<table>
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<tr>
<th>UN CRC</th>
<th>Ratification Date</th>
<th>Care-Related Concluding Observations</th>
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<tr>
<td>CRC/C/AUS/CO/4</td>
<td>17 Dec 1990</td>
<td>Care-related Concluding Observations: Australia</td>
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<td></td>
<td>28 August 2012</td>
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<td>Corporal punishment</td>
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<td>43. The Committee regrets that notwithstanding its previous recommendation (CRC/C/15/Add.268, para. 36), corporal punishment, in the home and some schools and alternative care settings, remains lawful throughout the State party under the label of so-called “reasonable chastisement”.</td>
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<td>44. The Committee reiterates its previous recommendation (CRC/C/15/Add.268, para. 36) that the State party:</td>
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<td>(a) Take all appropriate measures to explicitly prohibit corporal punishment in homes, in public and private schools, detention centres and alternative care settings in all states and territories;</td>
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<td>(b) Strengthen and expand awareness-raising and education campaigns, in order to promote positive and alternative forms of discipline and respect for children’s rights, with the involvement of children, while raising awareness about the adverse consequences of corporal punishment.</td>
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<td>D. Family environment and alternative care (arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)</td>
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<td>Family environment</td>
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<td>49. While welcoming the State party’s ongoing efforts to strengthen the support provided to families, the Committee is concerned that the number of children in care continues to rise and that the availability and quality of childcare remain inadequate.</td>
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50. The Committee recommends that the State party undertake a systemic evaluation of the efficacy of existing measures for all family types and all children. In doing so, it recommends that the State party collect data disaggregated according to, inter alia, ethnicity, gender, socioeconomic status, and geographic location, and correlate the reduction and/or increase in rates of children placed in care vis-à-vis the measures provided to the families of these children. It further recommends that the findings of such an evaluation be used to guide the State party’s implementation of appropriate measures to strengthen current programmes of family support, including ensuring the availability and affordability of quality childcare facilities, the adequacy of family assistance payments and of the recently approved paid parental leave entitlement.

Children deprived of their family environment

51. The Committee is deeply concerned at the significant increase, of approximately 51 per cent between 2005 and 2010, in the number of children placed in out-of-home care and the absence of national data documenting the criteria and decision leading to the placement of a child in care. The Committee is also seriously concerned that there are widespread reports of inadequacies and abuse occurring in the State party’s system of out-of-home care, including:

(a) Inappropriate placements of children;
(b) Inadequate screening, training, support and assessment of care givers;
(c) Shortage of care options; poorly supported home-based carers and mental health issues exacerbated by (or caused in) care;
(d) Poorer outcomes for young people in care than for the general population in terms of health, education, well-being and development;
(e) Abuse and neglect of children in care;
(f) Inadequate preparation provided to children leaving care when they turn 18;
(g) Aboriginal and Torres Strait Islander children who are often placed outside their communities, and in that context, the need for more Aboriginal care providers.
52. The Committee urges the State party to take all necessary efforts to examine the root causes of the extent of child abuse and neglect as well as to provide general data on the reasons that children are being placed in care with a view to addressing them in order to reduce the number of such children. It further reiterates its previous recommendations to the State party that it take measures to strengthen the current programmes of family support, inter alia, by targeting the most vulnerable families, in order to reduce the number of children placed in out-of-home care and, preferring family-based care if needed. Furthermore, the Committee calls upon the State party to provide all the necessary human, technical and financial resources required for improving the situation of children in alternative care placements and to:

(a) Periodically review placements as required under article 25 of the Convention and in doing so to pay particular attention to signs of maltreatment of children;
(b) Develop criteria for the selection, training and support of childcare workers and out-of-home carers and ensure their regular evaluation;
(c) Increase the number of social workers to ensure that the individual needs of each child can be effectively addressed;
(d) Ensure equal access to health care and education for children in care;
(e) Establish accessible and effective child-friendly mechanisms for reporting cases of neglect and abuse and commensurate sanctions for perpetrators;
(f) Adequately prepare and support young people prior to their leaving care by providing for their early involvement in the planning of transition as well as by making assistance available to them following their departure;
(g) Observe the Committee’s previous recommendations to 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.
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<th>Adoption</th>
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<td>53. The Committee is concerned that only three out of eight jurisdictions in the State party require the consent of the adopted child (as of 12 years of age) prior to adoption. Furthermore, the Committee is concerned that adoption proceedings are not undertaken with the best interests of the child as the paramount consideration.</td>
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<td>54. The Committee recommends that the State party undertake measures to ensure that all its states and territories amend legislation on adoption, as required, in order to comply with its obligations under the Convention and the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption to give full effect to the provisions on consent, access to legal representation in adoption proceedings, and to ensure that adoption proceedings are decided upon with the best interests of the child as the paramount consideration.</td>
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<th>Abuse and neglect</th>
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<td>55. The Committee welcomes the amendment to the national Family Law, which prioritizes the safety of children in the family law system while continuing to promote a child’s right to a meaningful relationship with both parents where this is safe. However, it notes that the rates of domestic violence continue to be high and that the training approaches adopted by the State party to recognize and address potential cases of abuse and neglect by professionals working with or for children, including doctors and other medical personnel as well as teachers, remain inadequate.</td>
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<td>56. The Committee recommends that the State party prioritize early intervention approaches, including at the antenatal period, to provide support to families in situations of heightened vulnerability and prevent or mitigate abuse and neglect of children and violence in the home. It further recommends that the State party complement this with a national review of stigma-free best practices policy and programmes that prioritize and support positive reunification of child victims of abuse with their families at the various stages of child-protection decision-making, including through intensive family support services.</td>
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### Mental Health

65. Emphasising the importance of access to child and youth friendly mental health support and services, the Committee recommends that the State party:

(a) Follow-up on the Australian Institute of Health and Welfare health study with measures designed to address the direct and underlying causes of the high rates of mental health problems in children and young people, focusing especially on suicides and other disorders linked to, inter alia, substance abuse, violence and inadequate quality of care in alternative care settings;

### Children of incarcerated parents

72. While noting as positive that the State party has legislation requiring courts to take into account “the probable effect” of a sentence on a convicted person’s family, it notes with concern that Aboriginal Australians are severely overrepresented in prison, with a particularly serious overrepresentation of Aboriginal women often resulting in their children being subject to ad-hoc and insecure placement in alternative care that is not culturally appropriate and with low rates of family reunification.

73. With reference to the Committee’s recommendations during its day of general discussion in 2011 on the “Rights of Children of Incarcerated Parents, the Committee recommends that the State party:

(a) Review all judicial and administrative arrangements to prevent imprisonment by providing support services to families at risk and use diversion and other alternative measures to avoid imprisonment and separation of children from their family members;
(b) Resource and support the implementation of targeted programmes which facilitate tackling the root causes of the offences committed and providing preventive and early intervention services to families at risk;

(c) Where it is in the child’s best interests, resource and support the maintenance of the relationship between parent(s) and child throughout the duration of the latter’s incarceration;

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<td><strong>OPSC to CRC</strong></td>
<td>Ratification Date 8 January 2007</td>
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<td><strong>OPAC to CRC</strong></td>
<td>Ratification Date 26 September 2008</td>
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<td><strong>ICCPR</strong></td>
<td>Ratification Date 13 August 1980</td>
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<td>Ratification Date 10 December 1975</td>
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<td><strong>CEDAW</strong></td>
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### III. Principal areas of concern and recommendations

#### B. Specific rights (arts. 5–30)

**Children with disabilities (art. 7)**

13. The Committee is concerned about:

   (a) The lack of focus on the rights of children with disabilities in the national plan of action for the realisation of the rights of the child;
   (b) The lack of access to early intervention mechanisms for children with disabilities;
   (c) The lack of disability and age appropriate assistance for children with disabilities to participate and express their views;
   (d) The lack of culturally suitable support for Indigenous children with disabilities and their families;
   (e) The situation of refugee and asylum seeking children with disabilities kept in detention facilities in the State party and offshore.

14. The Committee recommends that the State party:

   (a) Include a focus on the rights of children with disabilities in any national plan of action for the realisation of the rights of the child;
   (b) Ensure access for children with disabilities to quality and human rights-based early intervention mechanisms;
   (c) Amend all legislation to guarantee that children are provided with age-appropriate support and accommodations to express their views in all matters that affect their rights or interests;
|   | (d) Fund and resource culturally suitable support for Indigenous children with disabilities and their families, in the local community;  
|   | (e) Urgently remove all refugee and asylum seeking children, particularly children with disabilities and their families from detention facilities and ensure the provision of individualized support and recognize the denial of reasonable accommodation as a form of discrimination. |

**Liberty and security of the person (art. 14)**

27. The Committee is seriously concerned about:  
(a) Legislative frameworks, policies and practices which result in the arbitrary and indefinite detention and forced treatment of persons with disabilities, disproportionately experienced by Indigenous persons with disabilities, persons with intellectual or psychosocial disabilities;  
(b) Ongoing practice of compulsory treatment for persons with “cognitive and mental impairment”, including through indefinite detention in psychiatric centers, despite recommendations of the Senate Community Affairs References Committee’s 2016 report on indefinite detention of persons with “cognitive and psychiatric impairment”;  
(c) The commitment of persons with intellectual or psychosocial disabilities to custody, often indefinitely or for terms longer than those imposed in criminal convictions;  
(d) The absence of data on the number of persons found not guilty due to “cognitive or mental health impairment” indefinitely detained and a number of cases on an annual basis;  
(e) The practice of retaining and restraining children with disabilities in adult settings.

28. The Committee, recalling its guidelines on article 14 of the Convention (2015) see report of the Committee on the Rights of Persons with Disabilities Supplement No. 55 (A/72/55), annex I), urges the State party to:  
(a) Repeal any law and policy and cease any practice or custom that enables the deprivation of liberty on the basis of impairment, and forced medical interventions on persons with disabilities, particularly Indigenous persons with disabilities;  
(b) Implement the recommendations from the 2016 Senate Inquiry Report into the Indefinite Detention of People with Cognitive and Psychiatric Impairment in Australia;  
(c) End committing persons with disabilities to custody and to indefinite terms or to terms longer than those imposed in criminal convictions;
(d) Collect data on the number of persons indefinitely detained and a number of cases on an annual basis, disaggregated by nature of offence, time of detention, disability, Aboriginal and other origin, sex, age and jurisdiction, with the aim to review their detention;
(e) End the practice of detaining and restraining children with disabilities in any settings.

Living independently and being included in the community (art. 19)
37. The Committee is concerned about:
(a) The fact that the specialist disability accommodation (SDA) framework facilitates and encourages the establishment of residential institutions and will result in persons with disabilities having to live in particular living arrangements to access NDIS supports;
(b) The lack of appropriate, affordable, and accessible social housing, which severely limits the capacity of persons with disabilities to choose their place of residence;
(c) The Younger People in Residential Aged Care—Action Plan only outlines plans to reduce the number of persons, including persons with disabilities, under the age of 65 years living in aged care facilities, but does not end the practice.

38. The Committee recommends that the State party:
(a) Develop a national framework for the closure of all disability-specific residential institutions, and the prevention of trans-institutionalisation including addressing how persons with disabilities not eligible for the NDIS can be supported to transition to live independently in the community;
(b) Increase the range, affordability and accessibility of public and social housing for persons with disabilities, including by implementing a quota for accessible social housing and by developing regulations and standards to guarantee the progressive application of universal design principles in accessible housing;
(c) Revise the Younger People in Residential Aged Care—Action Plan to ensure that no person aged under 65 years should enter or live in residential aged care by 2025.

Respect for home and the family (art.23)
43. The Committee is concerned about:
(a) Parents with disabilities having their child more likely removed, often on the basis of disability, than other parents, and by the lack of support provided to parents with disabilities in their exercise of parental responsibilities for their children;
(b) The reported discrimination, particularly of women with disabilities and LGBTIQ+ persons with disabilities in accessing assisted reproductive technologies.

44. The Committee recommends that the State party:
   (a) Ensure no separation of children from parents on the basis of the disability of either the child or one or both of the parents;
   (b) Adopt comprehensive and gender and culturally specific parenting and family support measures for parents with disabilities;
   (c) Ensure that women with disabilities and LGBTIQ+ persons with disabilities have equal access to assisted reproductive technologies.
Country Care Review: Australia

UN  United Nations
UPR  Universal Periodic Review