



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**Fortieth session**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Concluding observations: Australia**

1. The Committee considered the combined second and third periodic reports of Australia (CRC/C/129/Add.4) at its 1054th and 1055th meetings (see CRC/C/SR.1054 and 1055), held on 13 September 2005, and adopted, at its 1080th meeting (CRC/C/SR.1080), held on 30 September 2005, the following concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the State party's combined second and third periodic reports, as well as the timely responses to the list of issues, which allowed the Committee to have a better understanding of the situation of children in the State party. The Committee further appreciates the constructive and open dialogue with a cross-sectoral and high-level delegation.

**B. Follow-up measures undertaken and progress  
achieved by the State party**

3. The Committee notes with appreciation:

(a) The establishment of the Department of Family and Community Service and the Stronger Families and Communities Strategy initiative;

(b) The establishment of "Families Australia", a national body seeking to improve coordination between the federal, state and territory Governments in policies, programmes and services affecting families, young people and children;

- (c) The National Plan of Action against the Sexual Exploitation of Children, “Tomorrow’s Children” of 2000;
  - (d) The National Plan of Action to Eradicate Trafficking in Persons of October 2003;
  - (e) The launching of a new National Framework for the protection of human rights in Australia on 23 December 2004.
4. The Committee also wishes to welcome the ratification of:
- (a) The Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, on 25 August 1998;
  - (b) The Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children, on 29 April 2003;
  - (c) The Rome Statute of the International Criminal Court, on 1 July 2002.

### **C. Main subjects of concern and recommendations**

#### **1. General measures of implementation**

##### **Committee’s previous recommendations**

5. The Committee notes with satisfaction that most of its concerns expressed and recommendations (CRC/C/15/Add.79) made upon the consideration of the State party’s initial report (CRC/C/8/Add.31) in 1997 have been addressed. However, it notes that some concerns and recommendations have been insufficiently or partly addressed regarding, inter alia, the special problems still faced by indigenous children, corporal punishment, the spread of homelessness among young people, children in immigration detention, juvenile justice and the disproportionately high percentage of indigenous children in the juvenile justice system.

**6. The Committee urges the State party to take all necessary measures to give more effective follow-up to the recommendations contained in the concluding observations of the initial report that have not yet been implemented and to provide concrete and effective follow-up to the recommendations contained in the present concluding observations on the second and third periodic reports.**

##### **Reservations**

7. The Committee is of the opinion that the State party’s reservation to article 37 (c) is unnecessary since there appears to be no contradiction between the logic behind it and the provisions of article 37 (c) of the Convention. In fact, the concerns expressed by the State party in its reservation are well taken care of by article 37 (c), which provides that every child deprived of liberty shall be separated from adults “unless it is considered in the best interests of the child not to do so” and that the child “shall have the right to maintain contact with his or her family”.

8. **The Committee, in light of the 1993 Vienna Declaration and Programme of Action, recommends that the State party continue and strengthen its efforts towards a full withdrawal of its reservation.**

#### **Legislation and implementation**

9. The Committee appreciates the careful scrutiny by the State party of existing and new laws in order to ensure their compliance with the Convention. However, it remains concerned that, while the Convention may be considered and taken into account in order to assist courts to resolve uncertainties or ambiguities in the law, it cannot be used by the judiciary to override inconsistent provisions of domestic law.

10. **The Committee recommends that the State party strengthen its efforts to bring its domestic laws and practice into conformity with the principles and provisions of the Convention, and to ensure that effective remedies will be always available in case of violation of the rights of the child.**

#### **National Plan of Action**

11. The Committee notes that the Department of Family and Community Service has constituted a task force in charge of developing a “National Agenda for Early Childhood” by the end of 2005, as well as the recently revised “National Action Plan”, but it remains concerned that there is no comprehensive policy at national level for children specifically addressing human rights issues that may impact on them.

12. **The Committee encourages the State party to complete the development of the National Agenda for Early Childhood, taking into account the Committee’s general comment No. 7 (2005) on implementing child rights in early childhood, and to provide the necessary budget for its full implementation. At the same time, the Committee recommends that the State party develop and implement effectively a National Plan of Action for children, taking into account the Declaration and the Plan of Action contained in the document “A world fit for children” adopted by the General Assembly at its special session on children in May 2002. This plan should have specific goals, strategies and guaranteed resources, which would allow for an appropriate implementation of the Convention in all states and territories.**

#### **Coordination**

13. The Committee notes that state and territory Governments have increased coordination of policies and monitoring mechanisms for children. It is concerned, however, that the position of Minister for Children and Youth Affairs established in 2002 was downgraded to Parliamentary Secretary for Children and Youth Affairs (under the Minister for Family and Community Services) in late 2004.

14. **The Committee recommends that the State party assign adequate powers as well as human and financial support to the Parliamentary Secretary for Children and Youth Affairs so that it would be able to develop, coordinate and monitor law and policy for children throughout the country.**

### **Independent monitoring**

15. The Committee welcomes the establishment of the post of Commissioner for Children in the States of New South Wales, Queensland and Tasmania, as well as the existence, at Federal level, of the Human Rights and Equality Opportunity Commission (HREOC). While acknowledging the very valuable work of HREOC in the area of children's rights, the Committee is concerned that there is no commissioner within HREOC devoted specifically to child rights and that substantial cuts in its funding over the past 10 years have severely affected its workforce and its ability to handle effectively individual complaints, public inquiries and policy work.

**16. The Committee recommends that the State party ensure that HREOC can undertake independent and effective monitoring of the implementation of children's rights, in accordance with the Committee's general comment No. 2 (2002) on the role of independent national human rights institutions, by providing it with adequate human and financial resources to do so. In addition, the State party could create specialized sections within the offices of the various state and territory ombudsman to deal with issues relating to children.**

### **Resources for children**

17. The Committee notes that despite the increase in budgetary allocations in many areas of childcare and well-being, indigenous children and other vulnerable groups continue to need considerable improvement in their standard of living, health and education.

**18. The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention, by prioritizing budgetary allocations so as to ensure implementation of the economic, social and cultural rights of children, in particular those belonging to disadvantaged groups, such as indigenous children, "to the maximum extent of ... available resources".**

### **Data collection**

19. While welcoming the information that the Australian Bureau of Statistics is currently reviewing the available information on children and youth in order to improve the scope and quality of data, the Committee notes that there are gaps in the collection of data, especially in the area of special protection and vulnerable groups.

**20. The Committee recommends that the State party strengthen its existing mechanism of data collection in order to ensure that data are collected on all areas of the Convention in a way that allows for disaggregation, inter alia by those groups of children who are in need of special protection.**

### **Training/dissemination of the Convention**

21. The Committee notes with appreciation the efforts made by the State to promote awareness of the Convention, including through an online Government strategy and the establishment of the National Committee on Human Rights Education.

22. **The Committee recommends that the State party continue its efforts to disseminate the principles and provisions of the Convention and to raise public awareness, in particular among children themselves and parents, about the Convention.**

23. **The Committee also recommends that the State party strengthen its efforts to provide adequate and systematic training and/or sensitization on children's rights among professional groups working with and for children, in particular law enforcement officials, as well as parliamentarians, judges, lawyers, health personnel, teachers, school administrators and others, as required.**

## **2. General principles**

### **Non-discrimination**

24. While the Committee notes the initiatives taken against racial, ethnic and religious discrimination, it is particularly concerned at the existing discriminatory disparities affecting Aboriginal and Torres Strait Islander children, especially in terms of provision of and accessibility to basic services. Furthermore, the Committee is concerned that discriminatory attitudes and stigmatization continue to exist, especially towards certain groups of children such as asylum-seeking children and children belonging to ethnic and/or national minorities, including Arabs and Muslims. In this respect, the Committee is also concerned at the possible side effects that the enforcement of the anti-terrorism legislation may have on certain groups of children.

25. **In accordance with article 2 of the Convention, the Committee recommends that the State party regularly evaluate existing disparities in the enjoyment by children of their rights and on the basis of that evaluation undertake the necessary steps to prevent and combat discriminatory disparities. It also recommends that the State party strengthen its administrative and judicial measures within a set time period in order to prevent and eliminate de facto discrimination and discriminatory attitudes towards especially vulnerable groups of children and ensure that, in enforcing its anti-terrorism legislation, the rights enshrined in the Convention are fully respected.**

26. **The Committee also requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Durban Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, also taking into account general comment No. 1 (2001) on article 29, paragraph 1, of the Convention on the aims of education.**

### **Best interests of the child**

27. The Committee is concerned that this principle, while laid down in many laws and policies, is not always reflected in the implementation phase of legislation and policies, e.g. in the area of alternative care.

28. **The Committee recommends that the State party strengthen its efforts to ensure effective implementation of the general principle of the best interests of the child as enshrined in article 3 of the Convention in all legal provisions as well as in judicial and administrative decisions and in projects, programmes and services that have an impact on children.**

#### **Respect for the views of the child**

29. The Committee notes the efforts of the State party to implement fully article 12 of the Convention, but is concerned that the views of the child are not always sufficiently taken into account in judicial and administrative proceedings affecting the child. Furthermore, while the Committee notes the existence of the National Youth Roundtable, it expresses concern that participation by children in the Roundtable is limited in practice (the average age of participants in 2004 was 20) and that it does not always balance geographically.

30. **The Committee recommends that the right of the child to express his/her views in all matters affecting him/her be expressly provided in the Family Law reform. Furthermore, the Committee recommends that a Roundtable specifically for children, be established and that the participants be selected in accordance with the principle of equitable geographic distribution.**

### **3. Civil rights and freedoms**

#### **Preservation of identity**

31. The Committee notes the national inquiry carried out in 1997 by HREOC into the separation of Aboriginal and Torres Strait Island children (“Bringing Them Home”), which acknowledged the past policies whereby indigenous persons were deprived of their identity, name, culture, language and family. In this respect, the Committee welcomes the activities undertaken by the State party to assist family reunification and improve access to records to help indigenous persons trace their families.

32. **The Committee encourages the State party to continue and strengthen as much as possible its activities for the full implementation of the recommendations of the 1997 HREOC report, “Bringing Them Home”, and to ensure full respect for the rights of Aboriginal and Torres Strait Islander children to their identity, name, culture, language and family relationships.**

#### **Access to appropriate information**

33. While the Committee welcomes the State party’s measures in this respect, including the Telecommunications Offences and Other Measures Act 2004, which includes new offences targeting the use of the Internet to access, transmit and make available child pornography and material relating to child abuse, as well as the Criminal Code Amendment (Suicide Related Material Offences) Act 2005, it still expresses concern about the exposure of children to violence, racism and pornography, especially through the Internet.

34. **The Committee recommends that the State party continue and strengthen its efforts to protect children effectively from being exposed to violence, racism and pornography through mobile technology, video movies, games and other technologies, including the Internet. The Committee further suggests that the State party develop programmes and strategies to use mobile technology, media advertisements and the Internet to raise awareness among both children and parents on information and material injurious to the well-being of children. The State party is also encouraged to develop agreements with journalists and media with a view to protecting children from exposure to harmful information in the media and improving the quality of information addressed to them.**

### **Corporal punishment**

35. The Committee notes with concern that corporal punishment in the home is lawful throughout Australia under the label “reasonable chastisement” and other similar provisions in states’ legislation. Furthermore, the Committee is concerned that while corporal punishment has been prohibited in government schools and some private ones in most states and territories, it is still lawful in many private education institutions and in both government and private schools in South Australia and the Northern Territory.

36. **The Committee recommends that the State party:**

(a) **Take appropriate measures to prohibit corporal punishment at home and in public and private schools, detention centres and all alternative care settings in all states and territories;**

(b) **Strengthen awareness-raising and education campaigns, with the involvement of children, in order to promote positive, non-violent forms of discipline and respect for children’s rights, while raising awareness about the negative consequences of corporal punishment.**

## **4. Family environment and alternative care**

### **Alternative care for children without parental care**

37. The Committee notes with concern the considerable increase in the number of children in out-of-home care in recent years as well as the over-representation of indigenous children in out-of-home care. Furthermore, the Committee is concerned about:

(a) The lack of stability and security of children placed in alternative care;

(b) The difficulties for children in maintaining contact with their families;

(c) The inadequate medical care, e.g. physical, dental and mental health services.

38. **The Committee recommends that the State party take measures to strengthen the current programmes of family support, e.g. by targeting the most vulnerable families, in order to reduce the number of children placed in out-of-home care. It further recommends that the State party:**

**(a) Strengthen its support for foster care, e.g. by improving equal access to adequate medical care by children in foster care;**

**(b) Strengthen supervision of foster care and establish regular review of this kind of placement with a view to reuniting the child with his/her natural family;**

**(c) Promote and facilitate the maintenance of contact of the child in foster care with his/her natural family.**

**39. The Committee also recommends that the State party maximize its efforts, within a set time period, to reduce the significant number of indigenous children placed in out-of-home care, inter alia by strengthening its support for indigenous families. It further recommends that the State party fully implement the Indigenous Child Placement Principle and intensify its cooperation with indigenous community leaders and communities to find suitable solutions for indigenous children in need of alternative care within indigenous families.**

#### **Children of imprisoned parents**

40. While the Committee notes the efforts undertaken to tackle this issue, including the Prisoners and their Families programme, it is concerned at the information that a considerable number of children have one parent in prison, and that indigenous children are significantly over-represented in this group.

**41. The Committee recommends that the State party continue and strengthen its measures to provide these children with adequate support, including counselling, and to facilitate contacts with their parents in prison, whenever this is not contrary to the child's best interest.**

#### **Violence, abuse, neglect and maltreatment**

42. While the Committee notes with appreciation the State party's activities and measures addressing this problem, including two programmes seeking to reduce family violence in indigenous communities, it shares the State party's concern that child abuse remains a major problem for Australian society, affecting children's physical and mental health as well as their educational and employment opportunities. The Committee is further concerned at the exposure of children to a high level of domestic violence.

**43. In light of article 19 of the Convention, the Committee recommends that the State party:**

**(a) Continue to take measures to prevent and combat child abuse and violence against children and strengthen measures to encourage reporting of instances of child abuse;**

**(b) Adequately investigate and prosecute reported cases of abuse and violence;**



- (c) **Ensure that all victims of violence have access to counselling and assistance with recovery and social reintegration;**
- (d) **Provide adequate protection to child victims of abuse;**
- (e) **Strengthen measures to address the root causes of violence within the family, paying special attention to the marginalized and disadvantaged groups.**

44. **In the context of the Secretary-General's study on the question of violence against children and the related questionnaire sent to Governments, the Committee acknowledges with appreciation the State party's written replies to this questionnaire and its participation in the Regional Consultation for East Asia and the Pacific held in Thailand from 14 to 16 June 2005. The Committee recommends that the State party use the outcome of the regional consultation as a tool for taking action, in partnership with civil society, to ensure that every child is protected from all forms of physical, sexual and mental violence, and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.**

## **5. Basic health and welfare**

### **Children with disabilities**

45. While the Committee notes the States party's initiatives addressing the rights of children with disabilities, it is concerned about the paucity of information on disabled children, especially when it comes to data on disabled indigenous children, alternative care for children with disabilities and children with disabilities living in remote or rural areas. The Committee also notes that a governmental working group is addressing the issue of sterilization of children with so-called "decision-making" disabilities.

46. **In the light of the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted at its day of general discussion on "Children with disabilities" (see CRC/C/69), the Committee encourages the State party to actively pursue its current efforts and:**

- (a) **To adopt a consistent national approach to the collection of data on children with disabilities;**
- (b) **To ensure that children with disabilities have equal opportunities to participate fully in all spheres of life and to strengthen public awareness campaigns to change negative public attitudes;**
- (c) **To undertake greater efforts to make available the necessary professional (i.e. disability specialists) and financial resources, especially at the local level, and to promote and expand community-based rehabilitation programmes, including parental support groups;**

**(d) To implement the Disability Standards for Education and give adequate support to the Literacy, Numeracy and Special Learning Needs Programme, a key targeted programme aimed at improving the literacy, numeracy and other learning outcomes of students who are educationally disadvantaged, including students with disabilities;**

**(e) To prohibit the sterilization of children, with or without disabilities, and promote and implement other measures of prevention of unwanted pregnancies, e.g. injection of contraceptives, when appropriate.**

#### **Health and access to health-care services**

47. The Committee notes the State party's efforts with regard to the prevention of overweight and obesity, the promotion of breastfeeding, and the prevention and control of injury. However, the Committee remains concerned at malnutrition and undernutrition of indigenous children compared with overnutrition, overweight and obesity at the national level. Furthermore, despite recent studies suggesting that indigenous infant mortality has declined in the past years, the Committee remains concerned at the disparity in health status between indigenous and non-indigenous children and at the unequal access to health care of children living in rural and remote areas.

**48. The Committee recommends that the State party undertake all necessary measures to ensure that all children enjoy the same access to and quality of health services, with special attention to children belonging to vulnerable groups, especially indigenous children and children living in remote areas. In addition, the Committee recommends that the State party take adequate measures, within a set time period, to overcome the disparity in the nutritional status between indigenous and non-indigenous children.**

49. The Committee is also concerned at the information that attention deficit hyperactivity disorder (ADHD) and attention deficit disorder (ADD) are being misdiagnosed and therefore psychostimulant drugs overprescribed, despite the growing evidence of the harmful effects of these drugs.

**50. The Committee recommends that further research be undertaken on the diagnosis and treatment of ADHD and ADD, including the possible negative effects of psychostimulants on the physical and psychological well-being of children, and that other forms of management and treatment be used as much as possible to address these behavioural disorders.**

#### **Adolescent health**

51. The Committee welcomes the various efforts of the State party to reduce suicide among youth in recent years, but it remains concerned that the youth suicide rate is still high, especially among indigenous children and homeless adolescents, and that mental health problems and substance abuse are increasing.

52. **The Committee, in light of its general comment No. 4 (2003) on adolescent health, encourages the State party to continue and strengthen its efforts aimed at suicide prevention among youth, focusing in particular on mental health services, including prevention and management of substance abuse.**

#### **HIV/AIDS**

53. The Committee notes the efforts undertaken by the State party to combat the threat that HIV/AIDS represents for children, including the newly established ministerial advisory committee on AIDS, sexual health and hepatitis, but it is concerned at recent reports showing that the number of indigenous persons diagnosed with AIDS has more than doubled in the past four years.

54. **The Committee recommends that the State party continue to look closely into the issue of HIV/AIDS and, in particular:**

(a) **To continue its efforts to prevent the spread of HIV/AIDS, taking into account the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights;**

(b) **To strengthen its efforts by establishing campaigns and programmes to raise awareness about HIV/AIDS among adolescents, particularly those belonging to vulnerable groups, as well as the population at large, so as to reduce discrimination against children infected and affected by HIV/AIDS;**

(c) **To urgently address the marked increase in AIDS diagnosed among indigenous peoples, including through culturally sensitive safe sex campaigns tailored for indigenous communities.**

#### **Standard of living**

55. The Committee notes with appreciation the Federal Government's considerable expenditures on indigenous housing and infrastructure and the good initiative, the "Community Housing and Infrastructure Programme", but reiterates its concern at the still inadequate standard of living of indigenous children and children living in rural and remote areas.

56. The Committee also notes that the State party has not defined an official poverty line and is concerned that the impact of poor living conditions on the well-being and development of children is not adequately considered.

57. **In light of article 27 of the Convention, the Committee recommends that the State party increase its efforts to provide affordable housing options and take all possible measures to raise the standard of living of indigenous children and children living in rural and remote areas.**

58. **The Committee further recommends that the State party address and systematically investigate the consequences of economic hardship on children, with a view to developing measures aimed at reducing its negative impact on children's healthy development.**

## **6. Education, leisure and cultural activities**

59. While the Committee acknowledges the State party's efforts in this field, including the Jobs Education and Training Child Care Programme, it continues to be concerned at the serious difficulties that indigenous children and children living in remote areas face with regard to education, and in particular their lower level of achievement and high dropout rate.

60. The Committee welcomes the measure taken to combat bullying in schools, such as the National Safe School Framework and the "Bullying. No Way!" website, but it shares the State party's concern regarding the impact that this pervasive practice has on the affected children, especially on their psychological health, educational achievements and social development.

61. **The Committee recommends that the State party:**

**(a) Take all necessary measures to ensure that articles 28 and 29 of the Convention are fully implemented, in particular with regard to children belonging to the most vulnerable groups (i.e. indigenous children, homeless children, children living in remote areas, children with disabilities, etc.);**

**(b) Continue to take appropriate measures to combat the phenomenon of bullying in schools, including by carrying out periodic surveys among students, staff and parents to learn more about the peer relations being fostered by the school;**

**(c) Ensure that public education policy and school curricula reflect in all their aspects the principle of full participation and equality, include children with disabilities in the mainstream school system to the extent possible and provide them with the necessary assistance.**

## **7. Special protection measures**

### **Children in immigration detention**

62. The Committee is encouraged by the recent changes to the Migration Act 1958 that came into effect on 29 July 2005, accepting the principle of the detention of children only as a measure of last resort, and welcomes the information that all families with children were moved from immigration detention facilities to community detention arrangements. However, the Committee remains concerned that children who are unlawfully in Australian territory are still automatically placed in administrative detention - of whatever form - until their situation is assessed. In particular, the Committee is seriously concerned that:

**(a) Administrative detention is not always used as a measure of last resort and does not last for the shortest appropriate period of time;**

(b) Conditions of immigration detention have been very poor, with harmful consequences on children's mental and physical health and overall development;

(c) There is no regular system of independent monitoring of detention conditions.

63. The Committee is further concerned that children who are granted a temporary protection visa (those arriving in the country without any travel document) do not have the right to family reunification and have limited access to social security, health services and education.

64. **The Committee recommends that the State party implement the recommendations contained in the HREOC report "A Last Resort?", and bring its immigration and asylum laws fully into conformity with the Convention and other relevant international standards, taking into account the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin. In particular, the State party should:**

(a) **Ensure that children are not automatically detained in the context of immigration and that detention is only used as a measure of last resort and for the shortest appropriate period of time;**

(b) **Seek an assessment by a court or an independent tribunal within 48 hours of the detention of a child in the context of immigration of whether there is a real need to detain that child;**

(c) **Improve considerably the conditions of children in immigration detention when such detention is considered necessary and in the best interests of the child, and bring them into line with international standards;**

(d) **Guarantee periodic review of the detention of children detained in the context of immigration;**

(e) **Consider permitting family reunification in cases where children or their family members are holders of temporary protection or temporary humanitarian visas;**

(f) **Consider creating speedily an independent guardianship/support institution for unaccompanied immigrant children;**

(g) **Consider becoming a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

### **Homeless children**

65. While the Committee welcomes the information that the State party is seriously considering the issue of youth homelessness, including by means of the National Homelessness Strategy and the "Reconnect" programme, it wishes to express concern at the situation of homeless children, who are also more likely to be affected by educational and relational problems and are more exposed to substance abuse and sexual exploitation.

66. **The Committee recommends that the State party intensify its efforts to address the urgent needs and rights of homeless children, especially with regard to their housing, health and education. Furthermore, the State party should provide homeless children with adequate recovery and social reintegration services for physical, sexual and substance abuse and to promote reunification with their families, when feasible.**

### **Sexual exploitation and trafficking**

67. While the Committee welcomes some positive developments in the context of prevention of trafficking and forced prostitution, such as the adoption of the National Plan of Action to Eradicate Trafficking in Persons of October 2003 and the changes to the Criminal Code in 2005 whereby, inter alia, trafficking in persons and child pornography have been criminalized, the Committee is concerned that Australia continues to be a destination country for trafficked women and girls in the sex industry.

68. **In light of article 34 and other related articles of the Convention, the Committee recommends that the State party strengthen its efforts towards effective implementation of its plan to combat sexual exploitation and trafficking in persons and conduct a comprehensive study to assess the nature and magnitude of the problem, especially with respect to children.**

69. **The State party is also encouraged to become a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, to which Australia is a party.**

### **Substance abuse**

70. The Committee is concerned about substance abuse, especially among the indigenous communities, as well as about the high-risk practice of petrol sniffing, notably among the communities living in remote areas of Central Australia.

71. **The Committee encourages the State party to continuously monitor the issue of substance abuse, with a special focus on raising awareness among indigenous children and children living in remote areas. The State party is also encouraged to develop free and easily accessible drug abuse treatment and social reintegration services for children who are drug and substance abusers.**

### **Administration of juvenile justice**

72. While the Committee notes the measures taken by the State party in the field of juvenile justice, such as the options for juvenile diversion available in many states and territories and the strategies to reduce the incarceration rates for indigenous Australians, it shares the State party's concern that the percentage of indigenous children in conflict with the law is disproportionately high.

73. Furthermore, the Committee is concerned that:

(a) The age of criminal responsibility, set at 10 years, is too low, although there is a presumption against criminal responsibility until the age of 14 (common law *doli incapax*);

(b) Children with mental illness and/or intellectual disabilities are over-represented in the juvenile justice system;

(c) In Queensland, children aged 17 in conflict with the law may be tried as adults in particular cases;

(d) Mandatory sentencing legislation (so-called “three strikes laws”) still exists in the Criminal Code of Western Australia for persons under 18;

(e) Local legislation in some states and territories allows police to remove children and young people who are congregating.

74. **The Committee recommends that the State party bring the system of juvenile justice fully into line with the Convention, in particular articles 37, 40 and 39, with other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System, and with the recommendations of the Committee made at its day of general discussion on juvenile justice (see CRC/C/46, paras. 203-238). In this regard, the Committee recommends in particular that the State party:**

(a) **Consider raising the minimum age of criminal responsibility to an internationally acceptable level;**

(b) **Take all necessary measures to ensure that persons under 18 who are in conflict with the law are only deprived of liberty as a last resort and detained separately from adults, unless it is considered in the children’s best interest not to do so;**

(c) **Urgently remedy the over-representation of indigenous children in the criminal justice system;**

(d) **Deal with children with mental illnesses and/or intellectual deficiencies who are in conflict with the law without resorting to judicial proceedings;**

(e) **Improve conditions of detention of children and bring them into line with international standards;**

(f) **Take measures with a view to abrogating mandatory sentencing in the criminal law system of Western Australia;**

**(g) Remove children who are 17 years old from the adult justice system in Queensland;**

**(h) Address the problems that may be related to the gathering of young people in certain places without necessarily resorting to policing and/or criminalization, and consider reviewing legislation in this respect.**

### **Children belonging to indigenous groups**

75. Despite the numerous measures taken by the State party's authorities, including the Indigenous Child Care Support Programme, the Committee remains concerned about the overall situation of indigenous Australians, especially with regard to their health, education, housing, employment and standard of living.

76. The Committee notes that the Aboriginal and Torres Strait Islander Commission (ATSIC), a key policy adviser to the Government and its agencies on indigenous affairs, had been abolished and replaced by a ministerial task force.

**77. The Committee recommends that the State party strengthen its efforts to continue developing and implementing - in consultation with the indigenous communities - policies and programmes aimed at ensuring equal access for indigenous children to culturally appropriate services, including social and health services and education. The Committee further recommends that an evaluation of the new arrangements for the administration of indigenous affairs take place soon in order to assess whether the abolition of ATSIC has been in the best interests of indigenous children.**

## **8. Optional Protocols to the Convention on the Rights of the Child**

78. The Committee welcomes the assurances given by the State party during the dialogue that the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography is imminent and that steps have been taken to ratify the Optional Protocol on the involvement of children in armed conflict.

**79. The Committee recommends that the State party become a party to both the Optional Protocols to the Convention on the Rights of the Child at the earliest possible time.**

## **9. Follow-up and dissemination**

### **Follow-up**

**80. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented, inter alia by transmitting them to the members of the Council of Ministers, the Parliament, and to state and territory Governments and Parliaments for appropriate consideration and further action.**



## **Dissemination**

81. **The Committee further recommends that the combined second and third periodic reports and written replies submitted by the State party and the related recommendations (concluding observations) it adopted be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups and children in order to generate debate on and awareness of the Convention, its implementation and monitoring.**

### **10. Next report**

82. **The Committee invites the State party to submit its fourth periodic report, which should not exceed 120 pages (see CRC/C/148), by 15 January 2008.**

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