

Country session: Australia

Date of session: 9th & 10th September 2019 (82nd session)

Background information

[OHCHR press release](#)

Webcast [first part](#) and [second part](#)

[Audio file](#)

Reporting

Reporting methodology

Regular reporting procedure

Simplified reporting procedure

Concluding Observations with urgent measures

State report

Common core document	
Initial submission	19 April 1994
Updated document	07 August 2007

CRC	
No. of report	5 ^o and 6 ^o
Due date	15 Jan 2018
Submission	15 Jan 2018

Written replies	
Submission	28 June 2019
Due date	15 May 2019

Public reports from children's rights defenders

Alternative reports and additional information	
NGOs	National Secular Society (NSS) (UK) Australian Child Rights Taskforce ECPAT International Human Rights Law Centre Global Initiative for Economic, Social and Cultural Rights School Strike for Climate Action Dr Judy Courtin
NHRIs	Australian Human Rights Commission



State delegation

The [delegation of Australia](#) consisted of representatives of the Attorney-General's Department, the Department of Social Service, the National Indigenous Australians Agency, the Department of Health, the Department of Education, the Department of Home Affairs, the Department of the Prime Minister and Cabinet, the Department of Defence, the Royal Australian Navy, the Department of Foreign Affairs and Trade, and the Permanent Mission of Australia to the United Nations Office at Geneva Andrew Walter, First Assistant Secretary, Integrity and Security Division, Australia's Attorney-General's Department.

Committee's Task Force members

Name & Last Name	Country
Clarence Nelson (coordinator)	Samoa
Olga Khazova	Russian Federation
Cephas Lumina	Zambia
Faith Marshall-Harris	Barbados

Dialogue description

I. Character of the dialogue

The atmosphere of the dialogue was cooperative, and an in-depth discussion took place. The large and multisectoral delegation covered most of the questions asked by the Committee.

II. Main issues discussed:

- **Data collection:** the Committee asked if the Office of the National Data Commissioner covered all the areas of the Convention and if such data was disaggregated. They also wanted to know if this data covered vulnerable groups and at to which extent was it shared. The delegation explained that Australia was supported by sophisticated data agencies and was committed to collecting data on children across a wide range of indicators to identify opportunities for early and effective interventions and to improve policymaking. Significant work had been carried out on data disaggregation to identify vulnerable cohorts of children. Regarding data on violence against children, in December 2018, the Government had decided to fund the first national child maltreatment study to examine various kinds of abuse and domestic violence. It would study the impact of abuse over the course of children's lives, including on suicide attempts. The Government was bound by privacy related obligations, which were taken into consideration when deciding what data was made public and how.
- **Mental health:** the Committee is seriously concerned that the number of children with mental health problems is increasing and, while welcoming the adoption of the 2017 Fifth National Mental Health and Suicide Prevention Plan, is concerned that it insufficiently includes child-specific measures. The Committee asked the delegation if they had any work being carried out to identify the causes of the increase of children suicide in Australia. The delegation said there is not a single reason to explain suicide; it's a complex reason. On the causes, the government has supported research financially including a project on evaluating youth health, emergencies departments and digital intervention to develop a better practice. Moreover, 503 million dollars had been allocated in the last budget to expand mental health services for young people, strengthen indigenous suicide prevention, and provide early childhood and parenting support. The Government had also provided 125 million dollars over the next 10 years to support research on suicide prevention, including a project that would look at culturally safe intervention services for Aboriginal and Torres Strait Islander youth.
- **Definition of the child:** the Committee sought clarifications on, and whether measures had been taken to eliminate, any exception to the minimum age of marriage of 18 for girls and boys. The delegation explained

that the minimum age of marriage was 18 however, it was possible for a child between the age of 16 and 18 to petition a court to obtain the right to marry.

- **Birth registration:** the Committee noted that there was a marked difference between birth registration rates between Aboriginal and Torres Strait Islander children and the general population. Could the Government consider abolishing the fees and penalties related to birth registration? The delegation explained that the government had taken steps to help indigenous families register children at birth, in some cases providing them with free registration services and having officers travel to communities to conduct the registration. Telephone services had been set up, and liaison offices created in hospitals, to foster birth registration.
- **Administration of child justice:** the Committee said that it was concerning that issues that had been raised in previous concluding observations had not been addressed. In that regard, the experts asked if the age of criminal responsibility had been raised from 10 years old to 14; the internationally accepted level. Andrew Walter, Australian Attorney-General's Department, said that the Council of Australian Governments had created a working group tasked with considering raising the age of criminal responsibility. This working group would produce a report by November 2019. Without speculating on the work of the Working Group and the decision of the Council, it should be noted that, if the Council decided to recommend raising the age of criminal responsibility, each state and territory would have to adopt legislation to enact that change. Legislation would have to be adopted at the Commonwealth of Australia level as well, to amend Commonwealth criminal offences laws.
- **Impact of climate change on the rights of the child:** the Committee expressed its concern about the State party's position that "the Convention does not extend to protection from climate change". The Committee emphasises that the effects of climate change have an undeniable impact on children's rights, and it was absurd to say that climate change was not linked to children's rights. The Committee asked what progress had been made towards the goals of the Paris Climate Change agreement in Australia and how were children involved in the design of climate-change policy. The Committee had heard from the children of the country, and they had several questions about this matter, for example about the measures taken to reduce the level of CO2. The delegation explained that the Government is addressing climate change-related issues in a variety of fora, including the upcoming Climate Action Summit set to start on 23 September 2019 in New York. He said Australia is engaged in discussions around climate change and that, regarding the last strikes, the Government supported the rights of all people, including children, to peaceful assembly and their freedom of association. At the same time, the Government is committed to promote school attendance for all children to ensure they did not fall behind.

Recommendations of the Committee

In its [Concluding Observations](#), the Committee drew attention to the need for urgent measures concerning the following areas:

- **Protection from violence:** the Committee urges the State party to review the action plans of the National Framework and the National Plan to prioritize implementation of key prevention measures and responses to violence against children; to establish a comprehensive standard with regard to intervention in cases of child sexual abuse, multi-agency measures and appropriate therapeutic services to avoid secondary or re-traumatisation of child victims; to review the National Redress Scheme, to disregard the Catholic church "deeds of release" for the victims and survivors of abuse by religious personnel who wish to pursue an independent and secular redress process; to provide child-specific therapeutic intervention to child victims of violence; to increase family violence prevention and responses related to Aboriginal and Torres Strait Islander children, including through the Indigenous Family Safety Programme; to review the National Framework and the National Plan to adequately address violence prevention against children with disabilities, and prohibit by law the sterilization of girls with disabilities without their prior consent.



- **Alternative care:** the Committee urges the State party to strongly invest in prevention measures to avoid child removal; to harmonize and publicize the criteria for removal and placement of a child in alternative care across jurisdictions; to ensure the adequate resources to child protection services and alternative care and proper training of those working with and for children in alternative care; to invest in measures for Aboriginal and Torres Strait Islander children and communities, to provide adequate training to child protection carers on the rights and needs of children with disabilities to prevent their maltreatment and abuse; and to ensure that children in alternative care have access to the mental health and therapeutic services necessary for their healing and rehabilitation.
- **Mental health:** the Committee urges the State party to invest in addressing the underlying causes of children's suicide and poor mental health, improve mental health literacy for children to promote children's awareness and ensure that the Fifth National Mental Health and Suicide Prevention Plan has a clear child focus strategy; to prioritize mental health service delivery to children in vulnerable situations; to strengthen measures to ensure that the prescription of psychostimulant drugs to children with ADHD is used as a measure of last resort and only after an individualised assessment and that children and their parents are properly informed about the possible side effects of this medical treatment and finally, to increase the availability of online mental health services and web-based counselling, while making in-person mental health services child-friendly and accessible to children, including those under 14 years, throughout the territory of the State party.
- **Climate change:** the Committee urges Australia to ensure that children's views are taken into account in developing policies and programmes addressing climate change, the environment and disaster risk management and to take measures to reduce its emissions of greenhouse gases, establishing targets and deadlines to phase out the domestic use of coal and its export, and accelerate the transition to renewable energy, including by committing to achieve 100 per cent renewable energy in the electricity sector.
- **Asylum, refugee and children in situations of migration:** Australia was urged to immediately amend the Immigration (Guardianship of Children) Act 1946 (Cth) to create an independent guardian for children; to amend the Migration Act (Cth) to prohibit the detention of asylum seekers, refugee and migrant children; to amend the Migration and Maritime Powers Acts to ensure respect for the State party's non-refoulement obligations; to enact legislation prohibiting the detention of children and their families in regional processing countries; to ensure that the best interests of the child are a primary consideration in all decisions and agreements in relation to the reallocation of asylum-seeking, refugee or migrant children; to ensure that children who were detained in regional processing countries have access to adequate child protection, education and health services, including mental health; to review migration law and policies to withdraw disability as a criterion for immigration decisions; to implement durable solutions including financial and other support for all refugee and migrant children to ensure their early rehabilitation, reintegration and sustainable resettlement and to introduce adequate mechanisms for monitoring the wellbeing of children involved in asylum, refugee and migration processes.
- **Administration of justice:** the Committee urges Australia to raise the minimum age of criminal responsibility to an internationally accepted level; to immediately implement the 2018 recommendations of the Australian Law Reform Commission to reduce the high rate of indigenous incarceration; to explicitly prohibit the use of isolation and force, including physical restraints, as a means of coercion/discipline of children under supervision, promptly investigate all cases of abuse and maltreatment of children in detention and adequately sanction the perpetrators; to actively promote non-judicial measures, such as diversion, mediation and counselling, for children accused of criminal offences and the use of non-custodial sentences, such as probation or community service; in cases where detention is unavoidable, ensure that the children are detained in separate facilities and for pre-trial detention, that detention is regularly and judicially reviewed; to review its legislation to repeal mandatory minimum sentences to children in the Northern Territory and Western Australia; to ensure that children with disabilities are not detained indefinitely without conviction and their detention is regularly and judicially reviewed and to provide children in conflict with the law with information about their rights and how to report abuses.



Sustainable Development Goals

16.9 On providing legal identity for all, including birth registration

16.2 On ending abuse, exploitation, trafficking and all forms of violence against and torture of children

5.3 On eliminating all harmful practices, such as child, early and forced marriage and female genital mutilation

3.4 On reducing by one third premature mortality from non-communicable diseases through prevention and treatment and promote mental health and well-being

4.1 On ensuring that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes

Next State report

CRC	
No. of report	7 ^o
Due date	15 January 2024

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