



# Convention on the Rights of the Child

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Committee on the Rights of the Child

## Consideration of reports submitted by States parties under article 44 of the Convention

Fourth periodic report of States parties due in 2007

**Australia\***

[25 June 2009]

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## Contents

	<i>Paragraphs</i>	<i>Page</i>
Abbreviations.....		4
I. Introduction.....	1–10	5
II. General measures of implementation (arts. 4, 42 and 44, para. 6).....	11–59	6
A. Committee’s previous recommendations.....	11	6
B. Reservations.....	12	6
C. Legislation and implementation.....	13–17	6
D. National Plan of Action.....	18–20	7
E. Coordination.....	21–22	7
F. Independent monitoring.....	23–25	8
G. Resources for children.....	26–44	8
H. Data collection.....	45–53	10
I. Training/dissemination of the Convention.....	54–59	12
III. General principles (arts. 2, 3, 6, and 12).....	60–86	13
A. Non-discrimination.....	60–69	13
B. Best interests of the child.....	70–78	14
C. Respect for the views of the child.....	79–86	15
IV. Civil rights and freedoms (arts. 7, 8, 13–17, 28, para. 2, 37 (a), and 39).....	87–108	16
A. Preservation of identity.....	87–94	16
B. Access to appropriate information.....	95–105	17
C. Corporal punishment.....	106–108	18
V. Family environment and alternative care (arts. 5, 9–11, 18, paras. 1 and 2, 19–21, 25, 27, para. 4, and 39).....	109–152	19
A. Paid maternity leave.....	109–112	19
B. Alternative care for children without parental care.....	113–123	19
C. Children of imprisoned parents.....	124–125	21
D. Violence, abuse, neglect and maltreatment.....	126–152	21
VI. Disability, basic health and welfare (arts. 6, 18, para. 3, 23, 24, 26, 27, paras. 1–3, and 33).....	153–221	25
A. Children with disabilities.....	153–173	25
B. Health and access to healthcare services.....	174–194	27
C. Adolescent mental health.....	195–203	30
D. HIV/AIDS.....	204–215	31
E. Standard of living.....	216–221	33
VII. Education, leisure and cultural activities (arts. 28, 29, 30, and 31).....	222–245	34

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VIII.	Special protection measures (arts. 22, 30, 32–36, 37 (b)–(d), 38, 39, and 40).....	246–317	37
A.	Children in immigration detention.....	246–249	37
B.	Homeless children .....	250–261	37
C.	Sexual exploitation and trafficking.....	262–266	39
D.	Substance abuse.....	267–276	39
E.	Administration of juvenile justice .....	277–304	41
F.	Children belonging to indigenous groups.....	305–317	45
IX.	Optional Protocols to the Convention on the Rights of the Child.....	318–319	46
X.	Follow-up and dissemination .....	320–323	47
XI.	New developments.....	324–340	47

## Abbreviations

ABS	Australian Bureau of Statistics
ACT	Australian Capital Territory
ACMA	Australian Communications and Media Authority
ACCAP	Australian Council for Children and Parenting
AHRC	Australian Human Rights Commission
AIDS	Acquired Immune Deficiency Syndrome
AIHW	Australian Institute of Health and Welfare
Cth.	Commonwealth of Australia
COAG	Council of Australian Governments
DIAC	Department of Immigration and Citizenship
DD Act	Disability Discrimination Act 1992
HIV	Human Immunodeficiency Virus
ISP	Internet Service Provider
NSW	New South Wales
NGO	Non-Government Organization
NT	Northern Territory
Qld.	Queensland
SA	South Australia
SAAP	Supported Accommodation Assistance Program
Tas.	Tasmania
UN	United Nations
Vic.	Victoria
VTE	Vocational and Technical Education
WA	Western Australia

## I. Introduction

1. The Australian Government is pleased to present to the Committee on the Rights of the Child Australia's fourth report under the Convention on the Rights of the Child.

2. When read together with Australia's common core document, which was submitted to the Office of the High Commissioner for Human Rights on 25 July 2007, this report demonstrates Australia's commitment to furthering the rights of children. The Government devotes significant resources to ensuring Australian children are able to reach their full potential and can access the rights in the Convention. The statistics in the annexes to the core document demonstrate the outcome of these efforts and the important position children enjoy in Australian society. This report shows that the Australian, State and Territory governments have continued to seek opportunities to improve the implementation of the Convention in Australia.

### Preparation and structure of report

3. Australia ratified the Convention on 17 December 1990. Australia last appeared before the Committee on 13 September 2005, after having submitted a comprehensive written response to a list of issues of the Committee. The Committee gave its concluding observations on Australia's combined second and third reports on 30 September 2005.

4. On 24 November 2007, there was a federal election in Australia, and the present report reflects several changes in policy instituted under the newly-elected Labor Government.

5. This report has been prepared in accordance with the Committee's General guidelines regarding the form and content of periodic reports and the Harmonized Guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific targeted documents.<sup>1</sup> Accordingly this report is a supplement to Australia's common core document of 2007 and should be read in conjunction therewith – particularly the statistical data contained in Annex 1.

6. This supplementary report includes information on the specific steps taken to address issues raised by the Committee in its concluding observations on Australia's combined second and third report, and explains major developments in Australia's programs, policies and laws related to the rights of the child since that time.

7. The reporting period for this report is September 2005 to September 2008.

### Consultation with State and Territory governments

8. Australia's federal structure is outlined in paragraph 16 of the core document. As the State and Territory Governments are responsible for many of the government activities that give effect to the Convention, the Australian Government has consulted extensively with the State and Territory governments in preparing this report.

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<sup>1</sup> Committee on the Rights of the Child, General guidelines regarding the form and content of periodic reports (CRC/C/58/Rev.1) of 29 November 2005; Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific targeted documents (HRI/MC/2006/3) of 10 May 2006.

**Consultation with non-government organizations**

9. The role played by NGOs in Australia is described in paragraph 81 of the core document. The Government sought the views of NGOs in drafting the report.

10. The Government also included, where appropriate, the views of the Human Rights and Equal Opportunity Commission (now known as the Australian Human Rights Commission (AHRC)) in this report. The role of the Commission is described in paragraphs 69 to 75 of the core document.

**II. General measures of implementation (arts. 4, 42 and 44, para. 6)****A. Committee's previous recommendations<sup>2</sup>**

11. The Australian Government welcomed the constructive dialogue between the Committee and the delegation at its appearance before the Committee in September 2005. This section of the report deals with Australia's implementation of and response to the Committee's concluding observations, demonstrating that Australia has provided concrete and effective follow-up to the Committee's recommendations. The issues of special concern to the Committee are addressed fully below, in addition to the other recommendations of the Committee.

**B. Reservations<sup>3</sup>**

12. The Australian Government is considering the feasibility of withdrawing its reservation to article 37 (c) of the Convention. As detention of young people is primarily a matter for the States and Territories, considerable consultation with those governments is necessary before a decision to withdraw the reservation can be made.

**C. Legislation and implementation<sup>4</sup>**

13. The general approach taken in Australia to human rights and other treaties is to ensure that domestic legislation, policies and practice comply with the Convention prior to its ratification. Australia was satisfied that its legislation complied with and gave effect to the Convention before it signed and ratified it.

14. The Government is undertaking an Australia-wide consultation to determine how best to recognise and protect human rights and responsibilities in Australia. The Government aims to encourage the broadest possible participation by the Australian public in this issue of national importance.

15. Victoria and the Australian Capital Territory have already enacted specific human rights legislation that accords with the principles and provisions of the Convention.

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<sup>2</sup> See CRC/C/15/Add.268 of 20 October 2005 (hereafter "Concluding Observations"), paragraphs 5–6.

<sup>3</sup> Concluding Observations, paragraphs 7–8.

<sup>4</sup> Concluding Observations, paragraphs 9–10.

**Victoria**

16. The Victorian Charter of Human Rights and Responsibilities Act 2006, which took effect on 1 January 2007, is derived from the International Covenant on Civil and Political Rights (ICCPR).

**Australian Capital Territory**

17. The Human Rights Act 2004, which incorporates provisions of the ICCPR into ACT law, was adopted by the Legislative Assembly of the ACT in 2004.

**D. National Plan of Action<sup>5</sup>****Progress on the National Agenda for early childhood (National Agenda)**

18. In December 2005, the Australian Government endorsed the National Agenda.

19. There are four key action areas within the National Agenda: healthy families with young children, early learning and care, supporting families and parenting, and child-friendly communities.

20. The initiative recognises that giving children the best possible start in life through early childhood development programs is an integral part of achieving these goals. All State and Territory governments have developed whole-of-government Action Plans in each of the three focus areas, including early childhood education and care, to articulate their commitment to the Human Capital reform directions. These were tabled by the Premiers and Chief Ministers at the Council of Australian Governments (COAG) meeting held on 13 April 2007.

**E. Coordination<sup>6</sup>**

21. Following the change of Government in November 2007, children's issues remain the responsibility of the Minister for Families, Housing, Community Services and Indigenous Affairs, while the newly-established portfolio of the Minister for Youth now has primary responsibility for youth issues, early childhood education and child care. The Government has also created two new Parliamentary Secretary positions, for Disabilities and Children's Services and for Early Childhood Education and Child Care.

22. In addition, an Office of Early Childhood Education and Child Care has been established within the Department of Education, Employment and Workplace Relations, and an Office of Work and Family has been established within the Department of the Prime Minister and Cabinet. The former office is responsible for delivering the Government's key commitments on early childhood education and child care, as well as guiding major national policy reform, and the latter is intended to play a key role in ensuring policies that impact on work and families are central to policy decisions and are considered in a coordinated way across government.

<sup>5</sup> Concluding Observations, paragraphs 11–12.

<sup>6</sup> Concluding Observations, paragraphs 13–14.

## **F. Independent monitoring<sup>7</sup>**

23. As explained in the core document, paragraphs 69 to 73, at the national level the AHRC is directly responsible for children's issues through the Human Rights Commissioner. The Commissioner conducts inquiries into children's issues, makes submissions to other inquiries and undertakes projects involving children's rights, such as youth dialogues and education projects.

24. The AHRC plays a valuable role in educating children and young people about human rights. For example, throughout 2005, the Commissioner conducted the Young People and Human Rights Dialogue, resulting in the Rights of Passage report, which examined what Australian young people think about human rights and other topical issues. The AHRC has also developed and maintained a number of education modules specifically for use in upper primary and secondary schools.<sup>8</sup>

25. There are independent children's commissioners or guardians in every State and Territory. Their functions include monitoring and advocating (both publicly and to Government) for the needs of children – in particular vulnerable or at-risk groups, including Aboriginal and Torres Strait Islander children.

## **G. Resources for children<sup>9</sup>**

26. The Australian Government continues to increase its budget for children in particularly vulnerable situations – in particular for Indigenous children. The budget for the Families, Housing, Community Services and Indigenous Affairs portfolio provides for a number of services for young people, such as Reconnect, which provides early intervention support for young people aged between 12 and 18 years who are homeless, or at risk of homelessness, with services including counselling, group work, family mediation and practical support to both the young person and their family; and the Newly Arrived Youth Support Services which provides a multifunctional service to newly arrived young people aged 12 to 21 years from culturally and linguistically diverse backgrounds who are homeless or at risk of homelessness and their families.

### **Young people in transition**

27. Youth projects that have received funding include the Mentor Marketplace Program, which received a \$12 million commitment, and the Transition to Independent Living Allowance, which received \$10.6 million. Both of these assist young people in the transition to adulthood.

### **Families**

28. In 2006–2007, around \$16.3 billion was spent on the Family Tax Benefit to assist 2.2 million families with 4.3 million children. Around 80 per cent of Australian families with dependent children under the age of 16 years received the Family Tax Benefit, with each eligible family now receiving on average \$8,300 per year (including supplements).

29. To promote choices for parents with children the 2007–2008 Budget increased child care expenditure to around \$11 billion dollars over the next 4 years.

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<sup>7</sup> Concluding Observations, paragraphs 15–16.

<sup>8</sup> See: [http://www.humanrights.gov.au/info\\_for\\_teachers/modules.html](http://www.humanrights.gov.au/info_for_teachers/modules.html).

<sup>9</sup> Concluding Observations, paragraphs 17–18.

**Family breakdown**

30. The Australian Government has made a \$397.2 million commitment recognising the impact of family breakdown on hundreds of thousands of Australian children each year, as well as on the wider community. It is committed to tackling this difficult issue with bold family law reforms and by funding more than a hundred new services to assist families experiencing relationship difficulties. The package includes \$189 million to establish 65 Family Relationship Centres – places where all families can go to get help with their relationship difficulties. The centres will be a visible entry point into the family law system, which will provide some mediation services and refer families to other appropriate services.

**Indigenous children**

31. The Australian Government 2007–2008 Budget provided an investment in Indigenous affairs of \$3.5 billion for the year 2007–2008. The 2007–2008 Budget contains 26 initiatives spread across several portfolios. In addition the Australian Government committed \$1.3 billion over four years as part of an Emergency Response to child abuse in remote Indigenous communities in the NT.

32. The budgetary allocations are aimed at helping to give Indigenous Australians, particularly Indigenous children, the same choices and opportunities in life as other Australians. One of these initiatives will provide home visits by health professionals and support teams for children aged zero to eight in outer regional and remote areas. Nurse-led home visiting programs for mothers and babies are an effective prevention strategy to improve outcomes for vulnerable and disadvantaged children.

33. The 2007–2008 Budget provided \$23.5 million over four years to create 20 Innovative Child Care Service hubs in regional and remote communities with significant Indigenous populations, building on existing services established through previous funding. The hubs will provide child care to 700 children and will also link in with local early childhood services, helping to ensure young Indigenous children receive the best services possible.

**Victoria**

34. In April 2007, the Victorian Government released Victoria's plan to improve outcomes in early childhood, involving additional spending of over \$150 million over four years.

**New South Wales**

35. The NSW Government's Families NSW program is implemented through a range of service models including universal health home visiting, supported playgroups, family workers and schools as community centres. It also provides some targeted funds for population groups at greater risk in the local community. From 2007, focus will be placed on Aboriginal families and young parents for whom evidence and data indicate higher risk factors exist.

36. The NSW Government is expanding the Integrated Perinatal and Infant Care Program to screen all expectant and new mothers for postnatal depression and improve access to relevant treatment programs.

37. The NSW Department of Education and Training has implemented a policy giving priority access to its 100 preschools for children who experience disadvantage and are unable to access other children's services.

**South Australia**

38. The Government is undertaking an inventory of early childhood expenditure and is extending support for children and families in the early years with the planned rollout of sustained family home visiting to approximately 11 per cent of the annual birth cohort across the whole of SA and the development of 20 new Early Childhood Development Centres by 2010.

**Western Australia**

39. The Best Beginnings Program is a preventative home visiting service provided to families whose infants are assessed as being at risk of poor life outcomes.

**Northern Territory**

40. The NT Department of Employment Education and Training has launched the Indigenous Education Strategic Plan 2006–2009. The plan comprises five major outcome areas: valuing school, coming to school, learning and achieving at school, staying at school and choosing opportunities after school.

**Australian Capital Territory**

41. The Government has developed an integrated and coordinated approach to service delivery for at-risk Indigenous children and young people across health, education and family support services.

**Queensland**

42. The Queensland Government is implementing a package of reforms totaling more than \$206.27 million over the period 2006–2011, focusing on better integration of early childhood education and care, health and family support services; enhancing the accessibility and quality of services particularly for children and families experiencing disadvantage.

43. Queensland Health is also progressively rolling out the \$21 million Strategic Policy for Aboriginal and Torres Strait Islander Children and Young People's Health 2005–2010, which focuses on improving Indigenous families' access to maternal, child health, early intervention and prevention programs to reduce the risk of infant mortality and morbidity, and less than optimal birth outcomes.

44. In 2007–2008 the operating budget for the Department of Child Safety was \$544.5 million. This figure has tripled from that allocated in 2003–04 and includes \$150.8 million for children at risk and \$395.7 million for children in care.

**H. Data collection<sup>10</sup>**

45. In December 2006, the ABS produced Improving Statistics on Children and Youth: An Information Development Plan in light of the changing demand for statistics relating to children and youth. The plan is designed to be used as a guide by researchers, to ensure that the information they produce is of greater assistance to governments and practitioners in the field.

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<sup>10</sup> Concluding Observations, paragraphs 19–20.

46. The Australian Government is also improving national reporting on the welfare of children. The Australian Institute of Health and Welfare (AIHW) collects annual statistics on child protection in Australia. The data is provided by the State and Territory community services departments. The data is then used to produce Child Protection Australia<sup>11</sup> and is also provided to the Productivity Commission for the annual Report on Government Services.<sup>12</sup>

47. In May 2005, the Australian Government, under the guidance of the Australian Council for Children and Parenting (ACCAP), funded the AIHW to publish *A Picture of Australia's Children*.<sup>13</sup> The report included data on early learning and education, safety and security, crime, victimisation, and social capital, as well as a chapter on future directions for improving the quality and range of data available.

48. The Australian Government has developed the Australian Early Development Index (AEDI), which is a community-based population measure of young children's development based on a teacher-completed checklist. The AEDI measures five developmental domains: language and cognitive skills, physical health and well-being, communication skills and general knowledge, emotional maturity and social competence. The AEDI results enable communities to understand how children are developing by the time they reach school age and how they can allocate resources to better support the development of young children.

49. The AIHW publishes an annual report detailing activity in relation to child protection, children under care and protection orders and children and young people in Out-of-Home Care. There are processes in place to improve data quality and the comparability across jurisdictions of the child protection data collection.

50. The Australian Government also funds the National Child Protection Clearinghouse to undertake research and disseminate information on child protection issues. Clients of the clearinghouse include policy makers, including State and Territory government departments responsible for family and community services, service providers, professionals in child abuse prevention and researchers.

51. The AIHW has worked with the Australasian Juvenile Justice Administrators to develop nationally consistent data on juvenile justice supervision in the form of the Juvenile Justice national minimum data set. The first report on this data set has recently been released.<sup>14</sup>

52. In 2007 the Australian Institute of Criminology published a report entitled *Juveniles in Detention in Australia 1981–2006*,<sup>15</sup> which provides a comprehensive overview of the situation of juveniles in detention in Australia.

53. Through ACCAP, the Australian Government has funded research to inform the development of strategies designed to enhance the recruitment, retention and support of Indigenous carers and the cultural connections for children in out-of-home care. The study *Enhancing Out-of-Home Care for Aboriginal and Torres Strait Islander Young People* was published in October 2005.<sup>16</sup>

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<sup>11</sup> <<http://www.aihw.gov.au/publications/index.cfm/title/10383>>.

<sup>12</sup> <<http://www.pc.gov.au/gsp/reports/rogs>>.

<sup>13</sup> <http://www.aihw.gov.au/publications/index.cfm/title/10127>.

<sup>14</sup> <http://www.aihw.gov.au/publications/index.cfm/title/10497>.

<sup>15</sup> <http://www.aic.gov.au/publications/tbp/tbp026/tbp026.pdf>.

<sup>16</sup> <http://www.facs.gov.au/Internet/facsInternet.nsf/Family/accap-nav.htm>.

## I. Training/dissemination of the Convention<sup>17</sup>

54. The Australian Government publishes its reports to the Committee and other United Nations (UN) human rights treaty bodies on the website of the Australian Attorney-General's Department,<sup>18</sup> and has disseminated the Committee's concluding observations widely. The Convention is published on the Australian Legal Information Institute Treaty database, which is free to access.<sup>19</sup>

55. The Australian Government is also promoting awareness of the Convention via its contractual arrangements with Early Childhood Australia (ECA), the national peak body for promoting the interests of young children and their families. The funding agreement specifies that ECA must promote the Convention.

56. Since 1995, the Government has also provided funding for solicitors at the National Children's and Youth Law Centre, a community legal centre. Not only does this NGO provide legal advice to young people and take the Convention as its terms of reference, but it also maintains a website called Lawstuff<sup>20</sup> which seeks to educate children and young people about their rights (including Convention rights).

57. The Australian Government promotes human rights education domestically through a number of different channels including:

- The National Agenda for Early Childhood.
- Support for the AHRC's role in human rights education.
- "The Source" website<sup>21</sup> which educates young people about many areas that affect them in life such as youth services, lifestyle, learning, and careers and includes a specific section on rights for young people, such as work rights, consumer rights, voting rights and discrimination. The website specifically refers to and has links to the Convention.

58. Australia has also played a central role in promoting human rights education in the United Nations. This has included co-sponsoring a resolution at the 60th session of the Commission on Human Rights in April 2004 which recommended that the General Assembly proclaim a World Program for Human Rights Education, strongly supporting the resultant proclamation by the General Assembly contained in resolution 59/113A of 10 December 2004 and the introduction of resolution 59/113B of 14 July 2005, which adopted the Plan of Action for the first phase of the World Program (2005–2007). This phase has now been extended for another two years (2008–2009) by the Human Rights Council. The first phase focuses on the primary and secondary school systems.

59. The Department of Education, Employment and Workplace Relations is promoting the general themes of the World Program for Human Rights Education through the Civics and Citizenship, and Values educational programs. The National Civics and Citizenship Education Forum, titled School Education: Civics and Citizenship for the Future, was held in May 2007. It included a showcase of the AHRC's educational resources. The AHRC is working with States and Territories to identify and articulate human rights education in their respective curricula.

<sup>17</sup> Concluding Observations, paragraphs 21–23.

<sup>18</sup> <http://www.ag.gov.au/humanrights>.

<sup>19</sup> <http://www.austlii.edu.au/dfat/>.

<sup>20</sup> <http://www.lawstuff.org.au>.

<sup>21</sup> <http://www.thesource.gov.au>.

### III. General principles (arts. 2, 3, 6 and 12)

#### A. Non-discrimination<sup>22</sup>

##### Statutory remedies

60. The Racial, Sex, Disability and Age Discrimination Acts (outlined in the core document, paragraph 68) protect all Australian children from discrimination on the grounds of race, sex, disability and age, and ensure the principle of non-discrimination is observed in a range of areas of public life.

61. States and Territories also have their own anti-discrimination bodies which protect children against discrimination.

##### Human rights education

62. The Australian Government considers that ongoing education is the most lasting and effective way to promote and protect human rights and prevent discrimination. For example, the AHRC has produced resources such as Voices of Australia which encourages greater understanding between people of different racial backgrounds, cultures and religions through the sharing of the stories of their experiences.

63. During the reporting cycle, the Department of Immigration and Citizenship (DIAC) also undertook initiatives to promote human rights and tolerance, and minimise discriminatory attitudes and stigmatisation.

##### Victoria

64. As part of its statement A Fairer Victoria: Progress and Next Steps, the Victorian Government has funded initiatives that promote multi-faith and multicultural harmony, including a Multi-faith Multicultural Youth Forum held in July 2006, which provided an opportunity to promote ongoing dialogue between young people from a range of cultural and faith backgrounds and strengthen youth participation and leadership.

##### Ethnic and national minorities, especially Muslim Australians

65. With respect to the Committee's specific concern about the impact of the anti-terrorism legislation on children belonging to vulnerable groups, including persons of Middle Eastern origin and Muslims, the then Australian Prime Minister conducted a Summit with Muslim community leaders in August 2005, following which the Government established the Muslim Community Reference Group (MCRG) to provide advice on how Government and the community could work together more effectively to address intolerance and achieve a more inclusive society. Consultations with Muslim communities, including young people, are continuing through various mechanisms.

66. Acknowledging the sensitive and complex issues involving anti-terrorism legislation and some community groups, Australia developed and is implementing a National Action Plan to Build on Social Cohesion, Harmony and Security. In July 2006, the Government announced funding of \$35 million over four years to implement this plan.

67. The AHRC has been funded to develop specialist training, educational materials and forums aimed at bringing law enforcement agencies and Muslim communities together to resolve issues of conflict and discrimination, particularly among young Muslims.

<sup>22</sup> Concluding Observations, paragraphs 24–26.

68. The MCRG's report, *Building on Social Cohesion, Harmony and Security: An Action Plan* by the Muslim Community Reference Group<sup>23</sup>, of September 2006, identified a number of areas in which Government and community should work together to address issues in the future. These identified areas have been a key consideration in the National Action Plan.

#### **Queensland**

69. The Queensland Government's Muslim Community Engagement Strategy provided grants to community organisations during 2006–2008 to implement a range of projects including two Islamic Awareness Weeks and interfaith fora.

### **B. Best interests of the child<sup>24</sup>**

70. As explained in Australia's first report, a determination of the best interests of the child is the key principle in most legislation concerning children in Australian, State and Territory jurisdictions. For example, the Commonwealth Family Law Act 1975, section 60CA, states that the best interests of a child are the paramount consideration in making orders concerning a child. The High Court of Australia has also considered the principle of the best interests of the child in a variety of contexts (see for example *Cattanach v Melchior* [2003] HCA 38 (16 July 2003) (wrongful birth case) or *Secretary, Department of Health and Community services v JWB and SMB (Marion's case)* (1992) 175 CLR 218 (concerning sterilisation)).

71. DIAC is currently undertaking an internal review of arrangements in place for minors. The review encompasses an examination of the legal framework, procedures and policies that govern the reception arrangements, case management and other services provided to children including, but not limited to, unaccompanied minors seeking asylum through Australia's Protection Visa system.

#### **Victoria**

72. The Children, Youth and Families Act 2005 (Vic.) enshrines the principle of acting in the best interests of the child in law. Family Services, Child Protection, Out-of-Home Care Services and the Children's Court are subject to this principle. Consistent with the Convention, any decision or action must "protect the child from harm, protect his or her rights and promote his or her development".

#### **South Australia**

73. The Children's Protection Act 1993 (SA) ensures the well-being and best interests of the child are paramount considerations in exercising power under the Act.

#### **Tasmania**

74. In Tasmania, the Government is currently reviewing its approach to child protection to ensure the best interests of the child are at the forefront of agency activity and decision-making.

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<sup>23</sup> [www.immi.gov.au/living-in-australia/a-diverse-australia/mcrg\\_report.pdf](http://www.immi.gov.au/living-in-australia/a-diverse-australia/mcrg_report.pdf).

<sup>24</sup> Concluding Observations, paragraphs 27–28.

### **Australian Capital Territory**

75. In the ACT, the best interests of the child is the paramount principle for the application of the Children and Young People Act 1999 and this has been further strengthened through amendments passed in 2006. The Act concerns matters of child protection, youth justice, children's services and employment of children and young people. All persons making decisions pursuant to the Act, including Courts, administrators and professionals, must apply this principle.

### **Queensland**

76. The overarching principle of the Queensland Child Protection Act 1999 is that the welfare and best interests of the child are the paramount consideration. All other principles are subject to this position, including the primacy of the family and state responsibility if parents are unable or unwilling to protect children.

77. This principle is supported by a range of resources for children coming into care that outline their rights under the child protection system.

78. The "best interests" principle underpins the Student Protection Policy of Education Queensland and associated procedures implemented in Queensland state schools.

## **C. Respect for the views of the child<sup>25</sup>**

79. The Australian Government has sought to balance the competing considerations of the distress that children can suffer in family law and/or criminal proceedings and the need for a child's wishes to be heard in accordance with article 12 of the Convention. The Government has charged courts with offering as much protection as possible to children whose welfare is under consideration in proceedings, while at the same time providing every opportunity for the wishes of the child to be placed before the court.

80. The Commonwealth Family Law Amendment (Shared Parental Responsibility) Act 2006 replaces all references to a child's "wishes" with a child's "views". For example, section 60CC (3) (a) provides that, in determining what is in a child's best interests, the court must consider, amongst other factors, any "views" expressed by the child and any other factors the court thinks are relevant to the weight it should give to the child's "views". This recognises that a child may not necessarily want to express a "wish" about which of their parents the child will wish to live or spend time with. Rather, any decision should be made in consultation with the child, without the child having to make a decision or express a "wish" as to which parent with whom they want to live or spend time.

81. Under the Shared Parental Responsibility Act, independent children's lawyers act as advocates for the best interests of the child, which permits them to assist the court while simultaneously allowing the child's voice to be heard. The independent children's lawyer must inform the court of the child's views regarding the matters to which the proceedings relate. However, under the Act, a person cannot require a child to express their views in relation to any matter.

### **Victoria**

82. Under the Children, Youth and Families Act 2005, a practitioner acting for a child in the Children's Court is mandated to act in accordance with any instructions given or wishes expressed by their client in so far as is practicable, having regard to the maturity of that

<sup>25</sup> Concluding Observations, paragraphs 29–30.

child. In the Children's Court of Victoria, children are legally represented unless the child has been deemed as unable to provide legal instruction by Legal Aid. The legal representative for the child must act in accordance with any instructions given or wishes expressed by the child so far as is practicable to do so having regard to the maturity of the child.

#### **Australian Capital Territory**

83. In the ACT, the Children and Young People Amendment Act 2006 introduced a new principle which guides the actions of decision-makers regarding consultation with, and participation of, children and young people and people with parental responsibility in decision-making.

#### **Queensland**

84. The Queensland Child Protection Act 1999 enshrines the principle that the child and the child's parents have the opportunity to participate in decision-making about their lives and to have their views heard and considered.

85. The Engaging with Children and Young People Strategy of the Queensland Commission for Children and Young People and Child Guardian demonstrates a commitment to listen and act upon the views of children and young, particularly those who are most vulnerable.

86. The Queensland Government implements a range of initiatives that provide opportunities for young people between the ages of 15 and 25 to participate in government and community decision-making processes, including the Queensland Youth Council, Youth Forums and the YMCA Queensland Youth Parliament. Each of these initiatives seeks to engage with young people from a range of demographic backgrounds, who live in all parts of Queensland.

## **IV. Civil rights and freedoms<sup>26</sup> (arts. 7, 8, 13–17, 28, para. 2, 37 (a) and 39)**

### **A. Preservation of identity**

87. On 13 February 2008 the Australian Parliament adopted a motion apologising for past Government practices of the removal of Aboriginal and Torres Strait Islander children from their families, their communities and their country.

88. The Australian Government's response to the 1997 report, "Bringing Them Home" is detailed in the core document (see paragraphs 369–376).

89. The Australian Government Department of Health and Ageing currently invests over \$26 million annually in recurrent funding to programs established in response to the Bringing Them Home report.

#### **New South Wales**

90. The NSW Interagency Guidelines for Child Protection Intervention 2006 is intended for those working with Aboriginal children and young people, their families and communities, where there are child protection concerns. This content acknowledges the

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<sup>26</sup> Concluding Observations, paragraphs 31–32.

Bringing Them Home report in highlighting the ongoing impact of forcible removal policies on Aboriginal children and their communities.

### **South Australia**

91. The SA Government has implemented services and arrangements to ensure that Indigenous people have proper access to the Government's records in relation to personal information. A cooperative arrangement has been established between the Government and the Indigenous service delivery agency, SA Link Up, to assist Indigenous people to have seamless access to information stored by the Government about their contact with Government agencies, including access to information about family members for the purposes of reunification.

### **Tasmania**

92. A unit has been established which assists claimants to manage claims including the provision of guided access to personal files, in order to assist with healing as well as to assist family reunion.

### **Northern Territory**

93. The principles underpinning the Youth Justice Act 2005 (NT) support children who come into contact with the justice system, maintaining their culture and family relationships.

### **Queensland**

94. The Child Protection Act 1999 (Qld.) stipulates that the Department of Child Safety has an obligation to provide the opportunity for ongoing contact between an Aboriginal and/or Torres Strait Islander child and their family or community, and must ensure that the carer is committed to supporting the child to maintain their cultural identity, and connection with their community and culture. Case management procedures for Aboriginal and Torres Strait Islander children ensure that case plans include a cultural support plan.

## **B. Access to appropriate information<sup>27</sup>**

95. The offences which have been enacted to punish and prevent the sexual exploitation of children are outlined in the core document (paragraphs 390–393).

### **Awareness-raising**

96. The Australian Government committed over \$30 million in 2005 to establish a national centre for major international and national referrals of child sex abuse material and images. The centre is operated by the Australian Federal Police in order to target, infiltrate and shut down organised online paedophile networks. This activity builds on laws passed by the Australian Parliament in March 2005 to crack down on online content offences.

97. In 2006, the Australian Government put in place a number of measures to protect Australian families from online dangers including a national filter scheme to provide free PC-based filters to Australian families and public libraries and a community information campaign to provide parents with Internet safety advice. Measures in relation to the

<sup>27</sup> Concluding Observations, paragraphs 33–34.

provision by all Internet service providers (ISPs) of a filtered Internet service are being informed by a joint government/industry feasibility study and a trial of ISP filtering.

#### **Regulation of content delivered to convergent mobile communications devices**

98. Australian legislation protects consumers from inappropriate or harmful material communicated through television, the Internet and emerging content services such as 3G mobile phones and subscription-based Internet portals.

99. Illegal and offensive online content is regulated within the Online Content Scheme, which includes a complaints-based mechanism, administered by the Australian Communication and Media Authority (ACMA).

100. Where content is hosted in Australia and is found by ACMA to be prohibited, ACMA has the authority to direct the Internet content host to remove the content from their service. Where content is not hosted in Australia and is prohibited, ACMA will notify the content to the suppliers of approved filters, so that access to the content using such filters is blocked.

101. In addition, regardless of where the content is hosted, if ACMA considers the content to be of a sufficiently serious nature to warrant referral to a law enforcement agency it must notify an Australian police force.

102. New legislation commenced in January 2008 to also protect consumers from inappropriate or harmful material on emerging content services such as 3G mobile phones and subscription-based Internet portals.

103. In addition to the requirements of the current Online Content Scheme this will include age-restricted access to MA15+ content where it is provided on a commercial basis. These prohibitions will be backed by strong sanctions for non-compliance with the new regulatory framework, including criminal penalties for serious offences.

#### **New South Wales**

104. The NSW Police Force has designated Youth Liaison Officers to respond to crimes and provide information to children and parents on a range of offences from mobile phone bullying to Internet pornography.

105. The specially trained NSW Police Force Child Protection and Sex Crimes Squad has delivered training packages on Internet safety aimed at school children, parents, school principals and professionals working with children, with a view to the prevention of online child sexual exploitation. The NSW Police Force has also used the Internet and magazines aimed at children and young people to further disseminate Internet safety messages.

### **C. Corporal punishment<sup>28</sup>**

106. The Australian Government does not endorse corporal punishment as an approach to developing values and respect in students. Further, it is a legislated requirement that the National Safe Schools Framework now be implemented in every Australian school. The Framework consists of a set of nationally agreed principles for a safe and supportive school environment. It includes appropriate responses which schools can adopt to address issues of bullying, violence, harassment, and child abuse and neglect. In implementing the Framework, the Australian Government has encouraged all schools to undertake audits or

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<sup>28</sup> Concluding Observations, paragraphs 35–36.

surveys of their school populations, to learn more about violent behaviours in individual institutions.

### **Tasmania**

The Tasmanian Parliament legislated in 1997 to prohibit corporal punishment in detention centres and in all public and private schools in 1999. The Tasmanian Government has implemented policy to prohibit the practice in all forms of child care and out-of-home care.

### **Victoria**

107. The Education and Training Reform Act 2006 (Vic.) bans corporal punishment in all schools, both government and non-government.

### **Queensland**

108. The Queensland Child Protection Act 1999 Statement of Standards explicitly forbids corporal punishment of children. Alleged corporal punishment of children in the out-of-home care system is addressed via “Matter of Concern” investigation and assessments, and a child may be removed from a carer or entity if corporal punishment is substantiated.

## **V. Family environment and alternative care (arts. 5, 9–11, 18 (paras. 1 and 2), 19–21, 25, 27 (para. 4) and 39)**

### **A. Paid maternity leave<sup>29</sup>**

109. The Government asked the Australian Productivity Commission to conduct an examination into models to improve support for parents in the labour force with newborn children.

110. The Inquiry examined the economic, productivity and social costs and benefits of paid maternity, paternity and parental leave for parents, employers and the community.

111. The Productivity Commission was also asked to identify models that could be used in the Australian context, and assess those models against the financial and regulatory cost and benefits on small and medium sized business, employment and workforce participation, and the development of young children.

112. The Government’s response to the Productivity Commission’s final report is outlined in the Addendum to this report.

### **B. Alternative care for children without parental care<sup>30</sup>**

113. Child protection, including for children in alternative care, is the statutory responsibility of State and Territory governments.

114. The Australian Government makes a substantial contribution to the well-being of all children and young people in foster and grandparent/relative care, mainly through the provision of family payments for eligible carers, including access for all children in foster

<sup>29</sup> Concluding Observations on initial report (1998), paragraph 17.

<sup>30</sup> Concluding Observations, paragraphs 37–39.

or grandparent/relative care to a non-means-tested Foster Child Health Care Card. This card provides access to subsidised medications and bulk-billing for medical consultations, and may entitle cardholders to concessions on State and Territory government dental, hearing, optical, ambulance and other services.

### **South Australia**

115. The SA Government has introduced Rapid Response: Whole-of-Government Services for Children and Young People under the Guardianship of the Minister, a framework and action plan developed to facilitate the implementation of priority access to Government services by children under guardianship.

### **Victoria**

116. The Every Child Every Chance reforms of the Victorian Government place high priority on children's stability. The Children, Youth and Families Act 2005 (Vic.) supports earlier intervention and prevention, establishing new intake arrangements to make it easier for professionals and families to make referrals to Family Services.

117. The Department of Human Services works in partnership with Aboriginal-controlled organisations to implement culturally sensitive programs and services to reduce the number of Indigenous children being placed in out-of-home care.

### **New South Wales**

118. The NSW Government has recently introduced an Aboriginal Intensive Family-Based Service. This provides an intensive, time-limited, home-based program for Aboriginal families (including extended family) whose children are at risk of entering out-of-home care due to protective concerns, or whose children are in out-of-home care and a restoration plan is in place. The service aims to reduce the number of Aboriginal children being placed in out-of-home care and to reunite Aboriginal children with their families.

119. The NSW Government's Brighter Futures program is a targeted program for vulnerable families with children between 0 and 8 years of age (with priority given to families with children under 3 years old). Brighter Futures aims to promote healthy development in children, promote strong, functional and well-supported families, and reduce and prevent child abuse and neglect in participating families. In doing so, the program helps reduce the likelihood that children will need to be placed in out-of-home care.

### **Western Australia**

120. The WA Government is giving additional support to foster carers through greatly increased fortnightly allowances, respite care, and additional training, particularly for Indigenous carers. New group homes will be established across the State as part of sweeping reforms to the residential care system.

### **Queensland**

121. In Queensland, all foster and kinship carers and adult household members residing in, or regularly visiting, the carer's house are required to have criminal history and child protection history checks.

122. The Indigenous Child Placement Principle in the Child Protection Act 1999 (Qld.) legislates for a hierarchy of preferred placement options if the Department of Child Safety must remove an Aboriginal or Torres Strait Islander child from the care of his/her parents. The Department must give proper consideration to placing the child, in order of priority,

with a member of his/her family, a member of the community or language group, or an Aboriginal person or Torres Strait Islander who is compatible with the child's community or language group, wherever possible, and must seek the participation of the recognised representative for the child in decision-making.

123. The Queensland Commission for Children and Young People and Child Guardian has a mandated responsibility to visit all children and young people in out-of-home care regularly. In 2007–2008, Community Visitors regularly visited over 6,200 children and young people in foster homes and other kinds of alternative care, including residential facilities, youth detention centres, and authorised mental health facilities across Queensland.

### **C. Children of imprisoned parents<sup>31</sup>**

124. Under the Australian Government's parenting program funded under the National Crime Prevention Program, children of prisoners across Australia can develop a more meaningful relationship with their imprisoned parent. The national program assists children and families of prisoners by, for instance, conducting early childhood development training programs for parents in prison and providing transport for children who want to visit their parents in prison. Program coordinators help families open communication lines and provide support, advice and advocacy so that children of incarcerated parents can establish positive relationships with their parents.

125. The program, as well as additional measures, is currently under way in all six States and in the NT (and will be underway in the ACT when its new prison becomes operational).

### **D. Violence, abuse, neglect and maltreatment<sup>32</sup>**

126. The Australian Government remains concerned about child abuse, which affects children's physical and mental health as well as their educational and employment opportunities. In August 2006, the NT Government established an independent Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse. The board released its final report in May 2007. Following this, on 21 June 2007, the Australian Government announced an Emergency Response to child abuse in remote Indigenous communities in the NT. The response contains broad-ranging measures to immediately stabilise communities and protect children in the short term, and additional measures to improve communities over the medium and long term.

127. In addition to the Emergency Response, the Australian Government funds a range of programs and measures that directly or indirectly assist in the prevention of child abuse.

128. The Australian, State and Territory governments are working together to develop a national child protection framework.

129. Work has also been undertaken by the Australian, State and Territory governments to develop a National Framework for Creating Safe Environments for Children – Organisations, Employees and Volunteers. The aim of the Framework is to develop more consistent policies and processes nationally that increase the safety of children in their dealings with community service organisations.

<sup>31</sup> Concluding Observations, paragraphs 40–41.

<sup>32</sup> Concluding Observations, paragraphs 42–44.

130. In May 2008, the Australian Government released a discussion paper Australia's Children: Safe and Well for consultation on the proposed national framework for protecting Australia's children. It is intended that the National Child Protection Framework will be developed by the end of 2008. Action agreed in the framework will then be progressed by governments and the community sector.

131. At the July 2008 meeting, COAG agreed that governments would continue to work together to enhance coordination at the local level to improve prevention and early intervention for families and children at risk. Two cross-jurisdictional working groups have been formed to focus on information sharing and development of the framework.

#### **National Council to reduce violence against women and children**

132. On 26 May 2008, the Government announced the formation of an 11-member National Council charged with the responsibility for providing expert advice to the Government on measures to reduce the incidence and impact of domestic and family violence and sexual assault on women and their children.

133. In addition, the Government has made a number of other commitments, including:

- Engaging with Australia's youth, particularly teenage boys, to promote attitudes and behaviours that enable them to maintain respectful relationships
- Providing funding to the Australian Government Solicitor to audit domestic violence laws and identify best practice opportunities for consideration by Attorneys-General in all jurisdictions
- Investing in research focussed on domestic violence related homicides through the National Homicide Monitoring Program, to inform interventions that will protect women and their children from violence

134. The National Plan will complement other important work being progressed by the Government, including the development of the National Framework for Protecting Australia's Children, the evaluation of the Northern Territory Emergency Response (see paragraph 333) and the work of the Social Inclusion Board.

#### **Australian Capital Territory**

135. The ACT has enacted the Crimes (Sex Offenders Registration) Act 2005, requiring offenders who commit sexual offences against children to keep the police informed of their whereabouts and other personal details for a period of time.

#### **Western Australia**

136. The WA Government has recently carried out a review of the Department for Community Development, following which the Department for Child Protection and the Department for Communities were created. This review was carried out due to community and Government concern about child-protection services in WA. The WA Government is currently drafting legislation for the mandatory reporting by doctors, police, teachers and nurses of child sexual abuse. It is believed this approach will better equip the State to deal appropriately with the sexual abuse of children.

137. The Working with Children (Criminal Record Checking) Act 2004 (WA) took effect in 2006 and requires the checking of all employees and volunteers coming into close or regular contact with children, across private, not-for-profit, religious, Government and voluntary sector organisations.

### **Northern Territory**

138. Commitments under the NT Government's Domestic and Family Violence Strategies, launched in 2002, have continued into 2007. The strategies involve cooperative work with the Australian Government to co-fund and trial innovative approaches and programs, as well as Indigenous Family Violence Partnership Programs funded and managed independently by the NT Government to address family violence in remote communities. The NT Government also recently launched a priority radio and television media campaign, titled Stop the Violence, throughout the NT, featuring high profile Indigenous sports stars promoting the message that violence against women and children is unacceptable and will not be tolerated.

139. As part of the Emergency Response to child abuse in remote Indigenous communities in the NT (see paragraphs 326–333), the Australian Government has committed \$1.3 billion over four years to:

- Improve law and order by providing additional police and restricting the availability of alcohol and pornography
- Provide health checks for Indigenous children and additional doctors, nurses, allied health professionals and specialist services
- Improve governance arrangements for Government business
- Introduce income management of welfare payments to ensure that the needs of children are met
- Enforce compulsory attendance at school, provide funding for additional teachers and classrooms, and improve childhood nutrition by the provision of meals at school
- Improve housing and community living arrangements
- Establish up to 15 new or expanded safe houses
- Increase the capacity of the Northern Territory Government child protection workforce and recruit Aboriginal Family and Community Workers and Coordinators
- Create jobs in Australian Government service delivery, and provide matching funds to create jobs in NT Government service delivery

### **New South Wales**

140. NSW Health is implementing its Child Protection Service Plan 2004–2007 to improve coordination of responses for child protection by the range of health programs when there is evidence of child abuse or neglect. Child Protection Units provide 24-hour crisis medical and counselling intervention to children and families in cases of physical abuse and neglect. NSW Health specialist Sexual Assault Services offer 24-hour crisis counselling, medical treatment and forensic assessment, information regarding reports to police, court processes, victims' compensation and other issues of concern to the victim.

141. An Aboriginal Child Sexual Assault Taskforce was established in 2005. In response to the Taskforce report in 2006, the Government released an Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities in January 2007. The plan recognises that child sexual assault is complex, and requires a multi-faceted approach. It contains 88 actions encompassing four strategic areas: law enforcement, child protection, early intervention and prevention, and community leadership and support. It includes measures for increasing the reporting of assaults, boosting surveillance and evidence sharing in relation to child sexual assault, and support for victims and their families.

**Family law reforms**

142. In its family law reforms, the Australian Government has sought to address concerns raised about the risks of violence and abuse.

143. In the new section 60CC of the Commonwealth Family Law Act 1975, the need to protect children from the risk of violence or abuse has been elevated to the status of primary factor to be considered by the court. The new objective is to make it clear that children need to be protected not only from direct violence, but also from the harm that comes from being exposed to family violence against others.

144. While the Family Law Amendment (Shared Parental Responsibility) Act 2006 introduces compulsory participation in family dispute resolution as a prerequisite for an application for parenting orders, this requirement will not apply if there is a risk of child abuse or family violence and in other relevant circumstances. In addition, the presumption of equal shared parental responsibility will not apply in cases involving violence or abuse.

145. Screening for violence and child abuse will be a very important role of the Family Relationship Centres. The Centres will be a first port of call when families need help to make their relationships stronger or when relationships end. The Centres will also be able to provide information and advice on options and support services. There is also \$7 million of funding to increase Specialised Family Violence Services and 30 new Children Contact services to provide a safe environment for children and parents during contact.

146. The Centres will be required to have screening and assessment processes in place that are underpinned by a focus on safety.

147. In addition, the Government's Family Law Violence Strategy released in 2006 aims to improve the handling of family violence and child abuse allegations in the family law system.

**Indigenous children**

148. On 26 June 2006, the Australian Government convened an Intergovernmental Summit on Violence and Child Abuse in Indigenous Communities, involving Ministers from the Australian Government and all States and Territories, which agreed that the levels of violence and child abuse in Indigenous communities warranted a comprehensive national response.

149. All governments agreed that Indigenous customary law in no way justifies, authorises or requires violence or sexual abuse against children, and have started developing strategies to address the underlying causes of violence against children and to implement methods to protect vulnerable children.

150. The Australian Government's Family Violence Prevention Legal Services (FVPLS) assist Indigenous adults and children who are victims or survivors of family violence, including sexual assault/abuse, or who are at immediate risk of such violence.

151. In addition, the Australian Government's Early Intervention and Prevention Program (EIPP) seeks to prevent family violence and sexual assault/abuse from occurring. The EIPP is aimed at changing the behaviours and attitudes of individuals, to empower them and the community to stop family violence. Individual EIPPs must intervene in the family violence continuum by targeting specific Indigenous groups, such as teenage boys or young mothers, or a particular aspect of family violence, such as alcohol abuse that leads to family violence. This may be achieved by delivering proven prevention projects in new areas or developing new approaches that focus on achieving measurable outcomes.

### **Children of same-sex couples**

152. The Government has introduced legislation to provide equal entitlements under Commonwealth laws for same-sex couples and their children. The amendments made by this legislation will ensure that children of same-sex couples are not disadvantaged solely because of their family structure, and will reform laws relating to superannuation, social security, employment, taxation, market regulation, migration and other matters. It will also mean that legislative provisions which extend rights and duties to children and relatives will extend to children of same-sex relationships.

## **VI. Disability, basic health and welfare (arts. 6, 18, para. 3, 23, 24, 26, 27, paras. 1–3, and 33)**

### **A. Children with disabilities<sup>33</sup>**

#### **Disability standards**

153. The Australian and State and Territory Governments are required to collect program, service and consumer data as part of the Commonwealth State Territory Disability Agreement (CSTDA). The collation of nationally comparable data on government funded services provides reliable, consistent data to assist with planning and evaluating national programs. The data obtained through this collection provide a comprehensive national picture of government funded services for people with disabilities, including children, under the CSTDA.

154. The Disability Discrimination Act (DD Act) permits disability standards to be set by the Attorney-General in specified areas, including education.

155. The Disability Standards for Education (Education Standards) were formulated by the Australian Attorney-General under the DD Act and came into effect on 18 August 2005. The Education Standards clarify and elaborate the existing obligations of education providers under the DD Act in five key areas: enrolment; participation; curriculum development, accreditation and delivery; student support services and elimination of harassment and victimisation. The Education Standards set out a process to ensure students with disabilities have equal access to education and training opportunities.

#### **Sterilisation**

156. Medical procedures, other than urgent treatment, currently require the full and informed consent of the child concerned or the authorisation of a court or tribunal. Sterilisation of children is an exception. Parents or guardians cannot consent to it unless it is a by-product of surgery appropriately carried out to treat some malfunction or disease.

157. Stringent guidelines apply to court or tribunal decisions. In NSW, for example, consent must be obtained from an independent expert tribunal. The child is entitled to separate legal representation, so their interests and views are considered. This representation is provided by legal aid at no cost to the child. Under NSW law, sterilisation can only be considered when all other alternatives have proved unsuitable to meet the needs of the child.

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<sup>33</sup> Concluding Observations, paragraphs 45–46.

158. A medical practitioner can lawfully carry out a sterilisation procedure in emergency situations, that is, where the procedure is necessary to save a person's life or to prevent serious damage to that person's health.

159. A blanket prohibition on the sterilisation of children could lead to negative consequences for some individuals. Applications for sterilisation are made in a variety of circumstances. Sometimes sterilisation is necessary to prevent serious damage to a child's health, for example, in a case of severe menstrual bleeding where hormonal or other treatments are contraindicated. The child may not be sexually active and contraception may not be an issue, but the concern is the impact on the child's quality of life if they are prevented from participating to an ordinary extent in school and social life.

160. The Australian Government recognises that the obligations under the Convention on the Rights of the Child and under the Convention on the Rights of Persons with Disabilities (which Australia ratified on 17 July 2008) require a consistent approach that ensures that children with disabilities enjoy their rights on an equal basis with other children. This needs to take into account the views of the child where these can be ascertained and the best interests of the child consistent with the Convention.

161. Given its invasive and irreversible nature, the Australian Government considers sterilisation may only be authorised as a measure of last resort and after due consideration of the best interests of the child.

#### **South Australia**

162. The Promoting Independence: Disability Action Plan for SA has five key areas: access to services, information and communication (inclusive and accessible), disability awareness and discrimination training, consultation and compliance with legislative standards. The action plan's goal is to progressively improve disability access and inclusion across all funded services and to comply with the DD Act and the Equal Opportunity Act 1984 (SA).

#### **Victoria**

163. The Victorian Government funds the Victorian Parenting Centre to provide a community-based information and training program to enable parents of children with a disability to manage difficult behaviour. Integrated training strategies have also been developed for professionals working with children.

164. The Victorian Government, through the Department of Education, provides considerable funding to schools for the Program for Students with Disabilities. Schools work with parents and professionals to develop individual plans for students with disabilities and language disorders.

#### **Tasmania**

165. In May 2006, the Government opened the Office of Children and Youth Affairs to assist the effective development and coordination of policies, programs and information, for children and young people across the three levels of government and relevant service providers in the community sector.

#### **Western Australia**

166. The WA Government's Strategic Plan for Disability Services 2006–2010, entitled *Open your mind – Count us in*, provides for a range of actions designed to provide equal opportunities for children with a disability to participate in all spheres of community life.

The campaign has run a state-wide series of television, print and outdoor advertisements seeking to strengthen public awareness and change negative public attitudes.

167. The Count us in curriculum support package, launched in August 2006, provides resources materials and guidelines for teachers to teach school children about disability rights and the importance of being an inclusive society.

### **New South Wales**

168. The NSW Government's initiative titled Stronger Together: A new direction for disability services in NSW, 2006–2016 will deliver more than a billion dollars over the next five years to enhance existing service provision for people with a disability of all ages.

169. In the 2005–2006 financial year, the NSW special education budget of \$774 million represented a \$130 million increase in resources to strengthen support for and participation of students with special needs, including those with disabilities. A total of 1,942 support classes in regular and special schools have the capacity to support the needs of more than 19,000 students with disabilities.

170. The State Literacy and Numeracy Plans are inclusive of all students, and the Learning Assistance Program is providing targeted classroom support to students with additional learning needs in literacy and numeracy. Students with disabilities and additional learning needs are supported to make a smooth transition from school to work or further study through individual planning and monitoring by school and regional staff.

### **Queensland**

171. The Queensland Department of Child Safety has established interagency therapeutic and behaviour support services (known as Evolve) across Queensland for children in care who have high support needs. These services were specifically developed for children who are experiencing significant complex difficulties and have challenging behaviours due to trauma and attachment issues resulting from their abuse.

172. Specialist disability assessments were introduced in January 2007, and are undertaken for children and young people with a disability entering out-of-home care.

173. A comprehensive range of education programs and services are provided to students with disabilities to ensure access and participation in education occurs on the same basis as other students.

## **B. Health and access to healthcare services<sup>34</sup>**

174. The Child Health and Well-being Subcommittee of the Australian Health Minister's Advisory Council has a national leadership role in promoting and advocating for child health, development and well-being. Work is underway to identify, measure and report on indicators of child health and well-being, develop national evidence-based antenatal care guidelines, identify and implement core competencies in the childcare and child health workforce, and to target the needs of vulnerable children with a priority focus on Aboriginal and Torres Strait Islander children.

175. The Australian Better Health Initiative has been granted \$250 million in Australian Government funds and \$250 million in State/Territory Government funds, over four years, to promote good health and tackle chronic disease. For children this will include national

<sup>34</sup> Concluding Observations, paragraphs 47–50.

food classification systems for school canteens, school-based and community programs to support lifestyle change, and referral to services that provide nutritional advice and advice on weight management.

176. The Australian Government's Healthy for Life program, which commenced in 2005–2006, provides \$102.4 million over four years for targeted action to improve the health of Aboriginal and Torres Strait Islander mothers, infants and children. Over 80 Healthy for Life sites will be established over the course of the initiative. Fifty-three sites were established in 2005–06. Eighty per cent of Healthy for Life sites will be in regional and remote areas. Healthy for Life will directly improve access to early and regular antenatal and child health care (including a focus on nutrition), improve birth weights, and reduce the incidence of illness and disease for all children, including Aboriginal and Torres Strait Islander babies and children.

### **Obesity**

177. Be Active Australia: A Framework for Health Sector Action for Physical Activity 2005–2010 is a framework that envisages all Australians benefiting from physical activity as part of everyday life and aims to improve health sector capacity to increase awareness of the health and related benefits of physical activity and better support the community in related lifestyle changes.

178. The NSW Healthy School Canteen Strategy requires all NSW government schools to provide a healthy, nutritious canteen menu in line with the Australian Dietary Guidelines for Children and Adolescents. This is in response to the growing problem of overweight and obese children and young people in Australia.

179. Kids – Go For Your Life is a new component of the Victorian Government's Healthy and Active Victoria Strategy and provides a comprehensive, multi-faceted and coordinated approach to promote healthy eating and physical activity to children and their families. Key settings for implementation include primary schools, childcare services, kindergartens and maternal and child health services.

180. ACT Health is a partner in a three-year collaborative early childhood project which aims to address issues of overweight and obese children from birth to the age of five. ACT Health is also developing a strategic approach to the promotion of healthy eating and physical activity to young indigenous children and their families.

### **Indigenous children**

181. On 1 May 2006, the Australian Government introduced the Aboriginal and Torres Strait Islander child health check for Indigenous children between the ages of 0 and 14 years. The child health check is delivered by general practitioners, with the assistance of Aboriginal health workers. It is used to assess the health and physical, psychological and social function of Aboriginal and Torres Strait Islander children, and to determine what preventive health care, education and other assistance should be offered to improve the children health and physical, psychological or social function. By providing access to comprehensive annual health assessments, the child health check aims to ensure that Aboriginal and Torres Strait Islander children receive the optimum level of health care by encouraging prevention, early detection, diagnosis and intervention for common and treatable conditions that cause considerable morbidity and early mortality.

182. The Remote Indigenous Stores and Take-aways project will take a national approach to improving food supply in remote Indigenous communities across Australia.

### **Breastfeeding**

183. The Australian Government committed \$8.7 million over four years to Breastfeeding Education and Support in the 2007–2008 Budget. The program will raise awareness of the benefits of breastfeeding among parents and health professionals and provide advice and support to parents who may wish to breastfeed.

### **Immunisation**

184. The Immunise Australia Program (IAP) is an initiative that aims to increase national immunisation coverage rates, and reduce the incidence of vaccine-preventable diseases in the community. As at 1 April 2007, it provided protection against fifteen such diseases from birth to adulthood, and used the Australian Childhood Immunisation Register to monitor national childhood immunisation coverage.

185. The Australian Government human papillomavirus (HPV) vaccination program for all females aged 12 to 26 will be conducted over a two year period from July 2007 to June 2009. The vaccine assists in the prevention of cervical cancer.

186. From 1 July 2007, free rotavirus vaccine will be provided nationally to all infants born on or after 1 May 2007, with the aim of reducing the burden of this cause of severe gastroenteritis in children in Australia.

187. The Australian Government has also worked hard to accommodate the differences in age-specific incidence of some vaccine-preventable diseases between Aboriginal and Torres Strait Islander children and non-Indigenous children, and to take into account the fact that many Aboriginal and Torres Strait Islander children reside in high-risk areas. Within the National Immunisation Program, some vaccines are also specifically targeted at Aboriginal and Torres Strait Islander children.

### **ADHD**

188. Through the National Health and Medical Research Council, \$3.3 million has been spent on researching ADHD since 2000. The Council recognises the provision of accurate advice on attention deficit hyperactivity disorder is an important health intervention.

189. The Australian Government Department of Health and Ageing, with the support of the National Health and Medical Research Council, contracted the Royal Australian College of Physicians in November 2006 to undertake a review of the Attention Deficit Hyperactivity Disorder Guidelines 1996, which are now considered out of date. The College has released draft revised guidelines for public consultation.

### **New South Wales**

190. Since 1992, the number of Ritalin prescriptions has risen from 11,114 to 264,000 in 2006, according to a report requested by the NSW Government. Australia's ADHD diagnosis rate is among the highest in the world, and 32,000 NSW school students are medicated for it. The NSW Government will launch a State-wide investigation into attention deficit hyperactivity disorder (ADHD) amid warnings that doctors are creating a "Ritalin generation".

191. NSW has over 500 Early Childhood Health Services, predominantly located in community settings. Outreach is provided to outlying areas from these centres, including via the Royal Flying Doctor Service.

192. As part of efforts to improve service accessibility, NSW is implementing a universal health home visit for all families with a new baby. Visiting family-health nurses provide new born babies with a health and development check, link mothers to any additional

support the family may require, and assist with any parenting difficulties such as postnatal depression.

#### **Western Australia**

193. By the end of 2008, the Breastfeeding/Lactation Upskilling Project aims to train 300 Community Child Health Nurses state-wide in protecting, promoting and supporting breastfeeding in order to increase its duration. The WA Perinatal Mental Health Project is improving identification of and support for women with mental health problems before and after giving birth.

#### **South Australia**

194. In May 2007, the SA Government established state-wide Clinical Networks to provide a framework for delivering best practice health care and ensure access to high standards of health care. Two of the first eight clinical networks are child health and maternal and neonatal care. All clinical networks will be required to examine and plan for specific Aboriginal and Torres Strait Islander health issues within the Clinical Network planning process and, where appropriate, identify the needs of specific population groups.

### **C. Adolescent mental health<sup>35</sup>**

195. In 2006, the Australian Government allocated \$1.9 billion over five years to implement 18 new initiatives as its component of the COAG National Action Plan on Mental Health 2006–2011. Australian Government initiatives that will be of particular benefit to children and adolescents include:

- \$507 million over five years to ensure better access to, and better teamwork arrangements between, psychiatrists, psychologists and general practitioners through reforms to the Medical Benefits Schedule
- \$224.7 million over five years for flexible respite care options for elderly parent carers who live with and care for children (including young adults) with a mental illness or intellectual disability
- \$59.5 million over five years to help young people who are experiencing a mental health problem and who are at risk of dropping out of school
- \$45.2 million over five years for community-based programs to help support families, carers, children and young people affected by mental illness
- \$28.1 million over five years for new early intervention services for parents, children and young people, including through the provision of information, resources and training to assist parents and schools to better identify children at risk of mental illness

196. Mental health is a major issue affecting young Australians. According to the National Survey of Mental Health and Well-being (a comprehensive study conducted between 1997 and 1998), approximately 14 per cent of 12–17 year olds and 27 per cent of 18–25 year olds experience mental health problems each year.

197. As part of the 2005–2006 Promoting Better Mental Health initiative, funding of \$69 million up to June 2009 has been allocated to help young people with mental health

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<sup>35</sup> Concluding Observations, paragraphs 51–52.

problems. The cornerstone of this initiative is the establishment of a National Youth Mental Health Foundation which will receive \$54 million up to June 2009.

198. To complement the activities of the Foundation, the remaining funding has been allocated to the extension of access to allied health services for young people with mental health conditions, building on the Better Outcomes in Mental Health Care initiative and to supporting activities including evaluation.

199. The National Youth Mental Health Foundation will have a particular focus on early identification and intervention for young people, aged 12 to 25 years, at risk of developing mental health problems, and those already showing early signs of mental health problems or associated drug and alcohol problems.

200. Kids Help Line is a free, confidential and anonymous, 24-hour telephone and online counselling service specifically for young people aged between 5 and 25 years. Counsellors respond to more than 10,000 calls each week about issues ranging from relationship breakdown and bullying to sexual abuse, homelessness, suicidal thoughts, and drug and alcohol use.

#### **New South Wales**

201. The NSW Government's Youth Action Plan *The Way Forward: Supporting Young People in NSW*, released in 2006, recognises the importance of supporting the health and well-being of young people. The Plan includes the development of an early intervention Youth Mental Health Service Model to provide seamless, multidisciplinary services for young people aged 14 to 24 years of age with mental health problems and disorders.

202. The NSW Government has also developed a Family Help Kit on Mental Health to help families better understand and recognise mental health problems in children, adolescents and young people.

#### **Australian Capital Territory**

203. In the ACT, *Managing the risk of suicide 2005–2008: A suicide prevention strategy for the ACT* is a whole of territory approach to suicide prevention. Mental Health ACT provides a territory-wide Child and Adolescent Mental Health Service. This service provides assessment and treatment for young people under 18 who are experiencing a mental health disorder or illness.

### **D. HIV/AIDS<sup>36</sup>**

204. The Australian Government is implementing the National HIV/AIDS Strategy 2005–2008 and the National Sexually Transmissible Infections Strategy 2005–2008 to target specific at-risk populations. The goal of the Strategies is to reduce HIV and sexually transmissible infections (STI) and to minimise the personal and social impacts of HIV infection, including efforts to minimise stigma and discrimination and to provide educational information that will assist in the prevention of HIV transmission. Central to Australia's response has been the notion of partnership between affected communities, governments, researchers, educators, and health care professionals, as well as the adoption of innovative education and prevention initiatives.

205. The National HIV/AIDS Strategy acknowledges that children have specific care and support needs and for HIV-infected children, psychosocial issues and HIV-related medical

<sup>36</sup> Concluding Observations, paragraphs 53–54.

complications should be recognised and addressed as important factors in determining quality of life. While the total number of children infected with HIV in Australia is small, the provision of adequate specialist paediatric services remains a priority.

206. Australia also plays a leadership role in combating the spread of HIV/AIDS in the Asia-Pacific region and, through its Global HIV/AIDS Initiative, has committed a total of \$1 billion from 2000 to 2010 to combat the HIV pandemic. Australia has adopted a gender-based approach to combating HIV/AIDS, understanding that usually it is children who bear the brunt of the economic and social consequences of living with HIV or with parents with HIV. Australia is working with partner countries in the Asia-Pacific on programs to improve women's and girls' access to education, prevention and treatment services and redressing violence against women.

### **Victoria**

207. Catching On is a Victorian teaching and learning resource for early teens that was developed as part of a STI/AIDS Prevention Education Strategy. The Catching On teaching manual is a resource used to support the sexual health curriculum, specifically around classes on the issues of love and relationships, risk behaviours, gender and power, and sexual identity.

### **Western Australia**

208. WA's HIV and STI Action Plans support several initiatives, including ongoing teacher training in the use of the Growing and Developing Healthy Relationships curriculum materials for kindergarten to Year 10 and a three-year Chlamydia Campaign targeting young people aged 15 to 25 with messages to seek testing and practise safe sex.

### **New South Wales**

209. In 2007, the NSW Department of Education will be providing professional development opportunities for secondary teachers to assist them in teaching sexual health, sexuality and sexual diversity.

210. In 2006, the rate of HIV diagnosis in the Aboriginal and Torres Strait Islander population was 4.9 per 100,000, declining from a peak of 7.5 in 2002, and similar to the non-Indigenous rate of 5.1. While the number of HIV diagnoses is relatively low (190 between 1997 and 2006), Aboriginal and Torres Strait Islander people remain among those most at risk of HIV transmission due to the higher proportions of cases attributable to heterosexual contact and injecting drug use compared to the non-Indigenous population.

211. The National HIV/AIDS Strategy recognises the needs of children and other family members affected by HIV/AIDS in Indigenous communities and identifies some of the associated problems of isolation, lack of appropriate services and the need to travel to reach services.

212. The National Aboriginal and Torres Strait Islander Sexual Health and Blood Borne Virus Strategy 2005–2008 also aims to reduce the incidence of HIV through encouraging improvements in access to primary health care services, increasing the capacity of the primary health care workforce in sexual health delivery and strengthening partnerships with mainstream health services.

### **New South Wales**

213. NSW Health has developed the NSW HIV/AIDS, STI and Hepatitis C Strategies: Implementation Plan for Aboriginal People 2006–2009 in consultation with the Aboriginal

Health and Medical Research Council of NSW, under the guidance of the NSW Aboriginal Sexual Health Advisory Committee.

### **Victoria**

214. The Victorian Government has supported the Marie Stopes International “Snake Condom” initiative that aims to increase levels of condom use and raise awareness of sexually transmitted diseases in Aboriginal youth in Victoria.

### **Western Australia**

215. The WA Government’s Aboriginal Sexual Health Strategy 2005–2008 highlights the needs of Indigenous young people in HIV and STI prevention and supports a number of initiatives, including a successful ongoing training program for Aboriginal sexual health educators.

## **E. Standard of living<sup>37</sup>**

216. In relation to the issue of the poverty line, Australia directs the Committee to paragraphs 483–484 of the core document.

217. The Government is aware of the negative impact that economic hardship has on children and has many strategies in place to address the risks of economic hardship, including the Emergency Relief Program under which funding is provided to a range of community and charitable organisations to provide emergency assistance to people in financial crisis.

218. In the 2007–2008 Budget, the Australian Government announced reforms to improve housing outcomes for Indigenous Australians, with additional funding of \$293.6 million over four years.

219. A new expanded Australian Remote Indigenous Accommodation (ARIA) Program will increase investment in Indigenous housing in remote areas, with an increased emphasis on the mainstream public sector managing Indigenous rental housing and on encouraging greater Indigenous home ownership.

220. Indigenous Australians living on community land who want to own their own homes will also have a greater opportunity to do so, through changes to land tenure and financial support from the Australian Government. Funding for Indigenous public housing will continue under the Aboriginal Rental Housing Program as part of the current Commonwealth-State Housing Agreement.

221. Under the NT Emergency Response, housing reforms in the NT have been brought forward, with the Australian Government compulsorily acquiring land for a five-year period in a number of communities. This will allow improved housing maintenance and upgrade arrangements to be implemented. Under the changes, the Australian Government will take responsibility for putting in place effective processes and procedures for housing maintenance and construction in the future, delivering a higher standard of living for Indigenous people in remote communities.

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<sup>37</sup> Concluding Observations, paragraphs 55–58.

## VII. Education, leisure and cultural activities<sup>38</sup> (arts. 28, 29, 30, and 31)

222. Under the Australian Constitution, the States and Territories have primary responsibility for the funding, management and delivery of school education. In Australia, schooling is delivered by three sectors: government, Catholic and independent (the latter two known as non-government schools), across each State and Territory. The Australian Government is the primary source of public funding for non-government schools and also provides supplementary assistance (in addition to State and Territory funding) to government schools.

223. Overall, government schools enrol 67 per cent of students, while non-government schools enrol 33 per cent of students. Attendance at Catholic and independent schools usually involves the payment of school fees, although these may be waived in some circumstances. To support the efforts of the States and Territories and educational institutions, the Australian Government provides significant financial assistance, including funding for specific programs to assist vulnerable students.

224. Legislation in every State and Territory makes school attendance compulsory from age 6 to 15 or 16. This applies to all children, including Indigenous children, homeless children, children living in remote areas and children with disabilities.

225. The Australian Government will invest \$1 billion over four years, commencing in 2008, for the Digital Education Revolution, which aims to make a sustainable and meaningful change to teaching and learning in Australian schools. This will be achieved by providing world-class information and communications technology (ICT) to Year 9–12 students in State/Territory, Catholic and independent schools and supporting the connection of Australian schools to high quality broadband.

### Other initiatives

226. Career Advice Australia is an Australian Government initiative supporting young Australians aged 13 to 19 to make successful transitions through school and from school to further education, training and work. Career Advice Australia provides access to career information and advice, meaningful work experience and quality information about opportunities in industries to help young people make informed decisions about their futures.

227. Career Advice Australia programs are also supported by a wide range of projects, products and career information services, including Myfuture and Year 12 What Next websites, the Job Guide, and Career Information Centres.

228. The Government has found many boys are underachieving against a range of key educational areas and broader social indicators. Boys are underperforming in literacy, are less engaged with school, and in some schools account for eight out of ten suspensions and exclusions. The Australian Government funded the Success for Boys program. This initiative is seeking to address areas of concern that impact on boys. Around 1,600 schools nationally have been supported by providing teachers with access to professional development and funding.

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<sup>38</sup> Concluding Observations, paragraphs 59–61.

### **Indigenous children**

229. The Australian Government provides supplementary funding under the Indigenous Education (Targeted Assistance) Act 2000, in order to support the participation of Indigenous children in their education. \$13.5 million was provided for Indigenous preschool education in 2007.

230. Although education provision is the primary responsibility of the States and Territories, under the NT Emergency Response, the Australian Government will provide up to \$37.4 million in 2007–2008 to assist with education and training issues arising out of the NT Emergency Response.

231. The Australian Government recognises that gaps persist between outcomes for Indigenous and non-Indigenous students across the education and training sectors and is working in partnership with education providers to address these issues. The focus for Indigenous education for 2005–2008 is on:

- Education and training providers reporting on how their responsibilities for Indigenous education and training are being met
- Directing Australian Government resources towards those areas that have the greatest need, particularly remote Australia where gaps between Indigenous and non-Indigenous student outcomes are widest
- Whole of School Intervention strategies which aim to encourage Indigenous communities, parents and schools to work together to implement local strategies to address the barriers to educational success
- The Indigenous Youth Leadership Program (IYLP) which will provide scholarship opportunities for up to 1,000 young Indigenous people generally from rural and remote Australia
- The Indigenous Youth Mobility Program (IYMP) which will provide 1,500 places over four years for young Indigenous people from remote Australia with training and employment opportunities available in major centres
- Sporting Chance, which aims to better engage young Indigenous students in schooling through school-based sports academies, as well as other engagement strategies using sport and recreational activities as a link

### **Children with disabilities**

232. Australia lobbied strongly for article 24 on “inclusive education” in the Convention on the Rights of Persons with Disabilities. Article 24 calls on States parties to recognise the right of persons with disabilities (including children) to education and requires States parties to ensure an inclusive education system in which children with disabilities are not excluded from free and compulsory primary education. The Convention would also require the provision of support needed to facilitate effective education and reasonable accommodation of the individual child’s requirements.

233. Australia ratified the Convention on the Rights of Persons with Disabilities on 17 July 2008.

### **Other vulnerable groups**

234. The Australian Government’s Literacy, Numeracy and Special Learning Needs Program aims to improve the literacy, numeracy and other learning outcomes of students who are educationally disadvantaged and who require additional assistance. This program is the main source of targeted Australian Government funding for students with disabilities.

It is also the Australian Government's key program which contributes towards implementing the National Literacy and Numeracy Plan.

235. The Australian Government's English as a Second Language – New Arrivals Program provides funds to State and Territory Government and non-government education authorities to assist with the cost of delivering intensive English language tuition to eligible, newly arrived migrant students in primary or secondary schools.

#### **Young women and sexual harassment**

236. The AHRC has developed an educational module to inform Australian High School students of their rights in relation to sexual harassment. The Tackling Sexual Harassment in Your School module of the Youth Challenge Resource is designed to assist students in understanding the law about sexual harassment, to identify sexual harassment when it occurs and to develop a range of strategies to address sexual harassment.

#### **New South Wales**

237. The NSW State Literacy Plan 2006–2008 has been designed to address current literacy challenges and to set a platform for the future success of all students in NSW government schools.

238. Under the Aboriginal Affairs plan, Two Ways Together, the NSW Government has introduced a range of additional education initiatives to support education participation and attainment for Aboriginal children. Kids Excel has been introduced in priority in NSW communities to improve numeracy and literacy outcomes for Aboriginal children in primary schools.

#### **Victoria**

239. The Government currently provides \$6.24 million for the School Focused Youth Service, which brings together schools and community agencies to support at-risk students, including indigenous students and students in rural areas.

240. The Primary Welfare Officer initiative has been implemented in 450 needy Victorian government primary schools to support students at risk of disconnecting from school.

241. To reduce the incidence of early school leaving, a new Students at Risk Mapping Tool was introduced in Victoria in 2007. By examining common risk factors such as absenteeism, and literacy and numeracy performance, the tool helps schools identify students at risk of leaving school early. Schools will then be able to plan appropriate interventions for individual students or groups of students and evaluate the effectiveness of these interventions.

#### **Western Australia**

242. The WA Government committed \$170 million from 2005–2009 as part of the Learning and Training Guarantee commitment to assist with the raising of the school-leaving age and associated initiatives. The leaving age was raised to 17 years on 1 January 2008. Students turning 16 (and 17 in 2008) must either attend school or participate full-time in an activity by being enrolled in a course at a TAFE college or in an apprenticeship or traineeship.

243. As a result of these changes there has been an increase in the school retention rate of 13–16 year-olds from an average of 86 per cent (2001–2005) to 91 per cent in 2006, and 94 per cent in 2007. The participation rate of all 16 year olds who are engaged in education (schooling) training or employment was 97 per cent in 2006. The retention of Indigenous

students in the same age range increased from 54 per cent (2001–2005) to 75 per cent in 2006, and 94 per cent in 2007.

244. The Aboriginal Literacy Strategy, which commenced in 2005, has been introduced in 49 schools, including Remote Teaching Service schools. The centrepiece of this strategy is a minimum of two hours every day of literacy instruction for every student, primary and secondary.

#### **Tasmania**

245. Tasmanian schools are adopting a School-Wide Positive Behaviour Support (SWPBS) approach. A Principal Education Officer for Positive Behaviour Support has been appointed to lead and promote this initiative to schools.

## **VIII. Special protection measures<sup>39</sup> (arts. 22, 30, 32–36, 37 (b)–(d), 38, 39, and 40)**

### **A. Children in immigration detention**

246. Since June 2005, the Migration Act has provided that “the Parliament affirms as a principle that a minor child shall only be detained as a measure of last resort” to ensure that families with children in detention will be placed in the community, under Community Detention arrangements, with conditions set to meet their individual circumstances. As of March 2008, there are no longer any children in Immigration Detention Centres. As part of the July 2008 announcement of a new, risk-based detention policy, the Minister for Immigration and Citizenship has stated unequivocally that children will no longer be detained in these centres.

247. The overall intent of the package of amendments was to ensure that the best interests of minor children were taken into account and that any alternatives to the detention of children were considered in administering the relevant provisions.

248. DIAC works with NGOs to make sure that clients placed in Community Detention arrangements are properly supported. The NGOs are funded by the Department to source housing for families and allow payment of their living expenses, with particular reference to health, education and social requirements.

249. Immigration detention is subject to continuing scrutiny from external agencies, such as Parliamentary Committees, the AHRC, the Commonwealth Ombudsman, the United Nations High Commissioner for Refugees and the Immigration Detention Advisory Group, to ensure that people in immigration detention are treated humanely, decently and fairly. Federal Parliamentarians and Parliamentary Committees also regularly visit Immigration Detention Centres and Immigration Residential Housing facilities and report on conditions.

### **B. Homeless children<sup>40</sup>**

250. The Supported Accommodation Assistance Program (SAAP) was established in 1985 to bring homelessness programs funded by individual State and Territory governments and the Australian Government under one nationally coordinated program.

<sup>39</sup> Concluding Observations, paragraphs 62–63.

<sup>40</sup> Concluding Observations, paragraphs 65–66.

The Australian Government has a policy role and State/Territory governments are responsible for the day-to-day management of the Program.

251. SAAP aims to assist people, including young people who are homeless, or at risk of becoming homeless, to achieve the maximum possible degree of self-reliance and independence by providing transitional supported accommodation and a range of related support services.

252. Similarly, the Department of Health and Ageing provides funding, matched by the State and Territory governments, for the Innovative Health Services for Homeless Youth Program. This program provides a range of primary health-care measures to homeless and at risk young people, including access to nurses, GPs, psychologists and dentists, mental health services, and drug and alcohol treatment.

253. Additionally, the Household Organisational Management Expenses Advice Program is an early intervention program for families at risk of becoming homeless. Community agencies are funded to help families stabilise their housing and financial circumstances, and assist them with access to community services, labour market programs and employment.

#### **South Australia**

254. The SA Government has allocated \$23 million over five years to Social Inclusion Initiatives to reduce homelessness, with South Australia's Strategic Plan setting a target of halving the number of people sleeping rough by 2010.

#### **Victoria**

255. The Victorian Government is working towards developing and building the capacity of a youth homelessness services system to respond to the needs of young people by streamlining access points to the homelessness services system, improving accessibility for complex and high needs young people and improving assessment processes.

256. The Victorian Government has also implemented the Juvenile Justice Housing Pathways Initiative. This program assists young people with a history of homelessness or who are at risk of becoming homeless with accessing stable long-term housing by providing transitional housing and various forms of support.

#### **New South Wales**

257. The NSW Government's Youth Policy 2002–2006 Getting it Together Scheme targets vulnerable young people between 12 and 18 years of age whose drug and/or alcohol use is problematic and who are homeless or at risk of becoming homeless.

#### **Western Australia**

258. WA has developed a group of service models under the Commonwealth-State Innovative Health Services for Homeless Youth Program that have proved successful in assisting highly marginalised and at-risk young people, including many Indigenous young people and young parents and children.

#### **Queensland**

259. In the 2005–2006 State Budget, the Queensland Government announced the Responding to Homelessness initiative, a \$235.52 million response to health, accommodation and safety issues faced by homeless people including young people over the age of 16 and children accompanying their parents. The Queensland Department of Communities will provide \$56.45 million of additional funding to the Responding to Homelessness initiative and of this, \$42.5 million over four years will be invested directly

in services for homeless people through the Supported Accommodation Assistance Program.

260. Transition from care services have been established to deliver support services to young people aged 15 to 17 years who are preparing to leave care, and who are significantly disadvantaged in, and face barriers in accessing, suitable education, training, employment support, income support, housing, health and other social, family and personal challenges. A comprehensive approach is taken to planning for the needs of the young person beyond the care system as early as possible, in recognition that people leaving care are significantly disadvantaged in comparison to the general population, including being at higher risk of homelessness.

261. For more information on programs and initiatives funded by the Australian Government, and also on State and Territory programs, see paragraphs 488 to 501 of the core document.

### **C. Sexual exploitation and trafficking<sup>41</sup>**

262. The number of trafficked victims in Australia is low. Extensive investigations by Australian law enforcement agencies, including the Australian Crime Commission, have identified fewer than 100 possible trafficking victims in Australia since 2004.

263. Australia has committed a total funding of over \$58 million since October 2003<sup>42</sup> to combat people trafficking. Initiatives in place during the reporting period included policing/investigative and immigration enforcement strategies, awareness strategies and improved legislation.

264. The Australian Crime Commission has also undertaken a Special Intelligence Operation into People Trafficking for Sexual Exploitation (PTSE). One of the key objectives of the operation was to gather information to fill strategic intelligence gaps on PTSE.

265. Information on criminal offences enacted in Australia is outlined in the core document at paragraphs 212 to 219.

#### **Protocol to the UN Convention against Transnational Organized Crime**

266. The Australian Government ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime on 14 September 2005. It entered into force for Australia on 14 October 2005, in accordance with article 17(2) of the Protocol. The Criminal Code Amendment (Trafficking in Persons Offences) Act 2005 fulfils Australia's legislative obligations under the Protocol. Australian laws provide for specific offences to cover trafficking in children under 18 years of age.

### **D. Substance abuse<sup>43</sup>**

267. The Department of Health and Ageing funds the National Co-morbidity Initiative (NCI) under its National Illicit Drugs Strategy. The NCI aims to improve coordination

<sup>41</sup> Concluding Observations, paragraphs 67–69.

<sup>42</sup> Australian Government, "More resources to Combat People Trafficking", available at <http://www.ag.gov.au/www/agd/agd.nsf/Page/RWP7561D03F6952FB64CA2572D4000BB873>.

<sup>43</sup> Concluding Observations, paragraphs 70–71.

across psychiatric/mental health services and drug treatment services, develop best practice guidelines for service delivery, and increase professional education and training. \$21.6 million has been allocated over eight years (2003–2004 to 2010–2011) to the NCI. The 2006–2007 Budget included funding of \$73.9 million over five years for the Improved Services measure. The measure will build the capacity of NGOs to provide best-practice services that effectively address and treat coinciding mental illness and substance abuse.

268. The 2007–2008 Budget provided ongoing funding of \$14.6 million over four years to continue the National Illicit Drug Strategy – Indigenous Communities Initiative to address the consequences of violence and drug abuse in Indigenous communities. Funding assists Indigenous communities to develop local solutions to critical issues that contributed to violence, such as alcohol and drug abuse.

### **Education and support**

269. The Australian Government provides assistance to schools for drug education under the National School Drug Education Strategy. The Strategy includes an Indigenous element of \$2 million over four years specifically targeted to assist Indigenous school communities in addressing drug-related issues for their students and families. This program recognises the importance of raising awareness among young people of the dangers of substance abuse.

### **Monitoring**

270. The Australian Government recognises the need to continuously monitor the issue of substance abuse in the community. The National Drug Strategy Household Survey by the AIHW provides information on the prevalence of substance abuse amongst Australians aged 12 years and above. The last survey was conducted in 2007, and the first results were released on 27 April 2008.<sup>44</sup>

### **Indigenous children**

271. The Substance Use Program funded by the Australian Government through the Office for Aboriginal and Torres Strait Islander Health provides \$18.316 million annually to support 64 Indigenous substance-use services throughout Australia.

272. To help prevent substance abuse among Indigenous children, from 1 May 2006, a new Medicare Benefits Scheme item was made available to encourage doctors to provide an annual health check to Aboriginal and Torres Strait Islander children (from birth to 14 years). This check includes consideration of a child's risk of substance abuse, and appropriate referral to other service providers, including youth outreach and substance abuse counselling services.

273. As part of the NT Emergency Response, the Australian Government has introduced new legislation restricting the use of, and access to, alcohol. In response to the legislation, \$11.4 million was allocated in 2007–2008 to implement a package of measures to increase treatment and rehabilitation services across the NT.

### **Petrol Sniffing Strategies**

274. The Integrated Youth Services Project in the NT aims to reduce the incidence of petrol sniffing in Indigenous communities. The Central Australian Petrol Sniffing Strategy

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<sup>44</sup> AIHW, 2007 National Drug Strategy Household Survey: first results, available at <http://www.aihw.gov.au/publications/index.cfm/title/10579>.

is a collaborative strategy supported by the Australian, SA, WA and NT Governments, involving responsibility for the coordination and implementation of initiatives that are developed in consultation with local communities. The 2006–2007 Budget committed a further \$55.2 million over four years to tackle substance abuse in Indigenous communities under this program.

275. This funding includes \$14.9 million for the Attorney-General's Department over four years to support prevention, diversion, rehabilitation and restorative justice initiatives, as part of an integrated package to combat substance abuse.

276. Since May 2005, the Australian Government has announced funding of \$42.7 million over 5 years to increase the availability of Opal, a non-sniffable fuel, to help combat petrol sniffing in remote Aboriginal communities. 53 Indigenous communities now use Opal. An extended roll out of Opal fuel is taking place as part of the Australian Government's eight-point plan to combat petrol sniffing in the Central Desert Region of the NT, WA and SA.

## **E. Administration of juvenile justice<sup>45</sup>**

277. The Commonwealth Crimes Act 1914 and Criminal Code Act 1995 both set out the age of criminal responsibility for Commonwealth offences. Sections 4M and 7.1 of the Crimes Act and Criminal Code Act respectively, stipulate that a child under ten years old is not criminally responsible for an offence. The Australian Government believes it is appropriate to set the age of criminal responsibility at ten years, as this age:

- Reflects the impact of increased access to education and information technology on Australia's children's ability to better distinguish between right and wrong
- Accords with modern Australian community expectations of the criminal responsibility of children
- Reflects the unique historical and cultural context of Australian law and society, a factor acknowledged by the United Nation's Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)

278. Under sections 4N and 7.2 of the Crimes Act 1914 and Criminal Code Act 1995 respectively, there is a rebuttable presumption that a child aged between 10 and 14 years of age is incapable of wrong. The Australian Government believes the age limit for the application of this principle is appropriate as it is a practical way of acknowledging differences in children's developing capacities, allows for a gradual transition to full criminal responsibility, and protects children between 10 and 14 from the full force of the law.

279. The Australian States and Territories all have legislation on the age of criminal responsibility that is similar to the Commonwealth's.

### **Indigenous juveniles in detention**

280. Despite a young and fast-growing Indigenous population, rates of detention for Indigenous young people aged 10 to 17 have been in decline in the last decade (down by 25 per cent in 2005 compared to 1994 figures). However, the over-representation of Indigenous young people in detention, based on the rate ratio (Indigenous/non-Indigenous), remains high and has not decreased since 1994. As at 30 June 2006, Indigenous young

<sup>45</sup> Concluding Observations, paragraphs 72–74.

people were 21 times more likely than non-Indigenous young people to be in juvenile detention.

281. The Commonwealth Attorney-General's Department provides funding through the Prevention, Diversion, Rehabilitation and Restorative Justice Program (PDRR) to develop and undertake activities that will divert Indigenous Australians away from adverse contact with the legal system. The program is also intended to facilitate activities that will rehabilitate and support Indigenous Australians who have been incarcerated or are in custody.

#### **Children with mental illness in criminal proceedings and detention**

282. The Australian Government is concerned about the number of juveniles with mental illness and cognitive disabilities in the criminal justice system. The Australian Government has recently funded Headspace under the National Youth Mental Health Foundation, which establishes a Centre of Excellence to collect, analyse and disseminate the latest research for health professionals regarding the best treatments available for young people with mental health and substance use issues.

#### **Victoria**

283. In Victoria, the Children, Youth and Families Act 2005, provides for the notion of "best interests" of the child as the underpinning principle to all activities relating to children, including detention. This is supported in the Youth Justice system by policies and programs based on the principles of diversion and minimal progression into the custodial system.

#### **Tasmania**

284. The Youth Justice Act 1997 allows for a range of strategies to divert, in an appropriate case, a youth who admits committing an offence from the criminal justice system, including formal and informal cautions (administered by an Indigenous elder if appropriate), community conferences and community service orders.

#### **Northern Territory**

285. Among the general principles that must be taken into account in the administration of the Youth Justice Act 2005 are that:

- Unless the public interest requires otherwise, criminal proceedings should not be instituted or continued against a youth if there are alternative means of dealing with the matter
- A youth should only be kept in custody for an offence (whether on arrest, in remand or under sentence) as a last resort and for the shortest appropriate period of time

286. Moreover, the Act makes specific provision limiting the power of the Youth Justice Court such that a sentence of detention or imprisonment can only be imposed as a last resort, and a sentence of imprisonment, only if there is no alternative.

#### **Australian Capital Territory**

287. In the ACT, the Crimes (Restorative Justice) Act 2004 allows for young people who have been charged with certain offences to be diverted from the criminal justice system to restorative justice. The Act provides opportunities for young offenders to demonstrate their willingness to take responsibility for their actions and to demonstrate to criminal justice agencies their commitment to repairing the harm they have done.

288. The Children and Young People Act 1999 governs the detention of children and young people in the ACT. The Act makes specific reference to detention as a last resort. The Human Rights Act 2004 provides direction regarding the separation of children from adults in detention.

#### **New South Wales**

289. In NSW there is a separate juvenile justice system whereby young people deprived of their liberty are held separately from adults up to the age of 18, with provision for them to remain in the juvenile system until the age of 21.

290. The Children (Criminal Proceedings) Act 1987 states that in sentencing children, courts must not impose a custodial order unless they are satisfied that it would be “wholly inappropriate” to impose a non-custodial order (section 33(2)).

291. Two Ways Together, the NSW Government’s ten year Aboriginal affairs plan, aims to address the over-representation of Aboriginal youth in the juvenile justice system. The NSW Government funds a number of programs for early intervention and diversion from the mainstream criminal justice system.

292. The Department of Juvenile Justice recently developed its Aboriginal Strategic Plan 2007–2011. The Plan provides a platform for a coordinated approach to address the over-representation of Aboriginal young people in the criminal justice system.

293. The Department of Juvenile Justice’s Intensive Bail Supervision program commenced in January 2007. It aims to divert young people from custody and decrease the population of juveniles in detention by supporting more young people to meet the conditions of bail rather than be remanded in custody.

#### **Conditions of detention across Australia**

294. The Australian Government considers that conditions of detention of children in Australia are in line with international standards. Nevertheless, the following information is offered in response to the Committee’s Concluding Observation on this subject.

#### **Australian Capital Territory**

295. In 2005, the ACT Human Rights Commissioner conducted an audit of the Quamby Youth Detention Centre under the ACT Human Rights Act 2004. The audit found several violations, including strip-searching detainees routinely, rather than where there was “reasonable suspicion” of residents possessing dangerous goods or contraband, and mixing the behaviour management system with remission. The ACT Government, through the Office for Children, Youth and Family Support, is implementing a wide range of recommendations to improve conditions of detention.

#### **New South Wales**

296. The custodial facilities (Units) within Department of Juvenile Justice detention centres built after 2005 have been designed to facilitate easy access to programs within the centres, while ensuring privacy for individual detainees. The amenities are designed to take account of the individual management needs of detainees – for example religious, medical, educational and family support needs.

#### **Mandatory sentencing in the criminal law system of Western Australia**

297. Mandatory sentencing does not necessarily mean detention for juveniles. The so-called mandatory sentencing provisions of the WA Criminal Code apply only to home

burglary offences, as a response to multiple repeat offending. Further, the relevant court has discretion to impose a non-custodial sentence instead of detention.

### **Gathering of young people in certain places**

298. Only WA has legislation allowing police to remove children congregating. In some States, such as Queensland, police have “move on” powers, in that they may ask any person whose behaviour is disruptive to others, or to business, to move on from where they are congregating, except where asking them to do so would infringe their freedom of peaceful assembly. However, the legislation does not specifically target children or young people congregating, and does not involve the young people in any criminal proceedings or cause them to be given a formal warning.

299. In NSW the Young Offenders Act 1997 introduced a hierarchy of responses that allows police flexibility to deal with young people. In particular, penalty notices arising from the exercise by police of the “move on” powers cannot be issued to children (10 to 18 years) unless the officer has considered the child’s entitlement to be dealt with by way of warning or caution.

300. The WA Young People in Northbridge Policy is a set of procedures that have been put in place, under the Child Welfare Act 1947 (WA), to deal with the large number of unsupervised and vulnerable youths and children on the streets of the Northbridge district at night.

301. Whilst the policy has been referred to as The Curfew, it is not technically a curfew. The policy does not involve the criminal system; rather it assists children and keeps them out of the criminal justice system. More information about the policy can be found at paragraph 330 of the Core Document.

### **Queensland**

302. In Queensland, the Juvenile Justice Act 1992 is the principal legislative instrument that deals with young people who come into contact with the youth justice system. The Act contains a number of principles that underpin the administration of juvenile justice and promote the rights of the child.

303. Addressing the over-representation of Indigenous young people in the juvenile justice system is a priority for Queensland. In 2008–2009, the Department of Communities will provide:

- \$1.175 million in recurrent funding for a Young Offender Community Response Service in Far North Queensland to provide culturally appropriate bail support and intervention services to young people and their families to reduce crime
- \$380,000 to create Indigenous conferencing support positions to encourage increased participation and completion of youth justice conferencing by Aboriginal and Torres Strait Islander young people
- \$349,000 to establish Indigenous positions to support culturally appropriate services to young people on supervised orders
- \$50,000 in funds to support the participation of Indigenous Elders in youth justice conferencing
- \$240,000 to provide offending behaviour programs in youth justice service centres

304. In 2007, the Queensland Government closely examined the policy and economic implications of any changes to the treatment of young people charged with offences committed after they turned 17. While this group of 17 year-olds are treated as adults

within the Queensland criminal justice system, young people who turn 17 while in detention are not transferred to the adult system until they turn 18. In addition, 17 year-olds charged with offences committed before they turned 17 will continue to be managed through the juvenile justice system. Seventeen year olds in adult prisons have access to specialised programs tailored to meet a range of needs including educational, vocational, substance abuse treatment, anger management, life skills such as budgeting and applying for jobs, as well as programs to address specific offending behaviour.

## **F. Children belonging to indigenous groups<sup>46</sup>**

305. The Australian Government's 2007–2008 Budget provided an investment in Indigenous affairs of \$3.5 billion in 2007–2008. The 2007–2008 Budget contained 26 initiatives across several portfolios, focused on remote housing, health, economic independence, new education opportunities and early childhood interventions. The special priority given to early childhood development includes extra resources for home health visits for children aged zero to eight in remote areas, better access to child-care and playgroups and funding for research on childhood health and development. Other measures in the 2007–2008 Budget, such as strengthening Indigenous primary health care services and projects to address the misuse of alcohol and other drugs, will improve environmental factors that impact on children's well-being. A further \$1.3 billion has been committed over four years as part of an NT Emergency Response to child abuse in remote Indigenous communities in the NT.

306. COAG has established a working group to develop a detailed proposal for Indigenous generational reform including specific, practical proposals that reflect the diversity of circumstances in Australia. This will focus on four cumulative stages of reform spread across 20 years, which roughly follow the early life course of Indigenous children born from 2009. This approach has been approved by COAG and the working group is in the process of developing specific, practical proposals for reform.

307. The Australian Government has established an evaluation plan of the new arrangements in Indigenous affairs to be coordinated from 2006 to 2009 by the Office of Indigenous Policy Coordination.

308. In December 2007 the Council of Australian Governments agreed to sustained engagement and effort by all governments over the next decade and beyond to achieve the Closing the Gap targets for Indigenous people, including closing the life expectancy gap within a generation; halving the mortality gap for children under five within a decade; and halving the gap in reading, writing and numeracy within a decade.

309. At the July 2008 meeting, COAG agreed in principle to a National Partnership with joint funding of around \$547.2 million over six years to address the needs of Indigenous children in their early years.

310. The National Partnership is based on evidence that improvements in Indigenous child mortality require better access to antenatal care, teenage reproductive and sexual health services, child and maternal health services and integrated child and family services.

311. In March 2008 the Australian Government signed a Statement of Intent, whereby it committed to working in partnership with Indigenous Australians to develop a comprehensive, long-term plan of action that is targeted to need, evidence-based and capable of addressing the existing inequities in health services, in order to achieve equality

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<sup>46</sup> Concluding Observations, paragraphs 75–77.

in health status and life expectancy between Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians by year 2030. The Australian Government committed to measure, monitor and report on these joint efforts, in accordance with benchmarks and targets to ensure the shared ambitions are being progressively realised.

312. Educational outcomes for Indigenous Australians have improved over the last decade. This is evident across a range of indicators on the enrolment, participation and achievement of Indigenous students in the school sectors. There has also been strong growth in Indigenous enrolments in the Vocational and Technical Education and tertiary sectors. For more information about VTE, see paragraphs 409–414 of the core document.

313. Existing educational programs have been restructured to:

- Redirect funding to initiatives that have demonstrably worked
- Direct a greater proportion of resources to students at greatest disadvantage (those in remote areas)
- Leverage mainstream funding for Indigenous education services

### **Queensland**

314. The Indigenous Queenslanders Foundation, currently being established, is designed to provide a perpetual fund to assist young Aboriginal and Torres Strait Islander people equitable access to educational opportunities.

315. The Child Protection Act 1999 requires a relevant Aboriginal and Torres Strait Islander agency to be given the opportunity to participate in all significant decisions about an Aboriginal and Torres Strait Islander child, especially if the child is being placed in care. These agencies also develop networks of kinship carers, assist in the development of processes to support the cultural development of children placed with non-Indigenous carers, and generally enhance the services to remote Aboriginal and Torres Strait Islander children.

316. Additional Aboriginal and Torres Strait Islander identified positions have been created in each zone and in the central office divisions of the Department of Child Safety.

317. A Safe Haven initiative has commenced in Aboriginal and Torres Strait Islander communities to support vulnerable children and families by strengthening their capacity to deal with issues that might impact on their safety, wellbeing and resilience, and assisting families to make choices to enhance their ability to continue to protect their children.

## **IX. Optional Protocols to the Convention on the Rights of the Child<sup>47</sup>**

318. Australia signed the Optional Protocol on the sale of children, child prostitution and child pornography on 18 December 2001, and ratified it on 8 January 2007. It entered into force for Australia on 8 February 2007, pursuant to article 14(2).

319. Australia signed the Optional Protocol on the involvement of children in armed conflict on 21 October 2002, and ratified on 26 September 2006. The Optional Protocol entered into force for Australia on 26 October 2006, pursuant to article 10(2).

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<sup>47</sup> Concluding Observations, paragraphs 78–79.

## **X. Follow-up and dissemination<sup>48</sup>**

320. The Australian Government made its combined second and third report to the Committee available on the website of the Attorney-General's Department.<sup>49</sup> It also tabled the report in Federal Parliament. Copies were distributed to State and Territory governments, federal departments and major public libraries. Copies of the report were available to NGOs and interested members of the public. In all, around 1,200 copies of the report were printed and distributed.

321. The Government proposes to disseminate this fourth report in the same way.

322. There is also a link to the Committee's concluding observations on Australia's combined second and third report on the website of the Attorney-General's Department.<sup>50</sup> Further information about the reporting process and the Convention is available on the AHRC website.<sup>51</sup> The Government circulated the concluding observations widely to Australian Government departments and State and Territory governments and requested they follow up on the Committee's recommendations.

323. The Government also circulated the concluding observations to NGOs and requested them to make them available to their members and on their websites. The Committee's concluding observations on the present report will be similarly circulated. Further information about the reporting process and the Convention is available on the AHRC website.

## **XI. New developments**

### **Convention ratifications and international participation relevant to the rights of the child**

324. Australia ratified the ILO Convention 182 on the Worst Forms of Child Labour on 19 December 2006.

### **National Emergency Response to protect Aboriginal children in the Northern Territory**

325. In June 2007 the Australian Government announced an Emergency Response to widespread child abuse in remote Indigenous communities in the Northern Territory.

326. The Australian Government's Emergency Response followed the release in May 2007 of the Little Children are Sacred report, prepared by the NT Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse.

327. Little Children are Sacred reported that child abuse in Indigenous communities throughout the Northern Territory was at crisis levels. The Inquiry found that this reflected the breakdown of peace, good order and traditional customs and laws.

328. The report also concluded that:

<sup>48</sup> Concluding Observations, paragraphs 80–81.

<sup>49</sup> [http://www.ag.gov.au/www/agd/agd.nsf/Page/Publications\\_AustraliascombinedSecondandThirdReportsundertheConventionontheRightsoftheChild-March2003](http://www.ag.gov.au/www/agd/agd.nsf/Page/Publications_AustraliascombinedSecondandThirdReportsundertheConventionontheRightsoftheChild-March2003).

<sup>50</sup> [http://www.ag.gov.au/www/agd/agd.nsf/Page/Humanrightsandanti-discrimination\\_Humanrights](http://www.ag.gov.au/www/agd/agd.nsf/Page/Humanrightsandanti-discrimination_Humanrights).

<sup>51</sup> [http://www.humanrights.gov.au/human\\_rights/children/aus\\_commitment\\_to\\_children\\_rights.html](http://www.humanrights.gov.au/human_rights/children/aus_commitment_to_children_rights.html).

- There is a strong connection between alcohol abuse, violence and the sexual abuse of children
- Alcohol has significant detrimental effects in Aboriginal communities
- Many children in NT Aboriginal communities are not adequately cared for
- Education is an important protective factor in keeping children safe, but a significant number of children in NT Aboriginal communities do not attend school

329. The Emergency Response is not a response to the report but an urgent response to the problem it highlights.

330. The Australian Government has implemented a range of measures to protect children and improve the communities in which they live, including:

- Introducing widespread alcohol restrictions on NT Aboriginal land
- Introducing welfare reforms to direct income support and family assistance payments to basic necessities such as food, clothing and shelter
- Enforcing school attendance by linking income support and family assistance payments to school attendance for all people living on Aboriginal land and providing meals for children at school
- Introducing comprehensive health checks for all Indigenous children to identify and treat health problems, including any effects of identified abuse
- Providing additional doctors, nurses, allied health professionals and specialist services
- Acquiring townships prescribed by the Australian Government through five-year leases including payment of just terms compensation
- Increasing policing levels in prescribed communities, including requesting secondments from other jurisdictions to supplement NT resources, funded by the Australian Government, and future deployments of Australian Federal Police to compliment NT Police
- Requiring intensified on-ground clean up and repair of communities by marshalling local workforces through Work for the Dole programmes
- Improving housing and reforming community living arrangements in prescribed communities including repairing existing houses, building new houses, and the introduction of market based rents and normal tenancy arrangements
- Banning the possession of X-rated pornography and introducing audits of all publicly-funded computers to identify illegal material
- Improving governance by appointing managers for all government business in prescribed communities
- Creating jobs in the delivery of Australian Government services
- Offering matched funding to create jobs delivering NT Government services

331. There is a range of additional measures to improve the communities in which children live, including:

- Establishing up to 15 new or expanded safe houses for families fleeing violence
- Increasing the capacity of the Northern Territory Government child protection workforce

- Recruiting Aboriginal Family and Community Workers and Coordinators to deliver liaison and support services to Indigenous families and communities
- Follow-up medical services to support the child health checks
- Funding for additional classrooms and to assist in the recruitment and retention of well qualified teachers
- Funding to train teachers in specialist literacy programs shown to have worked in Indigenous communities (the Accelerated Literacy Program)
- Expansion of night patrol services
- Drug and alcohol outreach teams
- Additional legal services

332. The Government set up a board to conduct an independent review of the Northern Territory Emergency Response in June 2008 (12 months after the commencement of the Response). The review report was presented to the Government on 13 October 2008. An interim response was provided by the Minister for Families, Housing, Community Services and Indigenous Affairs on 23 October 2008, and the Government is in the process of formulating a comprehensive response.

### **New Australian projects**

333. The Australian Government currently makes a substantial commitment in support of children and young people through a range of programs and policies.

#### **Connect Australia – Backing Indigenous Ability**

334. The Backing Indigenous Ability Telecommunications Program is part of the broader \$1.1 billion Connect Australia package. The objective of the \$36.6 M program is to increase the take up and use of telecommunications, computers and the Internet, particularly in remote Indigenous communities.

335. The increased uptake and application of such technology by Indigenous communities should contribute to improvements in health and educational outcomes for children in remote communities. The technologies should improve contact with health and educational professionals and access to health information.

336. The combination of computers, Internet access, training, and Indigenous portals will create additional learning resources across Indigenous communities. This will overcome language and literacy barriers, while assisting with English, the language of everyday transactions on the Internet.

337. A number of elements in the program should contribute to the preservation of Indigenous culture and the involvement of Indigenous children in such activities. All computers funded by the program will have filters installed and will also be audited to help ensure that they are not used to access inappropriate content.

#### **Stronger Families and Communities Strategy**

338. The National Agenda, outlined above, guides Australian Government investment in other areas of early childhood, for example, with the new Stronger Families and Communities Strategy.

339. The Stronger Families and Communities Strategy includes four key initiatives:

- Communities for Children

- Early Childhood – Invest to Grow
- Local Answers
- Choice and Flexibility in Child Care

340. These initiatives are designed to focus on early intervention and prevention in the early years of a child's life, and to help individuals and families to be a part of, and contribute to, strong and resilient communities. It has been informed by National Agenda consultations and is explicitly linked to that Agenda, including providing the framework against which the Agenda is being evaluated.

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