

---

---

# Extract from the Summary Briefing to the Committee on the Rights of the Child

---

---

In September 2005 the United Nations Committee on the Rights of the Child (“**the Committee**”) will examine the Australian Government’s *Combined Second and Third Reports* and make recommendations to further Australia’s compliance with the United Nations Convention on the Rights of the Child (“**the Convention**”). The National Children’s & Youth Law Centre and Defence For Children International (Australia) have prepared a non-government report and materials to assist the Committee in this process, following consultations with a wide range of people working with children and young people in Australia across many sectors as well as some participation and input from children and young people themselves.

It is now 15 years since Australia ratified the Convention and nearly ten years since the Australian Government presented its first periodic report to the Committee (December 1995). Defence for Children International-Australia presented the first non-government report to the Committee in 1996.

Australia has made some advances, and there are numerous examples of governments and communities developing programs and projects that provide support for children and their families. But the lack of an effective national commitment to the Convention, a national Commissioner for Children, and a national plan of action for children inhibits the development of a national collaborative process to evaluate, share information, learn lessons and promote best practice.

The non-government sector shares the Committee’s concern that Australia’s ratification of the Convention does not give rise to legitimate expectations that an administrative decision will be made in conformity with the requirements of the Convention. Under the present constitutional arrangements, unless the Australian Government explicitly enacts legislation to implement its obligations under an international treaty such as the Convention, the only effect of the Convention is indirect, by, for example, affecting the way a court may interpret the law about procedural fairness in relation to the doctrine of natural justice. The Australian Government has shown little interest in developing a domestic human rights regime to implement its human rights obligations under international law, and has little economic or political incentive to do so in the present circumstances.

The non-government sector is concerned that the Australian Government was initially tardy, and now seems inclined to retreat from its commitment to the Convention and other international human rights vehicles. Given the lack of any constitutional or statutory bill of rights or other domestic regime for giving local effect to the Convention, the other important uses of the Convention are educational and benchmarking. The deliberations of the Committee will provide an important reminder to all governments in Australia that children have survival, protection, development and participatory rights and the publication of its findings will provide a significant rallying point and yardstick for children’s advocates.

While the Australian Government’s report outlines numerous positive examples of policy initiatives and programs, it falls well short in providing substantial evidence of accountability or review and evaluation. The gaps and priorities for action are clear - the substandard living conditions of Indigenous children equivalent in many cases to conditions more commonly seen in developing countries remains Australia’s greatest shame. Despite increasing awareness of the importance of self-determination, the Australian community continues to repeat the mistakes of previous generations, and to make new ones.

Despite Australia's wealth, Indigenous children are not receiving effective health care or education, and they are many times over-represented in the child protection, out-of-home care and juvenile justice systems. The Federal Government has failed to explain why Indigenous children, when compared with their non-Indigenous peers, do not have the benefits of the excellence of education, health and welfare that the non-Indigenous community takes for granted.

The Federal Government has failed to explain why it persists in a policy of arbitrary immigration detention of children in adult prisons for long periods of time in clearly damaging circumstances. This and the survival of mandatory sentencing in Western Australia criminal justice indicate that Australia fails to maintain a commitment to the use of detention as a measure of last resort.

A consistent theme in the submissions to, and from the consultations for this report, was a very great concern about the ad hoc service delivery for children and their communities, and a failure to achieve systemic change and greater equity and equality of opportunity. Increasing numbers of children are identified as abused or neglected, or homeless, but for many, being identified in this way does not solve their problems or meet their needs. There is a shortfall in the delivery of services for the most vulnerable children in a country which is wealthy in world terms. Many children with a disability, mental health problems or subjected to violence or experiencing homelessness are not getting the help they need to ensure healthy development.

While there have been a number of developments in relation to children's participation, there are significant restrictions and tokenistic or manipulative processes in some important areas of children's and young people's involvement in society. Some Australian children and young people are still subject to discrimination and are not yet treated with respect by the education, health care, justice and social security systems.

The non-government report and accompanying materials address the areas of non-government concern and make recommendations for systemic and specific changes to improve Australia's compliance with the Convention.

## Voices of Youth

The UNICEF Innocenti Research Centre launched a discussion forum on Voices of Youth (VOY) at <http://www.unicef.org/voy>, on 7 June 2005 concerning children's participation in the implementation process of the Convention of the Rights of the Child at national level. The discussion is promoted in two languages (English and French) to solicit inputs and feedback from young people, and to generate awareness and dialogue around the following questions:

- How children take action to make their human rights reality?
- To what extent do they participate in law reform, promoting awareness of the CRC and rights of the child, formulating national or local strategies on child rights, co-ordinating activities concerning the rights of the child, monitoring the situation of the rights of children, and the work of children's ombudsmen or similar institutions?

This Discussion Forum is part of a Study on the Implementation of the Convention on the Rights of the Child (CRC) conducted by the UNICEF Innocenti Research Centre (IRC) in Florence. Its aim is to assess the impact of the ratification of the Convention on the Rights of the Child across regions. With this Study, the IRC is committed to supporting UNICEF's efforts designed to document the process of mainstreaming children's rights; to identify examples of good practice and lessons learnt as well as to share these experiences widely; to clarify children's rights concepts and promote effective policy responses.

The Study also constitutes a contribution to the follow-up to the Declaration and Plan of Action of the General Assembly Special Session on Children and aims to support efforts towards the achievements of the "Millennium Development Goals".

For more information, contact: Peggy Herrmann, UNICEF Innocenti Research Centre Child Protection Section, UNICEF Innocenti Research Centre, Piazza SS. Annunziata, 12 50122 Florence, Italy Tel: + 39 055 2033 351, Fax: + 39 055 244 817 Email: [pherrmann@unicef.org](mailto:pherrmann@unicef.org) Website: <http://www.unicef.org/irc>