

Universal Periodic Review of Australia – Joint NGO Coalition

Fact Sheet 5

Children's rights

National policy framework for children

Suggested Question

What framework do Australian governments use for developing policy around children in Australia?

Background

Despite Australia's ratification of the UN Convention on the Rights of the Child (CRC) in 1990, Australia does not have a comprehensive national policy framework for children. There has been a lack of integration of children's rights into Australian law, and no appropriate and effective mechanism exists to ensure the "coherence and compliance of all jurisdictions"¹ in Australia for the protection of children's rights.

In 2005, the UN Committee on the Rights of the Child noted that "there is no comprehensive policy at national level for children specifically addressing human rights issues that may impact on them,"² and also noted the need for more effective monitoring.³ Without a human rights framework for children, Australia fails to effectively set benchmarks or measure progress – particularly to improve the circumstances of Aboriginal and Torres Strait Islander children – and disadvantage and abuse is not consistently monitored or addressed. For example, Aboriginal and Torres Strait Islander children continue to experience high levels of abuse, neglect and exploitation.⁴ In many areas, Australia still lacks

¹ Committee On Economic, Social And Cultural Rights, Forty-Second Session, Geneva, 22 May 2009, Concluding Observations, Australia E/C.12/Aus/Co/4.

² CRC/C/15/Add.268, Concluding Observations, Australia, 40th Session, Paragraph 11.

³ CRC/C/15/Add.268, Concluding Observations, Australia, 40th Session, Paragraph 16.

⁴ Dr Lesley Chenoweth, *Children with Disabilities: What evidence do we have for better practice?*, September 2002, http://www.acwa.asn.au/Conf2002/Conf_proceedings/04%20Lesley%20CHENOWETH.doc. Many children, including those with disability, continue to experience severe disadvantage due to lack of supports and services.

the necessary data regarding the health and wellbeing of Aboriginal and Torres Strait Islander children. This lack of data inhibits progress to be made in overcoming disadvantage.⁵ Only with reliable data against internationally recognised measures, we can accurately direct resources to the areas of the greatest need and ensure that prevention and intervention strategies are implemented and effective.

Proposed Recommendation

That Australia (1) develop a comprehensive national policy framework for the protection and promotion of the rights of children; (2) appoint an independent national Child Commissioner;⁶ and (3) enact stronger legislative protections and enforcement for children.

Aboriginal and Torres Strait Islander children

Suggested Question

What progress has Australia made in addressing the disadvantage suffered by Aboriginal and Torres Strait Islander children that was noted by the UN Committee on the Rights of the Child in its Concluding Observations in October 2005?

Background

There have been some positive developments for Australia's Aboriginal and Torres Strait Islander peoples in recent years, including the Apology to the Stolen Generations, the endorsement of the UN Declaration on the Rights of Indigenous Peoples (DRIP) and the establishment of the National Congress of Australia's First Peoples. The commitment to "Close the Gap" in health

⁵ Australian Research Alliance for Children & Youth, 'The ARACY Report Card on the Wellbeing of Young Australians: Technical Report' (2008), p14.

⁶ The Position's mandate should include monitoring implementation of the CRC and CRPD and be in complement with an increase in supports and services, particularly to children with disability and Aboriginal children.

standards and life expectancy between Aboriginal and Torres Strait Islander peoples and other Australians by 2030 is also welcome. However, despite these developments, Aboriginal and Torres Strait Islander children continue to suffer significant disadvantage in the enjoyment of human rights.

The UN Committee on the Rights of the Child has called on Australia to “take all possible measures to raise the standard of living of Indigenous children and children living in rural and remote areas.”⁷ In March 2010, the UN Special Rapporteur on Indigenous Peoples⁸ (Special Rapporteur) reported the following areas of significant disadvantage faced by Aboriginal and Torres Strait Islander peoples:

- **Health and wellbeing:** The living conditions of many Aboriginal and Torres Strait Islander children increase the risk of lower standards of health and wellbeing⁹. There are still significantly higher infant mortality rates compared with the rest of the population. Efforts at improvement are further impeded by the lack of culturally appropriate health services available for Aboriginal and Torres Strait Islander peoples.
- **Education:** Adequate education is lacking and is hampered not only by the accessibility of services but also by the lack of training and provision of bilingual teachers and culturally adequate education programs in remote areas.
- **Abuse and violence:** Many Aboriginal and Torres Strait Islander children continue to experience high rates of abuse and violence and poor living conditions. The government has yet to adequately support culturally-appropriate child care and child protection strategies.

- **Over-representation in the criminal justice system:** Aboriginal and Torres Strait Islander children continue to be alarmingly over-represented in the justice system, being 28 times more likely to be incarcerated than non-Indigenous children. Access to justice is poor in remote areas and is contributed to by inadequate provision of culturally appropriate justice services.

Proposed Recommendation

That Australia review and implement each of the recommendations made by the UN Committee on the Rights of the Child and the Special Rapporteur in real partnership with Aboriginal and Torres Strait Islander peoples. Consultation must meet the standards contained in the Declaration on the Rights of Indigenous Peoples requiring genuine respect for cultural integrity and self determination.

⁷ CRC/C/15/Add.268, Concluding Observations, Australia, 40th Session, Paragraph 57.

⁸ James Anaya, UN Special Rapporteur Report: ‘The situation of Indigenous Peoples in Australia’ (4 March 2010).

⁹ The Australian Parliament Senate Committee on Regional and Remote Indigenous Communities found in its 2008 Report that children in Indigenous communities still too often lived in poverty, unhygienic conditions, poor quality housing and without access to appropriate food and water.