



Australian
Human Rights
Commission

Information concerning Australia and the Convention on the Rights of the Child

**ADDITIONAL INFORMATION SUBMITTED TO THE COMMITTEE ON THE
RIGHTS OF THE CHILD BY THE AUSTRALIAN HUMAN RIGHTS COMMISSION**

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1 Introduction

The Australian Human Rights Commission welcomes the opportunity to provide further information to the United Nations Committee on the Rights of the Child in its consideration of Australia's implementation of the *Convention on the Rights of the Child*.

The following material comprises updated information on issues raised in the Commission's submission provided to the Committee in August 2011.

It also includes some updated information provided to the Commission by state and territory human rights agencies, and children's commissioners and guardians.

2 Legal protection of children's rights

Australia's Human Rights Framework is described briefly in the Commission's submission to the Committee in August 2011 (Section 3.1). The Commission draws the Committee's attention to Australian Government progress in some of these measures.

In particular, a federal Parliamentary Joint Committee on Human Rights was established on 13 March 2012, by the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth). The Committee's functions will include scrutinising existing and new legislation for compliance with Australia's human rights obligations, and reporting to both houses of the Commonwealth Parliament. Further, under the legislation, each new Bill introduced into Parliament must be accompanied by a Statement of Compatibility with human rights. Human rights are defined in relation to the seven core instruments, including the *Convention on the Rights of the Child*.

While the Commission welcomes these measures, alone they are not sufficient to address all of the weaknesses in Australia's legal protection of children's rights.

3 National Children's Commissioner

The Commission recommended in its submission that the Australian Government establish a National Children's Commissioner.

On the 29 April 2012, the Australian Government announced the creation of a National Children's Commissioner at the Australian Human Rights Commission. While the Australian Government is yet to announce the details of the position, it indicated that the Commissioner will take a broad advocacy role to promote public awareness of issues affecting children, conduct research and education programs, consult directly with children and representative organisations as well as monitor Commonwealth legislation, policies and programs that relate to children's rights, well-being and development. Legislation for the Commissioner will be introduced later this year with a new Commissioner expected to take office by the end of 2012.

The Commission welcomes the announcement of a National Children's Commissioner. It recommends that the new position of National Children's Commissioner have the primary function of monitoring, investigating and reporting on

children's rights as set out in the Convention. It should also be independent, adequately resourced and accessible to children.

4 Third Optional Protocol to the Convention

The Commission welcomes the new *Optional Protocol to the Convention on the Rights of the Child* (OPCRC), opened for signature and ratification to UN Member States at an official signing ceremony on 28 February 2012. The Australian Government is currently considering whether to sign the Optional Protocol, and has invited comments from civil society. See <http://www.ag.gov.au/Humanrightsandantidiscrimination/Pages/Humanrights.aspx#convention>.

The Commission reiterates its recommendation that the Australian Government sign and ratify the Optional Protocol (Recommendation 6).

5 Monitoring the well-being of children in Western Australia

The Commissioner for Children and Young People in Western Australia has developed and released a Wellbeing Monitoring Framework to report on the well-being of children and young people in that state. It comprises three reports which organisations can use to plan and deliver effective programs to improve children and young people's wellbeing, available at www.cryp.wa.gov.au. The well-being framework indicates that generally children and young people in Western Australia are faring well. However, areas of concern include provision of child health services, immunisation, detention of young people, alcohol-related harm, mental health and homelessness. The data also confirms the ongoing disadvantage of Aboriginal children and young people across a range of wellbeing measures.

6 Income management under the Northern Territory Intervention

In its submission, the Commission expressed its concerns about the impact of income management on Aboriginal and Torres Strait Islander children (Section 4.1(d)).

The Australian Government has now introduced legislation as part of the 'Stronger Futures in the Northern Territory' reforms that, amongst other things, enable the roll out of income management into new regions.¹

The Commission reiterates its standing concerns with income management. In this regard the Commission notes that there has been significant debate about whether income management is an effective policy tool for supporting the welfare of disadvantaged individuals and families, and in particular, Aboriginal and Torres Strait Islander peoples.

7 Race Relations Round Table and the Northern Territory Intervention

At the recently held 2012 Race Relations Round Table, Commissioners from the New Zealand and Australian Human Rights Commissions and Australian state and territory human rights agencies expressed their ongoing concerns about the disempowerment felt by Aboriginal and Torres Strait Islander communities as a result of the Northern Territory Intervention. They also noted the importance and potential of active involvement of young people and the need to stop abuse and violence against women and children by addressing the underlying causes resulting from long-term social and economic disadvantage. The communiqué from the Round Table can be found at http://www.humanrights.gov.au/about/media/media_releases/2012/25_12.html.

8 National Anti-Racism Strategy

In its submission to the Committee, the Commission recommended that the Australian Government's National Anti-Racism Partnership and Strategy should include a dedicated youth component and initiatives targeting education settings (Recommendation 19).

The Commission is pleased to report that the National Anti-Racism Strategy has progressed under a secretariat based in the Australian Human Rights Commission. Dr Helen Szoke, the Race Discrimination Commissioner, has been named as Chair of the Partnership that is responsible for developing and implementing the Strategy. The Partnership has been tasked with focusing on five key areas:

- research and consultation
- education resources
- public awareness
- youth engagement, and
- ongoing evaluation.

The Strategy is expected to be launched around July 2012, with implementation rolled out over three years, 2012-2015. More information can be found at <http://www.humanrights.gov.au/antiracism/>.

9 Children of migrants' access to healthcare

The Commission draws to the Committee's attention some information provided by the South Australian Office of the Commissioner for Equal Opportunity about access to healthcare for children of migrants.² Children of migrants who have not yet secured permanent residency and are not humanitarian entrants are not eligible for basic healthcare such as immunisation. Several classes of visas provide for a pathway to permanency and leave families with potentially two years of no access to Medicare, the national health scheme. For those who have been successful securing employment, this poses little problem as they can afford private health insurance.

However, for those who struggle financially, circumstances may result in the child having no access to basic health care.

10 Family and domestic violence

In the Commission's submission (Section 6.1), and in updated information provided by teleconference in October 2012, it is noted that the Australian Government was seeking to amend the *Family Law Act 1975* (Cth) to respond more effectively to family violence and child abuse, in compliance with human rights standards, and to prioritise the safety of children in family law proceedings.³ The Senate Committee Legal and Constitutional Affairs Committee examined these amendments and handed down their report on 22 August 2011, which supported the proposed amendments, with some minor changes. The *Family Law Legislation Amendment (Family Violence and Other Measures) Act 2011* was passed by the Commonwealth Parliament in November 2011. The Act will:

- prioritise the safety of children and best interests of the child in the Family Law Act
- remove disincentives for victims of violence and abuse to disclose this to the courts
- reflect a more contemporary understanding of what family violence and abuse is by clearly setting out what behaviour is unacceptable, including physical and emotional abuse and the exposure of children to family violence
- streamline the provisions relating to the reporting of family violence and child abuse to make reporting family violence simpler.

The Act is available at:

<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillhome%2Fr4562%22>.

The Committee's recommendation for an education campaign about how the amendments will affect separating families has also been accepted by the Australian Government. However, the Commission's concerns about the presumption of equally shared parental responsibility, and its application, were not addressed in the Bill.⁴

The Australian Law Reform Commission conducted an inquiry on Family Violence and Commonwealth Laws—Improving Legal Frameworks (ALRC Report 117) and handed down its report in February 2012. The report examined and made recommendations on child support and family assistance payments. The report is available at: <http://www.alrc.gov.au/publications/family-violence-and-commonwealth-laws-improving-legal-frameworks-alrc-report-117>.

From 10-20 April 2012, the UN Special Rapporteur on Violence against Women conducted a Study Tour in Australia. The Commission will be making available a report of the Study Tour once it is completed.

11 Aboriginal and Torres Strait Islander children and out-of-home care

In its submission, the Commission drew attention to the overrepresentation of Aboriginal and Torres Strait Islander children in child protection and out-of-home care (Section 6.2).

The Northern Territory Anti-Discrimination Commission has raised related concerns about a move towards long-term child protection orders in the Northern Territory, and regarding how to ensure cultural safety for young Aboriginal people in the child protection system.⁵ It says there is a need to ensure that children are not separated from their parents or community for any longer than is necessary, and that family relationships are preserved wherever possible.⁶ Many Aboriginal children are placed in out of home care hundreds or thousands of kilometres from their family and culture. Family placement options must be fully considered and investigated before placing young people in out of home care. There is also a chronic need for more Aboriginal carers.

12 Children with disabilities and out-of-home care

In its submission, the Commission noted that the Productivity Commission found that the disability service system is systematically flawed (Section 7.3). The Victorian Equal Opportunity and Human Rights Commission has been conducting research into a consequence of these systemic flaws – the relinquishment of children with disability into state care. It has found that as many as 50 or more families a year surrender their child into state care because they have not received the adequate support for the child. The report of the research is under embargo until it is released on 21 May 2012. It will be making a series of recommendations aimed at developing a more consistent and responsive approach to risk assessment, early intervention and prevention of relinquishment.

13 Redress for past abuses suffered in out-of-home care

In its submission, the Commission welcomed the National Apology by the Prime Minister to the so-called 'Forgotten Australians' or care leavers, and former child migrants – more than 500,000 Australians, many of whom suffered abuse and neglect while in out-of-home care during the last century (Section 2).

The Commission has received over 100 letters since then from care leavers, now adult, raising the issue of redress for the suffering and abuse experienced by many of them while children in institutionalised care across Australian states.

While it is the case that some states have established redress schemes for child victims of institutionalised care, specifically in Tasmania, Queensland and Western Australia, child victims in New South Wales, Victoria and in South Australia do not have access to a redress scheme. Further, the schemes that do exist differ significantly, and some have excluded a number of people.

The Commission notes that article 39 of the Convention requires a state party to take all appropriate measures to promote the physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts’.

14 Foetal Alcohol Spectrum Disorder

In its submission, the Commission referred to the community-led strategy to address Foetal Alcohol Spectrum Disorder (FASD) in the Fitzroy Valley (Section 7.2). A critical component of the strategy was the undertaking of a prevalence study, called the Liliwan Project. The Liliwan project has released some preliminary data from the research project which shows that, amongst other issues, and regardless of their FASD status, 80% of children assessed required a community health service referral and 40% required mental health service referral, highlighting the burden of disease and need for services to respond to the health and well-being of children and young people, particularly in regional areas.⁷

In addition, a parliamentary committee, the Standing Committee on Social Policy and Legal Affairs, is currently conducting an inquiry into Foetal Alcohol Spectrum Disorders.⁸ The Commission made a submission to this Inquiry, which recommended, among other things, that a human rights-based approach should underpin all measures to address FASD in order to protect and promote the rights of women, children, families and communities affected by FASD. The submission is available at http://humanrights.gov.au/legal/submissions/2012/201200207_FASD.html.

15 Mental health

In its submission, the Commission reported the high prevalence of mental health problems for particular groups of vulnerable young children, including Aboriginal and Torres Strait Islander children (Section 7.4).

In March 2012, a Northern Territory parliamentary committee tabled its report into youth suicide.⁹ It found a disturbing trend. Whilst the suicide rate for those aged 15 to 24 living in the Northern Territory was 3.5 times the rest of the country, 75 per cent of suicides of children from 2007 to 2011 in the Northern Territory were Aboriginal. This figure has almost doubled for Aboriginal youths between 10 and 17 (from 18.8 to 30.1 per 100,000) while the rate had dropped for non-Aboriginal youth suicides (from 4.1 to 2.6 per 100,000).

Petrol sniffing remains a significant health issue for Aboriginal people in the Northern Territory. In the Katherine region alone, there has been a recent spike in petrol sniffing with about 40 people, including children as young as 12 years old, said to be sniffing petrol on a regular basis in the town.¹⁰ There is a dire shortage of petrol sniffing rehabilitation services, especially in the northern part of the Northern Territory.

16 Educational disadvantage

In its submission, the Commission raised the issue of poorer educational outcomes for certain groups of children and young people (Section 8). The Commission draws the Committee's attention to a recent report from a Review of Funding for Schooling, commissioned in 2010 by the Australian Government and chaired by David Gonski (the 'Gonski report'). The Review Panel presented its final report to the Government in December 2011. Chapter 3 of the Review provides up to date analysis on disadvantage and educational outcomes and looks specifically at children from culturally and linguistically diverse communities, Indigenous children and children with a disability, remoteness, and the impact of concentrated and compounded disadvantage on educational outcomes. The report is available on the Australian Government website at <http://www.schoolfunding.gov.au/node/7>.

17 Aboriginal and Torres Strait Islander children and education

The School Enrolment and Attendance through Welfare Reform Measure (SEAM) was introduced by the Australian Government in 2008 with the aim of improving school attendance rates.¹¹ SEAM provides for the suspension or cancellation of certain welfare payments where a person in receipt of these payments does not comply with a notice relating to the school enrolment or attendance of their child.¹² The original trial sites for the program illustrate that SEAM substantially affects Aboriginal and Torres Strait Islander children and families.¹³

The Commission has long expressed concerns about low school attendance rates nationally among Aboriginal and Torres Strait Islander children and believes that measures must be implemented to improve attendance rates in order to realise the right to education.¹⁴ The question remains whether SEAM is an appropriate measure or whether it has a negative impact on the realisation of related rights of children and their families, such as a child's right to benefit from social security under Article 26 of the Convention.¹⁵

The Commission is concerned that there has not yet been sufficient evidence to suggest that SEAM in its current form is an effective approach to addressing issues of low school attendance, or that it is an appropriately targeted way of meeting the obligations of the government to ensure that all children receive a minimum level of education.¹⁶

The Commission is also concerned that in situations where welfare payments are suspended or cancelled, there is likely to be no income available for the period of the suspension, or in the case of the cancellation, for the period until a new application is completed. This will likely have a severe impact on the well-being of children.

During this period children and families may not have the means to access necessary food, clothing, housing, and medical care. Denying the means to access these goods and services does not promote the best interests of the child nor protect the rights of the child, necessary for their development.¹⁷ This can also further entrench problems of poverty, ill health and overcrowded housing in the family, which research shows are factors that contribute to school absence.¹⁸

In 2012, the Government proposed new legislation – the ‘Stronger Futures’ legislation - for addressing disadvantage in the Northern Territory. This will amend SEAM to require parents to attend compulsory school conferences to discuss their child’s non-attendance before welfare measures are taken. The Commission does not believe that this measure provides sufficient checks and balances to ensure the penalties are applied only as a measure of last resort.

For more information about the Commission’s concerns about the legislation, see the Commission’s submission to the Senate Community Affairs Legislation Committee Inquiry into the Stronger Futures legislation at http://humanrights.gov.au/legal/submissions/2012/20120206_stronger.html.

18 Education for children with disabilities

The Victorian Equal Opportunity and Human Rights Commission is currently researching the experiences of children with disability in primary and secondary schools. While the research is ongoing, preliminary findings from surveys indicate some areas of concern including significant reports of bullying and discrimination in schools and the use of physical and chemical restraint of children with a disability. A full report of the findings will be published in August 2012.

19 Children in immigration detention

The Commission’s submission sets out its key concerns about families with children and unaccompanied minors subject to Australia’s system of mandatory and indefinite immigration detention (Section 9.1).

In October 2011, the Australian Government announced that it would be moving the majority of children and a significant number of vulnerable families into community detention. It also announced that it would be making greater use of bridging visas to release people from immigration detention.¹⁹

The Commission has welcomed the movement of a significant number of families and unaccompanied minors out of immigration detention facilities and into community detention. As at 22 March 2012, the Minister for Immigration and Citizenship announced that there were over 630 children in and transitioning into community detention arrangements. Of these, 193 are unaccompanied minors.²⁰ However, the Commission is concerned that there are still significant numbers of children who remain detained in secure facilities.

We continue to urge the Australian Government to move these remaining children (and any accompanying family members) into community detention, or to use alternatives to detention such as bridging visas.

Further, the overarching problem remains that Australia’s Migration Act requires mandatory detention without time limits and without judicial review.

As set out in Recommendation 37 of the submission, the Commission continues to call for changes to the Migration Act to bring it into line with the Convention so that children will only be detained in the first place if it is truly a measure of last resort,

and, if they are detained, it is for the shortest appropriate period of time and subject to judicial oversight.

A recent parliamentary inquiry into the immigration detention system, the Joint Select Committee on Australia's Immigration Detention Network, issued its final report in March 2012.²¹ It made a number of recommendations for reforming the system including that:

- the Australian Government take further steps to adhere to its commitment of only detaining asylum seekers as a last resort and for the shortest practicable time (Recommendation 22)
- asylum seekers who pass initial identity, health, character and security checks be immediately granted a bridging visa or moved to community detention while a determination of their refugee status is completed, and that all reasonable steps be taken to limit detention to a maximum of 90 days (Recommendation 23).

The Committee also made several recommendations specifically on children in immigration detention, including that relevant legislation be amended to replace the Minister for Immigration as the legal guardian of unaccompanied minors in the immigration detention system (Recommendation 19).

20 Removal of asylum seekers to a third country

As discussed in the Commission's updated information provided to Committee members in October 2011, the Australian Government's proposed arrangement to transfer asylum seekers to Malaysia was invalidated by the High Court of Australia on 31 August 2011.²² After the High Court decision, the Australian Government introduced into parliament legislation that would, in practice, allow them to transfer asylum seekers to third countries such as Malaysia.²³ The legislation would also have effectively allowed the Minister for Immigration to transfer unaccompanied minor asylum seekers to third countries without being bound by his guardianship duties under the *Immigration (Guardianship of Children) Act 1946* (Cth).²⁴ This legislation was abandoned by the Australian Government in October 2011. The Australian Government, however, indicates it will still pursue arrangements with Malaysia and other regional arrangements.

The Commission continues to recommend that all people who make claims for asylum in Australia should have those claims assessed in Australia through the refugee status determination system that applies under the Migration Act, rather than in a third country.

21 Detention of foreign juvenile crew

In its submission, the Commission indicated its concern about the use of wrist x-rays to determine the ages of people suspected of people-smuggling offences whose ages are in doubt (Section 9.1(e)).²⁵ While the Commission welcomed the Australian Government measures to improve its approach to age assessment of these individuals, the Commission continues to have significant concerns about the impact of the use of radiography for age determination purposes. The Commission is also

very concerned that there may continue to be Indonesian nationals who are minors detained in adult correctional facilities.

As a result, on 21 November 2011, the Commission announced an *Inquiry into the treatment of individuals suspected of people smuggling who say that they are children*. The Inquiry is expected to release a report in mid-2012. More information about the inquiry can be found at www.humanrights.gov.au/ageassessment.

22 Child homelessness

In December 2011, the Western Australian parliament passed amendments to the *Residential Tenancies Act 1987 (WA)*, to assist the Department of Housing terminate social housing tenancies as a management strategy for 'disruptive behaviour' by social housing tenants. The Commissioner for Children and Young People in Western Australia has expressed concerns about the potential for the Department's management strategy to increase homelessness for children, particularly Aboriginal children.²⁶

23 Children in the adult justice system

As discussed in the Commission's submission, Queensland is the only Australian state or territory where 17 year olds are treated as adults in the criminal justice and corrections systems, and consequently they can be placed on remand or sentenced to a term of imprisonment in adult correctional facilities (Section 9.3(a)).

The Queensland Commission for Children and Young People and Child Guardian has commenced visits to 17 year olds in adult correctional facilities, under its Community Visitor Program, which will allow that Commission to hear directly from young people their experiences in these facilities. This will enable it to advocate on behalf of individual young people in response to any issues requiring assistance and to generally monitor their wellbeing. This regular engagement with young people in adult correctional facilities is also expected to provide an important source of information to inform the Commission's advocacy work until such time these young people are transferred to the youth justice system. While engagement with the Commission's visitors should provide an individual source of advocacy and monitoring for these young people, the introduction of these visits does not address the systemic issue of young people in Queensland being detained in adult correctional facilities.

24 Trafficking

In the Commission's submission to the Committee there are a number of recommendations about child trafficking, for example the need for data collection, policy guidelines on child trafficking victims, and ongoing support services (Recommendation 56).

The UN Special Rapporteur on Trafficking, Ms Joy Ngozi Ezeilo, undertook a formal mission in Australia from 16-29 November 2011. In her preliminary findings and recommendations, the Special Rapporteur noted the risks of trafficked children being

arrested, detained for long periods and deported for breach of migration regulations without proper identification especially given the strong migration control policy of Australian government.²⁷ She recommended that the Australian Government:

- Provide specialist services for trafficked children that are based on and integrate the principle of the best interests of the child and that take into account special needs of children, including appropriate housing, education and care. Trafficked children should be given information on all matters affecting their interests, including their situation, legal options, entitlements and services available to them, and processes of family reunification or repatriation.
- Ensure that a guardian is appointed for child victims of trafficking to represent their interests and protect their rights. In order to maintain impartiality and transparency this role should not be played by the Department of Immigration and Citizenship.

A full report on Ms Ezeilo's findings will be submitted to the UN Human Rights Council in June 2012. The Commission's brief to the Special Rapporteur is available at:

http://www.humanrights.gov.au/legal/submissions/2011/20111114_trafficking.html.

In November 2011, the Australian Government sought submissions on the Exposure Draft Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012.²⁸ The Exposure Draft Bill seeks to criminalise a range of exploitative behaviours as 'slavery-like' offences including servitude, forced labour, serfdom, forced marriage, servile marriage and debt bondage. The Commission, in its submission, welcomed the Exposure Draft Bill for bringing Australian laws on trafficking and slavery into line with Australia's human rights obligations.

However, the Commission noted the importance of undertaking culturally appropriate forms of engagement with communities within which forced marriage may be occurring. It is necessary for accessible and appropriate awareness raising programs to be undertaken with affected communities, including provision of culturally aware and linguistically appropriate information. There would also be value in ensuring cultural competency training to service providers, Australian Federal Police and legal services dealing with forced marriage cases; and in ensuring that any victims of forced marriage are able to access culturally appropriate support services and accommodation. The Commission's submission is available at:

http://www.humanrights.gov.au/legal/submissions/2012/20120120_trafficking.html.

¹ Social Security Legislation Amendment Bill 2011 (Cth), Schedule 1.

² In correspondence to the Australian Human Rights Commission from the South Australian Office of the Commissioner for Equal Opportunity, in response to a request for updated information for the UN Committee, April 2012.

³ *Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011* (Cth). At http://www.austlii.edu.au/au/legis/cth/bill_em/flavaomb2011623/memo_0.html (viewed 30 April 2012); See also Attorney General, 'Family violence reforms one step closer' (2011). At

http://www.attorneygeneral.gov.au/www/ministers/mcclelland.nsf/Page/MediaReleases_2011_Second_Quarter_30thMay2011-Familyviolencereformsonestepcloser (viewed 1 June 2011).

⁴ Australian Law Reform Commission, *Family Violence – A National Legal Response* (October 2010). At http://www.alrc.gov.au/sites/default/files/pdfs/publications/ALRC114_WholeReport.pdf

⁵ In correspondence to the Australian Human Rights Commission from the NT Anti-Discrimination Commission in response to a request for updated information for the UN Committee, April 2012.

⁶ A 2010 Inquiry into the child protection system in the Northern Territory recommended that the court make specific considerations prior to long-term child protection orders being made: *Growing Them Strong Together - Promoting the Safety and Wellbeing of the Northern Territory's Children*, Report of the Board of Inquiry into the Child Protection System in the Northern Territory 2010, at <http://www.childprotectioninquiry.nt.gov.au/>. The NT Government indicated in 2010 that it would accept all the Inquiry's recommendations.

⁷ The Liliwan Project: Presentation by Dr James Fitzpatrick to the Focus on FASD Forum. Drug and alcohol Office and Telethon Institute for Child Health Research, 27 February 2012 at <http://alcoholpregnancy.childhealthresearch.org.au/focus-on-fasd-in-wa-forum.aspx>

⁸ House of Representatives Standing Committee on Social Policy and Legal Affairs, Inquiry into Foetal Alcohol Spectrum Disorder, at http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=spla/fasd/index.htm (viewed 30 April 2012).

⁹ Select Committee on Youth Suicides in the NT, *Gone Too Soon: A Report into Youth Suicide in the Northern Territory* (March 2012). At http://www.nt.gov.au/lant/parliamentary-business/committees/ctc/youth-suicides/Final_Report_on_Youth_Suicides.pdf

¹⁰ Carolyn Herbert and Katrina Bolton, Communities fear resurgence of petrol sniffing (ABC News 9 March 2012). See at: <http://www.abc.net.au/news/2012-03-09/petrol-sniffing-outbreak-roundup/3879948>.

¹¹ *Social Security and Veterans' Entitlement Legislation Amendment (Schooling Requirements) Act 2008* (Cth)

¹² *Social Security (Administration) Act 1999* (Cth), ss 124F–124H, 124K–124M.

¹³ Of the six identified trial sites in the Northern Territory, five of them are discrete Indigenous communities. In the sixth site, Katherine, 23% of the population is Indigenous, of which 44% are under the age of 18 years: Australian Bureau of Statistics, 'Basic Community Profile – Katherine (UCL 703600), 15.8 sq. Kms', 2001 Census of Population and Housing. At <http://www.censusdata.abs.gov.au/ABSNavigation/prenav/ViewData?&action=404&documentproductno=UCL703600&documenttype=Details&tabname=Details&areacode=UCL703600&issue=2001&producttype=Community%20Profiles&&producttype=Community%20Profiles&textversion=false&navmapdisplayed=true&breadcrumb=LPD&#Basic%20Community%20Profile> (viewed 18 January 2012).

¹⁴ W Jonas, Aboriginal and Torres Strait Islander Social Justice Commissioner, *Native Title Report 1999*, Human Rights and Equal Opportunity Commission (2000), ch 4. At http://www.humanrights.gov.au/social_justice/sj_report/99_report.html (viewed 31 January 2012); T Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner, *Native Title Report 2008*, Human Rights and Equal Opportunity Commission (2009), ch 3. At http://www.humanrights.gov.au/social_justice/sj_report/sjreport08/index.html (viewed 31 January 2012).

¹⁵ *International Covenant on Economic, Social, and Cultural Rights 1966*, article 9; *Universal Declaration of Human Rights, 1948*, art 22.

¹⁶ The Government has released a number of evaluation reports for SEAM over the last three years demonstrating variations in its effectiveness. The most recent report has suggested 'SEAM is starting to have a positive impact on SEAM student attendance in both the NT and QLD...these results are tempered somewhat by evidence suggesting that a relapse after the compliance period is common, with an associated increase in unauthorised absences': Department of Education, Employment and Workplace Relations, *Improving School Enrolment and Attendance through Welfare Reform Measure (SEAM): Evaluation Report for 2010* (January 2012), p iv. At: <http://www.deewr.gov.au/Schooling/Programs/Pages/SEAM.aspx> (viewed 6 February 2012). However, for the previous two years evaluation reports found 'there was no demonstrable effect of SEAM on improving the attendance rates of SEAM children in 2009 and no changes in unauthorised absenteeism behaviour among SEAM children during 2007–2009': Department of Employment and

Workplace Relations, *Improving School Enrolment and Attendance through Welfare Reform Measure (SEAM): Evaluation Report for the Northern Territory in 2009 with early findings for 2010* (2011), p 25.

¹⁷ *United Nations Convention on the Rights of the Child*, 1989, articles 3, 26.

¹⁸ Department of Employment and Workplace Relations, *Halls Creek Engaging Families Trial, February–July 2006: Evaluation Report*, (2006), p 12. At

[http://mediacentre.dewr.gov.au/NR/rdonlyres/2B10D46E-592B-4531-B149-](http://mediacentre.dewr.gov.au/NR/rdonlyres/2B10D46E-592B-4531-B149-A5B91E69A13E/0/KA265HallsCreekEngagingFamiliesReport4October.pdf)

[A5B91E69A13E/0/KA265HallsCreekEngagingFamiliesReport4October.pdf](http://mediacentre.dewr.gov.au/NR/rdonlyres/2B10D46E-592B-4531-B149-A5B91E69A13E/0/KA265HallsCreekEngagingFamiliesReport4October.pdf) (also citing Australian Council of Educational Research, 1998); D Fein, W Lee and C Schofield, *The ABC Evaluation: Do Welfare Recipients' Children Have a School Attendance Problem?* (1999) Delaware Health and Social Services, Delaware.

¹⁹ That is, following initial health, security and identity checks, eligible boat arrivals who do not pose risks will be progressively considered for community placement on bridging visas while their asylum claims are assessed. Joint Press Conference Canberra with Julia Gillard – Prime Minister of Australia and Chris Bowen MP – Minister for Immigration and Citizenship, 'Asylum seekers; Malaysia agreement; Commonwealth Ombudsman', 13 October 2011; Chris Bowen MP, Minister for Immigration and Citizenship, Bridging visas to be issued for boat arrivals, 25 November 2011. For more information about Bridging Visas, including the numbers granted to asylum seekers to date, see <http://www.immi.gov.au/media/statistics/onshore-processing.htm>.

²⁰ Chris Bowen MP, Minister for Immigration and Citizenship, Statement - Update on community detention, 22 March 2012. <http://www.minister.immi.gov.au/media/cb/2012/cb184506.htm>.

²¹ Joint Select Committee on Australia's Immigration Detention Network, Final Report, March 2012. At http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=immigration_detention_cte/immigration_detention/report/index.htm.

²² *Plaintiff M70/2011 and Plaintiff M106/2011 v Minister for Immigration and Citizenship* [2011] HCA 32 (31 August 2011).

²³ Prime Minister and Minister for Immigration and Citizenship, 'Legislation to restore Migration Act powers' (Media Release, 12 September 2011). At <http://www.alp.org.au/federal-government/news/legislation-to-restore-migration-act-powers/> (viewed 12 September 2011).

²⁴ See Migration Legislation Amendment (Offshore Processing and Other Measures) Bill 2011. At <http://www.austlii.edu.au/au/legis/cth/bill/mlapaomb2011689/> (viewed 5 October 2011).

²⁵ The Commission notes that a parliamentary inquiry into age determination legislation in 2001 recommended a number of safeguards which were not incorporated into the law. See for instance Senate Legal and Constitutional Affairs Committee, 'Inquiry into the Provisions of the *Crimes Amendment (Age Determination) Bill 2001* (Cth)' (March 2001). The Committee recommended, amongst other things, that:

- all other appropriate age determination procedures will be undertaken before a prescribed procedure is undertaken
- persons whose age cannot be accurately determined be given the benefit of the doubt and be treated as juveniles.

²⁶ In correspondence to the Australian Human Rights Commission from the Commissioner for Children and Young People in Western Australia, in response to a request for updated information for the UN Committee, April 2012.

²⁷ See <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11664&LangID=E>.

²⁸ See <http://www.ag.gov.au/Peopletrafficking/Pages/Exposure-draft---legislative-amendments-to-Australia's-people-trafficking-and-slavery-offences.aspx>.