	Australian Government Australian Institute of Health and Welfare: national agency to provide information on Australia's health and welfare	Canberra, ACT
30.07.13	Royal Commission into Institutional Responses to Child Sexual Abuse. Meeting with Lesley Morrison and Pia Van de Zandt	Sydney, NSW
01.08.13	Australian Government Australian Institute of Family Studies: key research body in the area of family wellbeing	Melbourne, VIC
01.08.13	Laurie Harkin AM: Disability Services Commissioner, VIC	Melbourne, VIC
07.08.13	National Association for Prevention of Child Abuse and Neglect: organisation to stop child abuse and neglect before it starts	Darwin, NT
08.08.13	Sally Sievers: Anti-Discrimination Commissioner, NT	Darwin, NT

Date	Meeting	Location
13.08.13	Fitzroy Crossing Clontarf Academy: organisation to improve the lives of young Aboriginal men by equipping them with the skills to participate meaningfully in society	Fitzroy Crossing, WA
13.08.13	Yiriman Project: an organisation conceived and developed by the elders from four Kimberly language groups to assist young Aboriginal people in the community	Fitzroy Crossing, WA
13.08.13	Baya Gawiy Buga yani Jandu yani u Centre: organisation to give families in the Kimberley region greater access to child care and early childhood support services	Fitzroy Crossing, WA
14.08.13	CREATE Foundation Western Australia: national peak body representing the voices of children in out-of-home care	Perth, WA
22.08.13	The George Institute for Global Health: an organisation to improve the health of millions of people worldwide	AHRC, NSW
23.03.13	Cedrick Mulumbra: Chair of the Australian Youth Forum	AHRC, NSW
26.08.13	National Children's and Youth Law Centre and the United Nations Children's Fund Australia: organisations to protect children's rights	AHRC, NSW
26.08.13	Family Court of Australia	AHRC, NSW
28.08.13	National Child Protection Alliance	AHRC, NSW
02.09.13	Australian Red Cross	AHRC, NSW
03.09.13	NSW Family Services: organisation to support non-government organisations in NSW that are providing services to families	AHRC, NSW
03.09.13	Twenty10: organisation to support children and young people of diverse genders, sexes and sexualities, their families and friends	Sydney, NSW

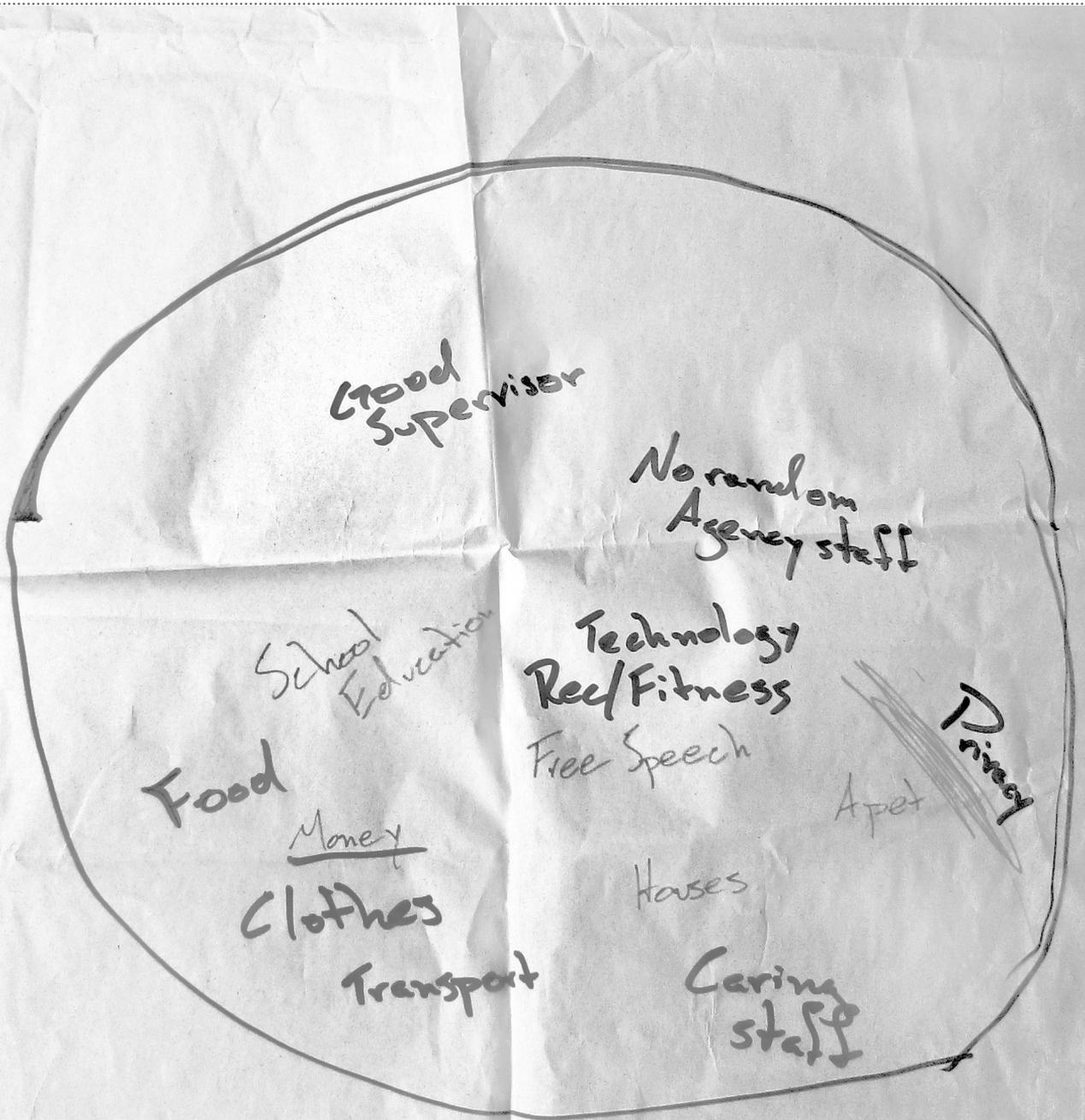
Date	Meeting	Location
04.09.13	Associate Professor Judith Cashmore AO from Sydney University: academic, researcher and children's rights expert	Sydney, NSW
06.09.13	Steve Toms: Cross-Border Commissioner, NSW	AHRC, NSW
09.09.13	NGROO: organisation to support Aboriginal and Torres Strait Islander children to participate in early childhood education	AHRC, NSW
10.09.13	Australian Council of Social Service: national peak body representing the community services and welfare sector	AHRC, NSW
10.09.13	Wellbeing Australia: organisation to develop inclusive school communities which foster the wellbeing of students, teachers and families	Sydney, NSW
18.09.13	Youthlaw and Frontyard Youth Services – community legal centre and service provider for children and young people under 25 years of age	Melbourne, VIC
23.09.13	JK Diversity Consulting: organisation working with culturally and linguistically diverse communities	AHRC, NSW
25.09.13	Professor Donna Cross: academic, researcher and child and adolescent health expert	AHRC, NSW
25.09.13	Goodstart Early Learning: 15,000 Goodstart staff work with 61,000 families and the 73,000 children that attend their 655 centres nationwide	AHRC, NSW
26.09.13	Australian Child Rights Taskforce: national peak body representing organisations which advocate for the protection of children in Australia	Sydney, NSW
27.09.13	Tribal Warrior Indigenous Mentoring Program: organisation to reduce recidivism rates among young offenders	Redfern, NSW

Appendix 4: Speeches and presentations

Date	Event	Location
11.04.13	Presentation at Child Aware Approaches conference	Melbourne, VIC
15.04.13 16.04.13	Len Tierney lecture and dinner Presentation at Leverhulme International Network Colloquium	Melbourne, VIC
24.04.13	Presentation at Regional Conference for the Albury/Wodonga Family Law Pathways Network	Albury Wodonga, NSW
29.04.13	Children and Family Roundtable meeting	Melbourne, VIC
10.05.13	Presentation at Australian Youth Forum Steering Committee Meeting	Sydney, NSW
17.05.13	Biennial Network Conference – Enriching Childhood	Manly, NSW
31.05.13	Presentation at Responding To Historical Child Sexual Abuse: A Multi-Disciplinary Forum – Prevention and ‘Working with Children’ checks (University of Sydney)	Sydney, NSW
04.06.13	SNAICC Conference – Opening Plenary Session. Officially launched the <i>Big Banter</i> .	Cairns, QLD
05.06.13	SNAICC Conference – Supporting Aboriginal Children from the Children’s Commissioner Role. Yarning session with other State and Territory Commissioners	
12.06.13	<i>RightsTalk</i> with Marta Maurás Perez	AHRC, NSW
12.06.13	<i>Racism. It Stops With Me!</i> launch	Macquarie Fields, NSW
14.06.13	SNAICC	Melbourne, VIC
17.06.13	National Elder Abuse Conference (substituting for Age Discrimination Commissioner The Hon Susan Ryan AO)	Adelaide, SA

Date	Event	Location
19.06.13	Attorney-General's Annual NGO Forum	Canberra, ACT
16.07.13	MYAN National Forum on Children and Young People from Refugee Backgrounds	Sydney, NSW
17.07.13	Access to Justice Roundtable: Juvenile Justice with Disability Discrimination Commissioner Graeme Innes AM	AHRC, NSW
18.07.13 19.07.13	Bullying, Young People and the Law Symposium	Melbourne, VIC
26.07.13	Families Australia Annual Coalition meeting	Melbourne, VIC
26.07.13	Annual Conference of the Castan Centre for Human Rights Law	Melbourne, VIC
02.08.13	2013 Cybersafety Summit	Melbourne, VIC
20.08.13	Launch of <i>BackMeUp</i>	Leichhardt, NSW
04.09.13	National Association for Prevention of Child Abuse and Neglect Play Your Part Awards NSW	Sydney, NSW
13.09.13	Australian Children's Education & Care Quality Authority Conference	Sydney, NSW
16.09.13	Australian Social Policy Conference	Randwick, NSW
18.09.13	Jesuit Social Services' National Justice Symposium	Melbourne, VIC
26.09.13	Australian Child Rights Taskforce	Sydney, NSW

The voices of some Victorian children in out-of-home care



- Further Information

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