



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Sixtieth session

### Summary record of the 1707th meeting

Held at the Palais Wilson, Geneva, on Monday, 4 June 2012, at 3 p.m.

*Chairperson:* Mr. Zermatten

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports of States parties** (*continued*)

*Fourth periodic report of Australia (CRC/C/AUS/4; CRC/C/AUS/Q/4 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Australia took places at the Committee table.*
2. **Mr. Woolcott** (Australia) said that, since Australia had submitted its fourth periodic report to the Committee in 2009, the country had considerably improved its national approach to protecting and promoting children's rights, including by strong cooperation with civil society. The Federal Government had continued to work with State and Territory Governments to develop cooperative and coordinated strategies to improve the well-being of children.
3. The Federal Government had consulted closely with the State Governments to formulate its response to the list of issues and prepare for the interactive dialogue. It was grateful to non-governmental organizations (NGOs) for the constructive dialogue held in the lead-up to the consideration of the periodic report. The reports submitted to the Committee by NGOs found that most children in Australia lived in excellent conditions, with a good level of education and access to quality health care.
4. However, some children, such as children with disabilities, Aboriginal or Torres Strait Islander children and children in remote areas, faced barriers to full participation in society. The Government was committed to action to support those children in exercising their rights.
5. Pursuant to the Committee's recommendation to appoint an independent commissioner to monitor the implementation of the Convention on the Rights of the Child and promote and protect children's rights at the national level, the Government had announced in April 2012 the establishment of a National Children's Commissioner. The Commissioner should take office by the end of 2012, would be a member of the Australian Human Rights Commission and would report to the Government on an annual basis.
6. On 1 January 2011, the Government had set up a parental leave scheme, providing 18 weeks of paid leave at the national minimum wage. Many women, particularly those in casual, part-time or seasonal employment, would thus have the financial security to take time off, enabling them to breastfeed their babies.
7. All levels of government were cooperating on crafting a national approach to the promotion of children's rights and well-being, especially in the areas of child protection, early childhood development and education.
8. In its previous concluding observations, the Committee had recommended that Australia should take steps to develop as well as coordinate and monitor the implementation of children's laws and policies. A national human rights action plan, including initiatives for children, had been formulated as part of the country's Human Rights Framework. In 2012, the Government had established a parliamentary committee to ascertain the compliance of new legislation with human rights instruments, including the Convention on the Rights of the Child.
9. Key initiatives launched since 2009 to ensure a consistent approach to children's well-being and development included the National Framework for protecting Australia's children 2009–2020 and the National Early Childhood Development Strategy, which promoted the health of young children.
10. The State strove to guarantee access to quality preschool education for Aboriginal and Torres Strait Islander children, who were among the country's most disadvantaged.

According to the Australian Bureau of Statistics, their enrolment rate had been 94 per cent in 2011.

11. In 2009, Australia had been the first country in the world to carry out a nationwide survey of children's development, based on the Australian Early Development Index. Conducted over the first few months of compulsory education, the study provided valuable data on children's developmental vulnerabilities. The survey was being conducted again in 2012, as part of a planned three-year data-collection cycle.

12. The States and Territories were also taking action to improve the situation of children in Australia. For example, in its May 2012 budget, the State of Victoria had significantly increased the resources allocated to child victims of acts of violence or ill-treatment.

13. The State of New South Wales ran programmes to address the risk of homelessness among Aboriginal children and youths, including those leaving alternative care.

14. Australia was planning a fundamental reform of the disability care system, including for children, through a National Disability Strategy and National Disability Insurance Scheme. It was determined to ensure that persons with disabilities were empowered to make their own decisions and participate in society as fully as possible. In recent years, the Government had also introduced early intervention initiatives to help children with learning or developmental disabilities, including children with autism. The national curriculum currently under development took into account the special needs of children with learning disabilities and focused on their integration in the mainstream.

15. Australia took seriously its responsibility to protect children from all forms of exploitation and, in 2010, had amended laws to strengthen penalties for offences such as sex tourism.

16. In response to the Committee's 2005 recommendations regarding the treatment of unaccompanied or separated children, the Government had adopted further measures for their benefit. Children, whether accompanied or not, were placed in the least restrictive immigrant holding settings for the briefest possible time.

17. Australia was well aware that, despite its efforts, a number of areas still needed improvement. It remained concerned by the high number of children in out-of-home care and the disproportionate number of indigenous children in the juvenile justice system. The Government worked with the States and Territories, civil society, families and communities to devise innovative approaches for assisting those children. It was committed to developing an anti-racism strategy, led by the Australian Human Rights Commission, and to raising awareness of cultural diversity among the police, public officials and the population.

18. As the Committee had recommended in its 2005 concluding observations, Australia maintained its commitment to public health and education programmes, such as preventing suicide, HIV/AIDS and substance abuse among children.

19. **Ms. Maurás Pérez** (Country Rapporteur) said that, notwithstanding the challenges inherent to federal systems, the Committee noted that the Council of Australian Governments was a key forum for the exchange of views and decision-making and ensured comprehensive and coherent implementation of the Convention throughout the country.

20. The Committee recognized the progress made by Australia in setting up the policy and legislative framework needed for human rights instruments to be strictly implemented and for institutions and society to comply with the fundamental principles enshrined in them. Noteworthy examples were the apologies extended by the State party to the lost generations of Aboriginals and Torres Strait Islanders, the adoption of the National Plan to

Reduce Violence against Women and Their Children and the establishment of the Australian Youth Forum.

21. Given that such matters as combating violence and administering justice needed to be viewed and coordinated on a national scale, the Committee would like to know whether the State party had defined national objectives in the area of children's rights and, if not, how it ensured coordination and monitoring of policies and programmes in order to avoid gaps and overlaps. It would be useful to know whether there was a national institution, connected to the Council of Australian Governments, that gave the State party an overview of child-oriented actions. If not, might the State party consider establishing one, as the Committee had recommended in 2005?

22. She wished to know when the drafting of the 2012–2015 Action Plan would be completed, how it would be implemented and whether the Government intended the plan to cover all the rights enshrined in the Convention.

23. She also asked whether the office of the National Children's Commissioner would conform to the Paris Principles and the Committee's recommendations, namely, whether it would have its own budget and staff specializing in children's rights and would be active throughout the country.

24. As to child labour, she would welcome additional information on how the State party intended to ensure that all Australian companies operating abroad were fully accountable for their actions if they violated children's rights, including those covered under article 268 of the Criminal Code. The Committee would also like to know what prevention, investigation, prosecution or compensation mechanisms Australia could utilize in such cases.

25. Since the actions of the Export Finance and Insurance Corporation had been at the root of forced displacements, poor working conditions and a failure to respect local culture, the Committee wished to know whether the State party intended to ensure that the Corporation required its clients to conduct assessments of the risk of human rights violations, including of children's rights.

26. She requested examples of any actions taken under the National Plan to Reduce Violence against Women and their Children 2010–2022. Lastly, she asked what measures had been taken to protect children against online harassment, pornography and violence.

27. **Ms. Wijemanne** (Country Rapporteur) suggested that the State party might consider other strategies to improve the situation of Aboriginal and Torres Strait Islander children, whose mortality rate was three times higher than that of other children. She noted that those children, as well as children in alternative care and those in remote areas, appeared to have inferior access to health care and education and a lower standard of living.

28. The State party should address the issue of homeless persons, a substantial number of whom were minors whose situation exposed them to sexual exploitation and substance abuse, among other dangers.

29. According to information available to the Committee, Australia did not do very much to include children in decision-making or take account of their ideas in policymaking, although that was an essential element of the Convention. Therefore, the State party should intensify its efforts in that connection.

30. She asked whether measures were taken to make it easier for Aboriginals to register births.

31. She asked for further information on corporal punishment, which still occurred within the home and in a number of schools and alternative care facilities and appeared to be regarded as an acceptable form of punishment.

32. **Mr. Kotrane** asked what social policies geared towards families and children had been adopted by the Labour Government since 2007. He also wished to know whether the State party intended to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138) and the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) and whether it planned to withdraw its reservation to article 37 (b) and (c). He also asked whether the State party intended to increase its official development assistance to 0.7 per cent of gross domestic product.

33. **Ms. Al-Asmar** asked whether the laws in certain States and Territories that allowed police to remove children and young people who were congregating — which constituted a violation of the right of peaceful assembly and freedom of association — had been repealed.

34. **Mr. Madi** expressed surprise that there was no law prohibiting corporal punishment, either in schools or in institutions, and asked when that omission, which was unworthy of a developed country such as Australia, would be corrected.

35. **Ms. Sandberg** asked whether it was true that accompanied migrant children could not be heard separately from their parents during immigration procedures. She also asked what consideration was given to the opinion of young children in bodies such as the Australian Youth Forum and the boards responsible for children, youths and guardians, which all seemed geared primarily to adolescents. She wished to know to what extent the authorities took account of the views gathered through the Youth Parliament.

36. **Ms. Varmah**, recalling that in 2005 nearly 13 per cent of Aboriginal children had not been registered at birth, asked whether there were plans to set up a system to encourage birth registration by making the process entirely free and accessible to all, without discrimination. She also requested information about registering children born to migrant mothers in holding centres, children of same-sex couples and children conceived via egg or sperm donation.

37. **Ms. Aidoo** commended the efforts of the State party to disseminate the Convention via the Internet, including on the website of the Australian Human Rights Commission. Nevertheless, it appeared that very few children had heard of the Convention. She asked what steps were being taken to design and disseminate widely to all constituencies — especially Aboriginal and migrant children — a child-friendly version of the Convention, if possible translated into a range of languages. She also wished to know whether measures to raise awareness of human rights had been evaluated and whether there were plans to systematically include study of the Convention in school curricula.

38. **Mr. Gastaud** asked how the various ministries and bodies dealing with children's affairs coordinated their activities and how responsibilities were divided between State and Federal Governments, with a view to implementing child policies in a consistent manner throughout the country. He also wished to know whether children were systematically heard in divorce proceedings. Lastly, he asked whether there were mechanisms enabling children to express their opinions at school.

39. **Ms. Lee** asked whether it was true that, in the Northern Territory, publishing photographs of juvenile delinquents was permitted and, if so, whether there were plans to repeal that provision in the interest of protecting children's identity.

40. **The Chairperson**, speaking as a member of the Committee, asked whether recent antiterrorism laws affected the ability of children to enjoy their rights.

*The meeting was suspended at 4.10 p.m. and resumed at 4.35 p.m.*

41. **Ms. McKenzie** (Australia) said that policy decisions regarding children were taken both by the Federal Government and by the various State and Territory Governments. The Department of Families, Housing, Community Services and Indigenous Affairs, the Department of Education, Employment and Workplace Relations, the Office of Early Childhood Education and Child Care, the Office of Women's Affairs and the Attorney-General all had children's affairs in their remit. The States and Territories also had their own departments of children's affairs, coordinated by the Council of Australian Governments on which Federal and State Government representatives sat. The Council was divided into standing committees, including in particular those on education and early childhood, the law and justice, community services and disabilities, and women's affairs. The standing committees all worked together and NGOs were also included in discussions and decisions regarding child policy. In addition, as part of the roundtable initiative, some 15 experts in children's affairs met regularly to discuss with Ministers of the Commonwealth of Australia what approach to take on child policy. The strategic focuses defined in the National Framework for Protecting Australia's Children had been formulated by a tripartite commission made up equally of representatives of the Federal Government, the States and Territories and NGOs.

42. **Ms. Maurás Pérez**, noting that the National Framework for Protecting Australia's Children 2009–2020 mainly addressed protection against ill-treatment, asked whether the other rights defined in the Convention were also covered.

43. **Mr. Manning** (Australia) said that all bills submitted to the Federal Parliament were subjected to close scrutiny by the members to ensure compliance with the seven major human rights instruments to which Australia was a party, including the Convention.

44. The mandate of the National Children's Commissioner was to increase awareness of and uphold children's rights throughout the country, review legislation, promote cooperation between the Territories and States and foster coordination among all bodies responsible for enforcing children's rights in Australia.

45. **Ms. Maurás Pérez** asked whether the office of the National Children's Commissioner was entirely independent from the executive branch, whether it was required to submit an annual report to Parliament and, if so, whether the report was to be made available to the public.

46. **The Chairperson**, speaking as a member of the Committee, asked what happened to any State laws that were deemed incompatible with one of the seven major human rights instruments to which Australia was a party. He also asked what remedy was available to children living in a given State who considered themselves deprived of one of their rights under the Convention, when that right was upheld in another State.

47. **Mr. Kotrane**, pointing out that only the State of Victoria and the Australian Capital Territory had adopted a human rights charter, asked whether the Convention was directly applicable in all the States.

48. **Mr. Gastaud** asked whether the Commonwealth Government could require a State to bring into line a regulation deemed to infringe the provisions of the Convention.

49. **Mr. Woolcott** (Australia) said that, before an international instrument was ratified, the Australian Government ascertained that all national legislation complied with the provisions of the instrument in question.

50. Recalling that Australia had been actively involved in the formulation and adoption of the Paris Principles, he said that the Human Rights and Equal Opportunity Commission was completely independent from the executive branch and played a consultative role. The National Children's Commissioner would play a similar role.

51. **Mr. Manning** (Australia) said that the office of the National Children's Commissioner would be allotted a \$A 3.5 million budget, which would cover expenses related to establishing its mandate as well as operational costs for the next four years. The Commissioner's office would be free to choose its staff, would have a nationwide mandate, would benefit from the networks of the Human Rights and Equal Opportunity Commission, of which it was an integral part, and would have to report to Parliament. The Commission, for its part, had the authority to investigate all matters related to compliance with human rights in Australia and was accountable to the Government.

52. Parliament was responsible for determining whether a bill was consistent with human rights provisions. Departments that found inconsistencies could report them to Parliament, which would take them into account when considering the relevant bill.

53. **Mr. Ayres** (Australia) said that a number of policies, including social ones, had been adopted to improve the situation of the Aboriginal and Torres Strait Islander children. As part of the new school curriculum, indigenous history and culture would be showcased in civics courses. The social programmes targeting indigenous persons were designed to encourage their independence and develop services better adapted to their needs. Partnerships had been established at the national level to foster early childhood development in that population group, including a focus on maternal and child health.

54. **Ms. McKenzie** (Australia) said that the Federal Government intended to focus on reconciliation and was considering recognizing Australia's First Peoples in the Constitution. It had established the National Congress of Australia's First Peoples, responsible for considering all matters related to indigenous populations. The Council of Australian Governments had set a number of objectives to reduce inequality between indigenous people and the rest of the country's population, namely, reducing the life expectancy gap by 2031, halving the gap in the under-5 mortality rate by 2018, ensuring that all indigenous children aged 4 had access to preschool education within the next five years and ensuring, by 2018, that indigenous children were on a par with majority-group children in their ability to read, write and count.

55. **Mr. Manning** (Australia) said that the Commonwealth Government attached all necessary importance to human rights and non-discrimination and that children were aware of the Convention and related rights. The Government had allocated \$A 12.4 million over four years to human rights education, covering the cost of human rights training programmes for public officials and the classes provided to primary and secondary school students. In 2011, 700 senior public officials had also received training, either through seminars or online, with a view to ensuring that all persons taking part in law- and policymaking were aware of the principles of human rights and non-discrimination.

56. **Ms. Aidoo** asked whether, in the new school curriculum currently being devised, human rights in general, and children's rights in particular, would be a stand-alone subject.

57. **Mr. Ayres** (Australia) said that the competent authority would only design the new curriculum once it had consulted State Governments and education authorities, and that all matters of relevance to civics and participation in community life would be considered within the next 12 to 18 months.

58. **The Chairperson**, speaking as a member of the Committee, asked whether there was a specific structure in place for registering complaints from indigenous children.

59. **Ms. Lee** noted that health and education indicators were very low among Aboriginal populations, which might reflect discrimination in access to education and health care.

60. **Mr. Woolcott** (Australia) said that action to promote children's rights fell within the purview of the Council of Australian Governments, which coordinated the activities of the Federal, State and Territory Governments in specific areas such as education and health,

and of the Department of the Prime Minister and Cabinet, charged with coordinating national policies.

61. **Ms. McKenzie** (Australia) said that there was a federal department of indigenous affairs responsible for coordinating policies and programmes for indigenous populations.

62. **Ms. Maurás Pérez**, pointing out that, to her knowledge, the statistics at the Government's disposal were not disaggregated by ethnic origin, asked how, in those circumstances, the authorities could assess the results of the strategies that were established.

63. She requested additional information about the members of the National Congress of Australia's First Peoples, in particular how they were chosen and what their functions were. She wished to know whether there were children among them and, if so, what their role was.

64. **Mr. Woolcott** (Australia) said that Australia had taken great pains to collect reliable and usable disaggregated data on children, notably in the areas of juvenile justice, child protection, health and early childhood development. However, much remained to be done regarding the collection and analysis of data on children with disabilities.

65. **Ms. Wijemanne** said that, according to information available to the Committee, the number of children placed in alternative care was on the rise. Allegedly, some children living in such care facilities were mistreated or exploited and staff were not properly trained. Moreover, the measures in place for young people when they left the alternative care system at the age of 18 were reportedly inadequate. She asked whether there were prevention programmes, such as social assistance for struggling families, what oversight there was of alternative care institutions and what training their staff received. She also asked what measures were in place to avoid children ending up in the street.

66. She requested further information about the access of children with disabilities to health care and about prevention and diagnosis of disabilities. Noting the diminishing rate of exclusive breastfeeding, she asked whether there were policies or laws governing the advertising and marketing of breast milk substitutes. She also wished to know whether programmes to promote breastfeeding had been set up in hospitals.

67. Given the high number of youth suicides, information on children's access to mental health services would be useful. Noting a rise in sexually transmitted infections and diseases, she asked whether youths had access to reproductive health services, what information they received on the subject and what preventive measures were taken. She would also like information on teenage pregnancy.

68. **Ms. Maurás Pérez** stressed that, despite the economic prosperity of Australia, 12 per cent of the population lived in poverty, especially migrants, persons with disabilities and indigenous persons. She asked whether Australia had adopted a comprehensive anti-poverty strategy, as recommended by the Committee on Economic, Social and Cultural Rights.

69. She requested further information about the implementation of the 2001 law on plain cigarette packaging, and commended Australia for its unique initiative.

70. She noted with satisfaction the measures taken by the Government to reduce the number of migrant children or asylum seekers placed in holding centres and limit how long they were held, but said she remained concerned by the fact that hundreds of migrant children continued to be placed in other facilities, such as migrant shelters or community centres, thereby curbing the enjoyment of their rights. She asked whether steps had been taken to regularize their situation.

71. **Ms. Lee** asked whether there was a conflict of interest between the various functions of the Department of Immigration and Citizenship, which granted refugee status and took



decisions on expulsion while at the same time it was, as legal guardian to unaccompanied migrant children, meant to act in their best interest.

72. She noted with satisfaction the High Court ruling nullifying the refugee transfer agreement concluded between Malaysia and Australia in July 2011, but expressed concern over the Government's intention to conclude similar agreements with other countries.

73. She asked whether the Aboriginal and Torres Strait Islander Education Action Plan 2010–2014 had been approved by the Council of Australian Governments. She noted with concern that, in the Northern Territory, the first four hours of the schoolday were mandatorily in English and wondered about the impact of such a practice on the right of indigenous populations to instruction in their mother tongue. She requested further information about the access to education of indigenous children in the Northern Territory and the quality of the education they received.

74. **Mr. Cardona Llorens**, recalling that in 2005, the Committee had strongly recommended that Australia should prohibit all sterilization of children, asked how many girls had been sterilized and how many of them had had disabilities. He wished to know whether the State party planned to prohibit the practice.

75. He asked what special mechanisms had been set up to ensure the participation of children with disabilities in decisions relevant to them, including in matters of education and guardianship. In light of the State party's reservation to the Convention on the Rights of Persons with Disabilities, he asked whether disability was considered an objective criterion that could justify denying entry to a foreign family.

76. Although Australia had said it was in favour of inclusive education, it had not provided any figures on the number of children with disabilities enrolled in school or on specialized classes. In 2005, the Committee had stated its concern about the high number of children with mental impairments who were in conflict with the law. He asked what programmes had been established to care for those children.

77. **Mr. Koompraphant** asked why the number of cases of neglect or ill-treatment of children was on the rise. He wished to know whether preventive measures had been put in place, such as family visits, intervention by school or family counsellors and establishment of a helpline. He enquired what therapy was available to both child victims and perpetrators of violence and about the possibility of reintegrating child victims of ill-treatment into their families.

78. **Ms. Sandberg** asked whether children were consulted during the formulation of programmes and policies against violence and neglect and whether the policies and programmes established a few years earlier had been evaluated. She further asked whether professionals were under an obligation to report all alleged cases of ill-treatment to the child protection services. She wished to know what measures were taken to address the root causes of violence.

*The meeting rose at 6 p.m.*