



Convention on the Rights of the Child

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Committee on the Rights of the Child

Combined fifth and sixth periodic reports submitted by Australia under article 44 of the Convention, due in 2018^{*}, ^{**}

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* The present document is being issued without formal editing.

** The annexes and the endnotes to the present document are on file with the secretariat and are available for consultation. They may also be accessed from the Committee's web page.

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I. Introduction

1. The Australian Government is pleased to present Australia's joint fifth and sixth report under the Convention on the Rights of the Child (CRC), second report on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC) and second report on the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC) — CRC and Optional Protocols.

2. This Report demonstrates Australia's commitment to furthering the rights of children. The Australian (federal), and State and Territory governments devote significant resources to ensuring children in Australia are able to reach their full potential and realise the rights set out in the CRC and Optional Protocols.

Preparation and Structure of the Report

3. This Report includes information on steps taken to address issues raised by the Committee in its Concluding Observations on Australia's last CRC, OPSC and OPAC reports and explains major developments in Australia's programs, policies and laws related to the rights of the child since that time. This report covers the period June 2012 to 15 January 2018.

4. This report has been prepared in accordance with the harmonized treaty-specific reporting guidelines. Due to word and page constraints, the appendices mirror the report's structure and provide data and additional information on jurisdiction-specific programs and policies to advance children's rights where relevant. Headings with an asterisk (*) indicate where further information is available in the appendices.

Consultation with State and Territory governments

5. State and Territory governments are responsible for many of the activities that give effect to the CRC. The Australian Government consulted with State and Territory governments in preparing this report. Part B of Australia's Common Core Document outlines Australia's federal structure.

Consultation with non-government organizations*

6. The Australian Government sought the views of civil society through public consultation on a draft of the report. The Australian Government provided funding to the National Children and Youth Law Centre to support shadow reporting.

II. General measures of implementation

Reservations and declarations (Concluding Observation 10)

7. Australia regularly reviews its reservations with regard to whether they remain necessary. Australia's reservation to Article 37(c) is consistent with the object and purpose of the CRC and the Vienna Convention on the Law of Treaties. Australia is not considering withdrawing its reservation at this time.

Legislation and implementation* (Concluding Observation 12)

8. Australia considered that its legislation, policies and practices complied with and gave effect to the CRC's obligations before its ratification in December 1990. Additionally, many rights and freedoms are recognized and protected at common law in Australia's legal

system. The common law has developed principles of statutory interpretation that function to protect human rights.

9. Australia protects and promotes the rights of children through legislation, policy and programs at Commonwealth (federal) and State and Territory levels. Each jurisdiction has a framework of laws and institutions that implement CRC rights. Legislation referred to in this report is Commonwealth legislation unless otherwise specified.

10. Australia also has an established administrative law framework which allows people to challenge a wide range of government decisions made under legislation. For example, the Administrative Appeals Tribunal can review decisions made under more than 400 Commonwealth Acts and legislative instruments, including decisions relating to child support, family assistance, paid parental leave, social security and student assistance.

11. The *Human Rights (Parliamentary Scrutiny) Act 2011* encourages early consideration of human rights in the development of federal policy and legislation. It requires that a Statement of Compatibility accompany all bills and disallowable legislative instruments introduced into the Australian Parliament. Statements of Compatibility must assess the legislation's compatibility with the rights and freedoms in the seven core international human rights treaties that Australia has ratified, including the CRC.

12. The Parliamentary Joint Committee on Human Rights examines the human rights compatibility of all bills and legislative instruments that come before the Parliament. The Parliamentary Joint Committee can inquire into matters relating to human rights that are referred to it by the Attorney-General and reports to both Houses of Parliament on those matters.

States and Territories

13. The Victorian Parliament enacted the *Charter of Human Rights and Responsibilities Act 2006* which is derived from the *International Covenant on Civil and Political Rights (ICCPR)*.

14. The Australian Capital Territory enacted the *Human Rights Act 2004*, which also incorporates provisions of the ICCPR. It was amended in 2012 to include a right to education and further amended in 2016 to extend the right to education so that it is enforceable through an obligation on public authorities and to include new protections for the distinct cultural rights of Indigenous Australians. The Australian Capital Territory's *Discrimination Act 1991* was amended to include "disability" and "subjection to domestic or family violence" as protected attributes in 2017.

15. In May 2017, the Northern Territory established the Social Policy Scrutiny Committee to inquire and report on whether any matter or bill referred to it has sufficient regard to the rights and liberties of individuals.

16. On 29 October 2016, the Premier of Queensland announced the Queensland Government's commitment to introducing a human rights act.

Coordination (Concluding Observation 14)

17. All Australian Ministers and Departments share responsibility for protecting and promoting the rights of children. Ministers with particular responsibility for children include:

- The Australian Government Minister for Social Services and the Assistant Minister for Children and Families whose responsibilities include: income security and support policies and programs for families with children; services for families with children, people with disabilities and carers; social housing and homelessness; child support policy; arrangements for the settlement of migrants and humanitarian entrants; and multicultural affairs, and
- The Australian Government Minister for Education and Training who has responsibility for all education services.

18. As matters such as education, child protection, healthcare and youth justice fall predominantly within the constitutional responsibility of the States and Territories, many of them have Ministers for children and youth (refer to page 10) and Children's Commissioners.

19. The Office for Women is a division of the Australian Government Department of the Prime Minister and Cabinet that works across government to deliver policies and program to advance gender equality and improve the lives of Australian women and children. The Office for Women reports to the Minister for Women and the Prime Minister.

20. During its second Universal Periodic Review (UPR) in 2015, Australia committed to designate a standing national mechanism to strengthen overall engagement with United Nations (UN) human rights reporting. It established a Standing National Human Rights Mechanism in 2016. The mechanism comprises:

- A Commonwealth Inter-departmental committee involving departments responsible for UN human rights reporting and domestic human rights policies;
- The Commonwealth-State-Territory Standing Committee on Treaties;
- A process for consultation with the Australian Human Rights Commission and civil society, and
- Publicly available information on Australia's processes, to encourage community and civil society engagement.

21. In December 2013, the Council of Australia's Governments (COAG) streamlined the Ministerial Council system. Eight councils are now responsible to COAG to ensure collaboration and coordination of policy development at a national level, including a number of councils with oversight of policies that effect children, including the Education Council, the Health Council and the Disability Reform Council.

Independent Monitoring* (Concluding Observation 18)

22. The first National Children's Commissioner, Megan Mitchell, began her term in the Australian Human Rights Commission in March 2013.ⁱ The Commissioner monitors national implementation of the CRC and reports on the enjoyment and exercise of human rights by children.

23. The Commissioner conducts inquiries into children's issues, makes submissions to other inquiries and undertakes projects involving children's rights. The Commissioner consults widely with children and their representatives.

24. The Aboriginal and Torres Strait Islander Social Justice Commissioner advocates for the rights of Indigenous Australians, including children.ⁱⁱ Commissioner June Oscar AO was appointed to this position in April 2017.

25. All States and Territories have independent bodies that monitor and advocate for the needs of children — in particular vulnerable or at-risk groups. Victoria has appointed a specific Commissioner for Aboriginal Children and Young People.

Civil Society Involvement in Monitoring

26. The Australian Government values the role civil society plays in ensuring transparency and accountability in the implementation of the CRC and its Optional Protocols. It engages with civil society through annual civil society forums and regular consultation on the development and implementation of policies and programs that effect children.

National Plan of Action (Concluding Observation 16)

27. Australia has several national initiatives to address particular challenges facing children. In addition to the *National Framework for Protecting Australia's Children (2009–2020)* (National Framework), Australia has the following:

- The National Plan to Reduce Violence against Women and their Children 2010–2022 — refer to page 14;
- Closing the Gapⁱⁱⁱ (commenced March 2008) — which aims to reduce disadvantage among Indigenous Australians, with targets specifically relating to children (including child mortality, access to early childhood education and educational achievement). Australia’s progress towards these outcomes is reported at Parts VII and VIII, and
- The National Action Plan to Combat Human Trafficking and Slavery (2015–2019) — refer to page 37.

National Framework for Protecting Australia’s Children 2009–2020)^{iv}

28. In April 2009, COAG endorsed the National Framework. The Framework represents the highest level of collaboration between federal, State and Territory governments and civil society to ensuring the safety and wellbeing of children in Australia. It is implemented through three-year action plans.

29. The Framework’s six supporting outcomes are that:

- Children live in safe and supportive families and communities;
- Children and families access adequate support to promote safety and intervene early;
- Risk factors for child abuse and neglect are addressed;
- Children who have been abused or neglected receive the support and care they need for their safety and wellbeing;
- Indigenous children are supported and safe in their families and communities, and
- Child sexual abuse and exploitation is prevented and survivors receive adequate support.

30. The Third Action Plan (2015–2018) under the National Framework aims to help reduce the likelihood of children entering the child protection system and to reduce the overrepresentation of Indigenous children needing child protection services. Approximately \$2.6 million of Australian Government funding is available each year to support the Third Action Plan initiatives, alongside existing funding from the Australian Government, and States and Territories to support vulnerable children and families.

Standard of living, Social security and Resources for children* (Arts 4, 18, 26–27) (Concluding Observation 20, OPSC Concluding Observation 19)

31. Australia does not separately identify budget spending on implementation of the CRC and its Optional Protocols.^v However, all Australian governments fund a wide range of services for children to support the realisation of their rights, including healthcare, education and law and justice services. Australia’s social security system also provides a range of payments to children and their families to

- Improve the lifetime wellbeing of children and families in Australia. Payments fall into three broad categories;
- Direct payments to individuals including family payments for people with dependent children (including children with disability);
- Partnerships with States and Territories in shared policy areas, including housing, homelessness, disability services, concessions and children’s welfare, and
- Funding organisations to deliver services that support families and individuals according to their needs.

32. In 2015–16, expenditure by Australian and State and Territory governments on social security was \$157.2 billion (increased from \$116.8 billion in 2006–07), including \$30.9 billion for children and families.^{vi} Appendix II contains further detail on government

spending in a range of areas including healthcare, education, child care and child protection. The Australian Government monitors and evaluates all government spending programs.

Child Support Payments

33. The Australian Government Department of Human Services assists separated families to ensure their children are supported through the Child Support Scheme. The Department determines the amount of financial support under child support assessments and provides options for payments. This includes assessments made under Australian child support law and assessments made in jurisdictions that have reciprocal arrangements with Australia.

34. Payments can be made through:

- Private collection — the paying parent makes payments directly to the receiving parent, or
- Child Support Collect — the Department registers, collects and transfers payments between parents. It takes administrative enforcement action when payments are overdue.

Data Collection (Concluding Observation 22)

35. The Australian Government is committed to improving national reporting on the welfare of children, including through its national statistical agency, the Australian Bureau of Statistics. Independent statutory bodies, the Australian Institute of Health and Welfare and the Australian Institute for Family Studies, collect data, carry out research and report on a range of matters relevant to children's health and wellbeing.

36. *Growing Up in Australia*^{vii} is a longitudinal study, conducted through a partnership between the Australian Government Department of Social Services, the Australian Institute of Family Studies and the Australian Bureau of Statistics, with advice from academia. The study establishes an evidence base for guiding policies that promote the optimal development and wellbeing of Australian children.

37. The Australian Government also provides significant funding to universities, private research institutions, hospitals, cooperative research centres and industry to undertake research on matters affecting children. All Australian governments commission research to support best practice policy and program development and evaluation.

38. The Australian Government funds independent research through the Australian Research Council, including the Centre for Excellence for Children and Families over the Life Course.

Data Disaggregation

39. Australia disaggregates data about children, depending both on the collection process and the intended use. This may include disaggregation by age, gender, Indigenous status, spoken languages, geographical status, disability and country of birth.

40. In this report, wherever possible, Australia has endeavoured to provide information on children aged 0–18 years. This was not always possible, due to the original intended use for the data provided. Information in the appendices identifies the relevant disaggregation. Data from the 2016 Census was not available at the time of drafting.

International cooperation (Art 4) (Concluding Observation 26)

41. Australia's foreign aid focuses on private sector engagement, empowering women and girls, strong humanitarian responses, and building capacity and stability, particularly in our region.

42. In February 2016, the Australian Government Department of Foreign Affairs and Trade released the *Gender Equality and Women's Empowerment Strategy*,^{viii} which

positions gender equality and women's and girl's empowerment as a core part of foreign policy, economic diplomacy and development work. Australia's aid policy sets a target requiring that 80% of Australia's aid perform effectively in promoting gender equality.

43. Australia's *Development for All 2015–2020: Strategy for strengthening disability-inclusive development in Australia's aid program*^x acknowledges that children with disabilities are particularly disadvantaged by poor quality, inadequate and inaccessible education. Australia commits to improving accessibility to, and quality of, education for children with disabilities throughout the Indo Pacific region.

Dissemination (Art 44(6)) (Concluding Observations 86–87, OPSC Concluding Observations 15, 35–36, OPAC Concluding Observations 31–32)

44. The Australian Government publishes its reports to the Committee, as well as all concluding observations, on the Australian Government Attorney-General's Department's website.^x The Department also disseminates reports and concluding observations through its annual civil society forum and to government departments at the federal, State and Territory levels.

45. The Australian Government has established a UPR monitoring webpage which provides detail on Australia's responses and position regarding UPR recommendations received during Australia's most recent review in 2015.

Training and awareness-raising* (Arts 3(3), 42) (Concluding Observation 24, OPSC Concluding Observations 15, 17)

46. The full text of the CRC is available through the Australasian Legal Information Institute Treaties Library, a free public resource.

Human rights education in schools

47. The Australian National Curriculum incorporates knowledge and understanding of human rights for students in Grades 3 to 10.^{xi} Students study the freedoms and responsibilities of Australian citizens, the Australian Government's role and responsibilities at a global level, such as participation in the UN, and how Australia's international legal obligations shape Australian law and government policies. This may include a study of the CRC.

Human rights education for police and judicial officers

48. The Australian Federal Police (AFP) delivers cultural awareness and diversity education and training programs. Officers can complete the following modules relating to children as necessary for their role/position:

- Human Trafficking Investigation Course;
- Victim Based Crime Investigations Course;
- Interviewing Vulnerable Witnesses Program, and
- Human Rights (online training).

49. State and Territory law enforcement services deliver their own training programs.

50. The Australian Government provides funding for training and education of judicial personnel, but the content of that training is determined by the judiciary. For example, the Australian Government has funded National Domestic and Family Violence Bench Book (released June 2016),^{xii} as a resource for all judicial officers to improve understanding of family violence. A training program will accompany the Bench Book.

51. There are various external entities which facilitate ongoing training and education including the National Judicial College of Australia and the Australasian Institute of

Judicial Administration. These bodies host events on topical issues of interest relating to children including “Seen and Heard: Children and the Courts”, “Doing Justice for Young People” and “Child Protection in Australia and New Zealand”.

Human rights education for healthcare workers (Concluding Observation 61)

52. Human rights, including CRC principles, are embedded in health profession competency standards and codes of conduct. Employers may require registered health professionals to undertake further training in relation to child protection and mandatory reporting obligations as part of continuing professional development.

53. The Australian Association of Social Workers requires accredited training programs to include “[a]n understanding of, and a critical engagement with, notions of universal human rights” in their curriculum.^{xiii}

Child rights and the business sector (Art 4) (Concluding Observation 28)

54. Businesses must comply with all Australian laws, including those in place to implement our international human rights obligations. The Australian Government supports responsible business conduct, including through domestic anti-discrimination, privacy and employment laws and criminal offences for conduct such as forced labour, slavery and torture.

55. The Australian Government continues to encourage businesses to apply the United Nations Guiding Principles on Business and Human Rights in their operations. The Guiding Principles acknowledge that “States are not generally required under international human rights law to regulate the extraterritorial activities of businesses domiciled in their territory and/or jurisdiction”.

56. The Australian Human Rights Commission has made business and human rights a priority. The Commission encourages discussion with business about how to implement the Guiding Principles through its Business and Human Rights Network and by convening national dialogues with business, government and civil society.^{xiv}

57. The Australian Government has endorsed the OECD Guidelines for Multinational Enterprises. It has established the Australian National Contact Point (ANCP) to manage complaints of misconduct under the Guidelines. The Australian Government commissioned an independent review of the ANCP and is considering how to improve its operation.

Trade Agreements

58. The Australian Government consults a wide range of stakeholders, including peak industry bodies, companies, academics, unions, consumer groups, special interest groups and civil society when negotiating trade agreements. The Parliamentary Joint Committee on Human Rights reviews implementing legislation for any trade agreement for compatibility with human rights.

59. Australia has included specific labour commitments, including protections for children, in several free trade agreements (FTAs), including the Korea-Australia FTA, the Australia-US FTA and the Trans-Pacific Partnership Agreement (not yet in force). These commitments require Australia and its relevant trading partner to uphold internationally recognized labour principles, including labour protections for children and the elimination of child labour. Australia’s FTA commitments on labour standards establish cooperation and compliance mechanisms and allow reciprocal consultations to address concerns about compliance.

60. The Export Credit Agency of Australia is the Export Finance and Insurance Corporation (Efic). Efic’s Board adopted a Human Rights Statement to explain how it identifies and manages its interaction with human rights, and a Policy and Procedure that further explain how human rights are considered during due diligence processes.^{xv}

III. Definition of the child (Art 1)*

61. At 30 June 2016, there were approximately 5,439,827 children in Australia, comprising almost equal numbers of boys and girls. Indigenous children comprise approximately 3% of the total population.

62. At June 2011, 68% of children lived in major cities, 29% in regional areas and 2.6% lived in remote areas. Indigenous children represent 2.8% of the child population in major cities, 8.88% in regional areas and 41.66% in remote areas.

Age of Majority — Civil Matters*

63. The Office of Parliamentary Counsel recommends all federal legislation using the concept of a child should refer to the definition contained in the *Family Law Act 1975* (Family Law Act), which refers to “a person who is under 18”. The age of compulsory voting is 18.^{xvi}

64. Children aged under 18 years are permitted to work, however each jurisdiction administers legislation to protect young people, including limiting hours of work and preventing working during school hours. Under the *Fair Work Act 2009* (Fair Work Act), children have workplace protections, including minimum wages and conditions and protection from discrimination, bullying and harassment.

Age of Majority — Criminal Responsibility* (Concluding Observation 84(a))

65. The minimum age of criminal responsibility in Australia is 10 years old. In all Australian jurisdictions there is a rebuttable presumption that a child aged between 10 and 14 years of age is not criminally responsible (called *doli incapax*). A child of this age can only be found criminally responsible where the child knows that their conduct was wrong. This is a question of fact and the onus of proof falls on the prosecution. This provides a safeguard for children between 10 and 14 years and recognizes each child’s evolving capacities.

66. The commencement of Queensland’s *Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Act 2016* in February 2018^{xvii} ensures that all Australian jurisdictions treat children under the age of 18 as juveniles.

Minimum marriageable age

67. Under section 11 of the *Marriage Act 1961*, the marriageable age for boys and girls in Australia is 18 years old. In “exceptional and unusual” circumstances, a judge or magistrate may authorize a child aged no less than 16 to marry a particular person of marriageable age (section 12).

68. Forced marriage is illegal in Australia under section 270.7B of the Criminal Code in the *Criminal Code Act 1995*. The Criminal Code provides that a person under 16 years of age is presumed to be incapable of understanding the nature and effect of a marriage ceremony, and is therefore presumed incapable of entering into a marriage freely and with full consent.

69. Offenders, including parents of victims and marriage celebrants, face up to seven years imprisonment or up to 25 years imprisonment if a child is taken overseas for forced marriage. Suspected forced marriage matters are referred to the AFP for assessment. Details on Australia’s measures to counter forced marriage are on page 37.

IV. General principles

Non-discrimination* (Art 2) (Concluding Observation 30(e))

70. The *Racial Discrimination Act 1975*, *Sex Discrimination Act 1984*, *Disability Discrimination Act 1992* (Disability Discrimination Act) and *Age Discrimination Act 2004* protect children from discrimination on the grounds of race, sex, sexual orientation, gender identity and intersex status, disability and age, in a range of areas of public life.

71. The Australian Government recognizes transgender and non-binary gendered citizens by providing a gender option of “X” on national passports. Since July 2013, Australian Government guidelines have provided that people may answer gender questions on government forms with options of male, female or indeterminate/intersex/unspecified. The guidelines are currently under review.

72. All States and Territories have their own anti-discrimination laws and equal opportunity and antidiscrimination bodies with statutory responsibilities to protect children from discrimination.

Best interests of the child* (Art 3) (Concluding Observation 32)

73. Australia continues to consider the best interests of the child in policy, administrative and particular legal decisions relating to individuals, and in the systems established to meet children’s needs. Legislation and case law in all jurisdictions and across a range of domains, including child protection, criminal justice and health, recognizes the importance of the child’s best interests being considered in decision-making.^{xviii}

74. In family law matters, section 60CA of the Family Law Act provides that the best interests of a child are the paramount consideration in making orders concerning a child.

75. The High Court of Australia has also considered the best interests of the child in a variety of contexts.^{xix} The federal-level Administrative Appeals Tribunal and State tribunals similarly consider the best interests of the child under relevant legislation.^{xx}

Respect for views of the child (Art 12) (Concluding Observations 30(d), 34)

Legislative decisions*

76. All Australian governments consider children and youth issues where legislation will affect them. Each State and Territory has youth strategies or youth engagement frameworks, as well as Ministers with direct responsibility for children’s issues. Children’s Commissioners in all jurisdictions consult with, and advocate on behalf of, children. Australian governments also fund youth-run civil society organizations.

77. The National Indigenous Youth Parliament is a partnership between with the Australian Government and YMCA. The program is designed for young Indigenous people (aged 16–25). It provides expert training in how government works, how laws are made, public speaking and dealing with the media. Youth parliamentarians meet with and learn from the nation’s leaders, Members of Parliament, members of the parliamentary press gallery and Indigenous leaders.

Legal and Administrative decisions*

78. Courts in Australia may consider the views of children as a part of their determination of the child’s best interests. The courts consider any relevant factors, such as the child’s maturity or level of understanding to ensure children’s views are given proper weight.

79. In family law courts, children can express their views in a number of ways. The court may be informed of the views of the child through receipt of a report by a consultant

or welfare officer, a judge may interview the child, or the court may ascertain the child's views by such other means as the court considers appropriate. The court may also receive hearsay evidence where that evidence is relevant to the welfare of the child.

80. State and Territory justice systems also protect children's interests through measures including children's courts and allowing children to provide evidence in age-appropriate forms.

The right to life, survival and development (Art 6)

Capital Punishment

81. Australia abolished the death penalty in 1985. The *Crimes Legislation Amendment (Torture Prohibition and Death Penalty Abolition) Act 2010* prohibits the reintroduction of the death penalty in all States and Territories.

Child mortality*

82. All deaths in Australia must be registered with a State or Territory Registry of Births, Deaths and Marriages. A medical practitioner must issue a death certificate stating the cause of death. Suspicious or unnatural deaths can be referred to the relevant Coroners' Office. Coroners' Offices investigate these deaths and can refer a case to the relevant prosecutorial authority or can issue recommendations to governments or other agencies with a view to improving public health and safety.

83. Criminal legislation in all jurisdictions protect children from unlawful killings by the provisions against murder, manslaughter, assault and others, as well as child abuse and neglect.

84. The **below** table outlines the five leading causes of death for Australian children and young people between 2012–14.^{xxi}

	1st	2nd	3rd	4th	5th
Age < 1	Infant/congenital Perinatal & congenital	Other Ill-defined	Infant/congenital SIDS	Injury Accidental threats to breathing	Other Selected metabolic disorders
Age 1–14	Injury Land transport accidents	Infant/congenital Perinatal & congenital	Cancer Brain cancer	Injury Accidental drowning & submersion	Other Cerebral palsy & related
Age 15–24	Injury Suicide	Injury Land transport accidents	Injury Accidental poisoning	Injury Assault	Injury Event of undetermined intent

85. In 2008, COAG committed to a series of targets including halving the gap in mortality rates for Indigenous children under five by 2018. From 1998–2015 infant mortality rates declined by 33% and there has been a significant narrowing of the gap between Indigenous and non-Indigenous children in jurisdictions with reliable data (by 31%).

86. Australia has low incidences of HIV/AIDs, malaria, tuberculosis, and hepatitis. Australia has not had a case of wild polio since 1972. Treatment and/or vaccines for these conditions are available through Australia's public health system.

V. Civil rights and freedoms

Birth registration, name and nationality* (Art 7) (Concluding Observation 36)

87. Birth registration rates are high in Australia. Parents are responsible for registering the birth of their children with State or Territory governments who have jurisdiction in these matters. Australian governments have taken steps to ensure that all persons are aware of the importance of birth registration and the need to increase registration rates.

88. To reduce barriers for rural and remote residents, all States and Territories allow birth registration applications to be provided in person and by post and most allow online registration. It is free to register a birth.

89. Birth certificates are important identification documents and can only be issued to a child whose birth has been registered. State and Territory governments generally charge fees to issue birth certificates. Australian governments understand that the price of birth certificates can prevent some parents from obtaining this document. Parents on low incomes are able to apply for fee waivers to obtain birth certificates in all jurisdictions.

90. An Identity Documents Working Group, established by the Australian Government in 2016, is working with State and Territory Registries of Births, Deaths and Marriages to consider approaches to increase birth registration and to simplify the process of accessing identity documents for children receiving statutory child protection services.

Indigenous Birth Registration and Access to Birth Certificates*

91. The Australian Government acknowledges that Indigenous Australians are less likely to have their births registered and to hold birth certificates. Improving the quality and coverage of Indigenous birth registrations is a priority for State and Territory Registries.

92. The Australian Government funded the mobile, Indigenous-led *Pathfinders National Aboriginal Birth Certificate Program*, which assisted Indigenous Australians to register their own or their child's birth. The Program funded 7,500 birth certificates from 2015–2017.

Preservation of identity (Art 8)

93. Australia is a successful multicultural country. The 2016 Census shows 49% of Australians were either born overseas or had at least one parent who was born overseas.^{xxii} Twenty-one per cent of Australians speak a language other than English at home.^{xxiii}

94. On 20 March 2017, the Australian Government launched its Multicultural Statement (*Multicultural Australia: United, Strong, Successful*^{xxiv}), renewing and reaffirming its commitment to a multicultural Australia and setting policy and program priorities and directions for the coming years. Multicultural policies developed by State and Territory governments affirm Australia's commitment to supporting cultural and linguistic diversity and to engender community respect and cohesion.

Children deprived of citizenship (Concluding Observation 38)

95. In December 2015, the Australian Government amended the *Australian Citizenship Act 2007*, to provide for the cessation of Australian citizenship of individuals who engage in or are convicted of certain foreign fighting or terrorism related conduct.

96. These provisions are consistent with Australia's international obligations. They cannot operate to leave a person stateless and they do not apply to children aged under 10 years. Two of the three mechanisms for citizenship loss (sections 33AA and 35) only apply to dual nationals aged 14 or over. The third mechanism (section 35A) is conviction-based and has limited application to children aged under 14 due to *doli incapax* (per page 8).

97. The Minister for Home Affairs (former Minister for Immigration and Border Protection) has a power to exempt a person from citizenship loss where the Minister considers it is appropriate in the public interest that the person not lose their Australian citizenship — this includes having regard to the age of the person and primary consideration for the best interests of the child.

98. At 23 November 2017, no child had lost Australian citizenship through these provisions.

Freedom of expression (Art 13), freedom of thought, conscience and religion (Art 14) and freedom of association and of peaceful assembly (Art 15) (Concluding Observation 40)

99. The Australian Government is committed to promoting and protecting freedom of speech and other traditional rights and liberties. This includes protecting the rights of all persons to express their views, including controversial views, provided they remain within the framework of Australian law.

Public Order Offences*

100. In Australia, children freely congregate in public spaces, both in areas specifically designed for children such as playgrounds, sporting venues, parks or skate parks, or in public facilities such as shopping precincts, public transport, streets and public squares.

101. Parents or other responsible adults are expected to provide appropriate supervision as needed to ensure children's safety, and to help children to develop an understanding of their own and others' safety. The need for supervision will depend on a child's age and abilities, and the public setting or activity.

102. Public order offences, including those specifically relating to children, uphold the dual purposes of keeping children safe and maintaining public order. Public order offences include trespass, offensive behaviour, criminal intent and disorderly conduct. All jurisdictions have a range of responses for children who are in public areas unsafely. Responses include contacting parents or responsible adults, referral to support services or child protection systems, police "move on" powers, diversion programs and, where necessary, in sentencing children charged with public order offences.

Protection of privacy* (Art 16)

103. The *Privacy Act 1988* includes thirteen Australian Privacy Principles (APPs) which regulate the handling of personal information by private sector organizations with an annual turnover of more than \$3 million, all private health service providers and Australian Government agencies. The APPs set standards, rights and obligations for the collection, use, disclosure, quality and security of personal information.

104. Children are able to lodge complaints of privacy violations with the Office of the Australian Information Commissioner or with relevant complaints mechanisms in most States or Territories.

Prohibited Behaviours Orders Act 2010 (WA) (Concluding Observation 42)

105. The Western Australian *Prohibited Behaviour Orders Act 2010* provides courts with a mechanism to restrict a person over the age of 16 years who has a history of anti-social behaviour related offences from specified behaviours. Under subsection 34 (2), unless ordered otherwise by a court, a constrained person's name, photograph and suburb of residence are published on a website alongside the constraints imposed by the Order.

106. Prohibited Behaviour Order applications undergo an assessment process, including a fairness test. At September 2017, no applications for juveniles have progressed to the Children's Court of Western Australia.

Access to appropriate information (Art 17)

107. Australian children have access to information and material from a diversity of national and international sources, including about Indigenous cultures and in languages other than English.

108. Commercial free-to-air broadcasters in Australia must meet Australian and children's content requirements, as set out in the *Broadcasting Services (Australian Content) Standard 2016 and the Children's Television Standards 2009*.

109. The Australian Government funds two independent public broadcasters, the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service Corporation (SBS). The ABC's Charter requires it to provide programs that contribute to a sense of national identity and reflect the cultural diversity of the Australian community. SBS' Charter requires it to provide multilingual and multicultural services. The ABC has two dedicated children's channels. Approximately one third of children's television programs shown on the ABC's television channels are Australian.

110. The Australian Government also funds National Indigenous Television (NITV) which broadcasts programming produced primarily by Indigenous Australians. NITV programming includes *Jarjums*, with originally produced Australian Indigenous children's programs.

111. The Australian Government will provide \$2.8 million in 2017–18 to the Australian Children's Television Foundation, to support production of distinctly Australian children's television as well as curriculum-aligned teaching resources.

Protecting children from harmful content and activity online

112. Australia's criminal laws protect children from harmful content online (including procuring and "grooming" activities)^{xxv} and criminalize online dealings with child abuse and pornography materials.^{xxvi}

113. On 15 June 2017, the Australian Parliament passed the *Criminal Code Amendment (Protecting Minors Online) Act 2017* which targets online predators preparing or planning to cause harm to, procure, or engage in sexual activity with a child. The Act introduced a new offence to target online predators preparing or planning to cause harm to, procure or engage in sexual activity with a child. The offence captures predators that misrepresent their age to children.

114. The Australian e-Safety Commissioner administers the Online Content Scheme. Under this Scheme, the Office of the e-Safety Commissioner may investigate complaints about online content and take action on material found to be prohibited or potentially prohibited. The Commissioner can direct take-down of prohibited content if it is hosted in Australia, notify illegal content to the appropriate police agency and establish and monitor compliance with codes of practice by online content service providers.

Cruel, Inhuman or Degrading treatment & Corporal punishment (Arts 37(a), 28(2))

Corporal Punishment (Concluding Observations 44–45)

115. Corporal punishment is not accepted as a social norm in Australia. While Australian law does not explicitly outlaw corporal punishment in all settings, child protection mechanisms and criminal penalties will apply to any person, including family members, who physically abuse or cause serious harm to a child. Corporal punishment is prohibited as a sentence for crimes in Australia.

116. Parenting advice and information provided by all Australian governments focuses on positive behaviour management and emphasizes the negative consequences of physical punishment.

117. The Australian Government does not endorse corporal punishment as an approach to student behaviour management in schools. The Australian Capital Territory, New South Wales, South Australia, Queensland, Tasmania, Victoria and Western Australia have either explicitly banned the use of corporal punishment in government schools or have removed provisions in legislation that provided a defense to the use of reasonable chastisement by people acting in the place of a parent (such as teachers).

118. New South Wales, Northern Territory, Tasmania, Victoria and Western Australia have legislated to ban corporal punishment in both government and non-government schools. Irrespective of this, criminal penalties apply in all jurisdictions to teachers who abuse or assault children.

119. A number of jurisdictions have conducted, or are in the process of, conducting reviews relating to schooling for children with disability which have included consideration of restrictive practices against children. A number of courts are currently considering matters involving the restraint of children with disability in schools.

Family Violence* (Concluding Observations 47–48)

120. In February 2011, COAG endorsed the 12-year *National Plan to Reduce Violence against Women and their Children 2010–2022*. Australian governments developed the Third Action Plan which was released on 28 October 2016.

121. The Third Action Plan under the National Plan builds on activities and initiatives implemented throughout the First and Second Action Plans. It is informed by research, recommendations from relevant inquiries and consultation processes, including the Final Report of the COAG Advisory Panel on Reducing Violence against Women and their Children, and evaluation of the Second Action Plan.

122. The National Plan includes specific programs which focus on young people aged 12–20 years such as primary prevention behaviour change campaign, The Line, which utilize a variety of media and community platforms to identify, challenge, and change the attitudes and behaviours which lead to violence against children.

123. Lead organization, Our Watch, is distributing educational resources to help children better understand the online image-based abuse. This is in accordance with the legislative provisions introduced around non-consensual sharing of intimate images.

124. The Personal Safety Survey is conducted every four years over the life of the National Plan to measure prevalence of family violence and sexual assault in Australia. The Personal Safety Survey collects data relevant to children, including prevalence of women experiencing partner violence from the age of 15 and prevalence of partner violence being witnessed by children.

125. The success of the National Plan over its 12-year lifespan is also being measured through annual reporting, independent evaluation of Action Plans every three years, and a final evaluation at the conclusion of the Plan.

126. The *Indigenous Family Safety Programme* supports Indigenous people at risk of, or experiencing family violence. Forty-eight activities are funded across Australia to a value of \$12.2 million in 2017–18 and these include victim support, mediation, case management, counselling and behavioural workshops.

VI. Family environment and alternative care

Parental guidance, responsibilities and assistance in child-rearing* (Arts 5, 18) (Concluding Observation 50)

127. Since the last reporting cycle, the Australian Government has designed and implemented new programs to assist families in need of parenting support and to assist parents to enter education or the workforce.

128. The Australian Government's *Parents Next* program (commenced April 2016) assists parents with young children to plan for future employment and reduces welfare dependency and child poverty. At 1 September 2017, almost 13,400 parents were participating in the program. Since April 2016, the program has assisted:

- More than 9,000 parents into education/training;
- Almost 6,000 into community services such as parenting courses or counselling, and
- More than 1,000 into employment.

129. From July 2018, *Parents Next* will be expanded from its 10 existing locations to all non remote areas of Australia. The expanded program will be delivered in two streams. A "targeted" stream will deliver tailored support to eligible parents to assist them to meet their employment and education goals in 51 employment regions throughout Australia. An "intensive" stream will provide the same support, but with additional financial assistance (including relocation assistance to take up a job, and employer wage subsidies), to eligible parents in the 10 existing locations as well as 20 new locations with a high proportion of Indigenous Parenting Payment recipients.

130. The Australian Government has funded the *Intensive Family Support Service* since 2010. The Service is a key element in providing enhanced parenting and home skills development to families receiving social security payments and those with high risk of child abuse or neglect. Intensive Family Support Services are delivered in 26 locations across the Northern Territory and the Anangu Pitjantjatjara Yankunytjatjara Lands of South Australia.

131. The Australian Government's *Learning Potential* app and website (launched February 2017), provides free resources to assist parents to support their children's education and wellbeing.

Child care and Support for working caregivers*

132. The Australian Government provides means-tested financial support to assist families with child care costs, including an additional \$1.6 billion from 2016–17 to 2019–20.

133. Families earning \$65,710 or less will receive a subsidy of 85% of the actual child care fee charged. The subsidy reduces to 20% for families earning more than \$250,000 and cuts out for families earning above \$350,000.

134. The Australian Government will invest around \$37 billion on child care support over the next four years. This includes an increase of around \$2.5 billion to support the implementation of a new child care package that will be implemented in full from 2 July 2018, including \$1.2 billion for the new *Child Care Safety Net*.

135. The Australian Government is also making \$840 million available to States and Territories to support all children's participation in a quality preschool program for 600 hours per year throughout 2016 and 2017 under the National Partnership Agreement on Universal Access to Early Childhood Education. As part of the 2017–18 Budget, the Australian Government also announced a further \$428 million to continue Australian Government support for preschool throughout 2018.

Paid Parental Leave (Art 18(3)) (Concluding Observation 69)

136. Australia introduced a national Paid Parental Leave scheme on 1 January 2011. Under the scheme, eligible working parents can receive government-funded pay when they take leave to care for a newborn baby or recently adopted child, as well as employer-funded paid parental leave. The Paid Parental Leave scheme provides two payments:

- Parental Leave Pay provides eligible working parents with up to 18 weeks of pay at the national minimum wage (\$695.00 per week before tax, at 1 July 2017), and
- Dad and Partner Pay (from 1 January 2013) provides eligible working fathers or partners with up to two weeks' pay at the national minimum wage. The payment can be received any time during the first year after the child's birth or adoption.

137. Paid Parental Leave is in addition to employer-paid maternity leave, which enables mothers to be at home with their newborn babies longer after the birth. This leave supports mothers to initiate and continue breastfeeding.

138. Under the *National Employment Standards* in the Fair Work Act, employees with at least 12 months continuous service with their employer are also entitled to 12 months of unpaid parental leave following the birth or adoption of a child. This includes a guaranteed right of return to their preparental leave position. Parental leave may be shared between parents or careers.

Adoption* (Art 21) (Concluding Observation 54)

139. There were 278 adoptions in Australia in 2015–16.^{xxvii}

140. Australia is committed to protecting the best interests of children through the implementation and observance of the *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (Hague Convention). Australia upholds the principles and standards of the Hague Convention, regardless of whether the partner country is a party, and monitors and reviews its intercountry adoption programs to ensure ongoing compliance.

141. States and Territories assess the eligibility and suitability of people wanting to adopt a child from overseas against criteria outlined in their own legislation, and prepare and support people through the adoption process.

142. In Australia, adoption legislation specifies that the welfare, wellbeing and/or best interests of the child are the main object or paramount consideration. In all but two jurisdictions, adoption legislation entitles children to legal or other separate representation.

143. Consent of the adopted child (from 12 years) prior to adoption is required in four Australian jurisdictions. The child's views, wishes or feelings must be considered before the making of an adoption order in all jurisdictions.

Illicit transfer and non-return* (Art 11)

144. The International Family Law Section of the Attorney-General's Department is responsible for performing the functions to fulfil Australia's obligations under the 1980 *Hague Convention on the Civil Aspects of International Child Abduction*, 1996 *Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children*, and a number of other international instruments relating to international parenting matters. The *Family Law Act*, *Family Law Regulations 1984*, *Family Law (Child Abduction Convention) Regulations 1986* and *Family Law (Child Protection Convention) Regulations 2003* give domestic effect to these international instruments.

145. In the financial year 2015–16 Australia is aware of:

- 55 incoming applications from another country (children in Australia), and
- 92 outgoing applications to another country (children in other country) made under the 1980 Hague Convention.

Separation from Parents and Alternative Care* (Arts 9, 25) (Concluding Observation 52)

146. Australia acknowledges ongoing issues with the high numbers of children entering out-of-home care and protection system. States and Territories administer child protection regimes to assist vulnerable children who are suspected of being abused, neglected, or otherwise harmed, or whose parents are unable to provide adequate care or protection.

147. The national recurrent expenditure on child protection and out-of-home care services was almost \$4 billion in 2015–16, a real increase of \$283.74 million from 2014–15.^{xxviii}

148. At 30 June 2016, there were approximately 46,448 Australian children and young people living in out-of-home care. The majority of children in out-of-home care lived with a relative/kinship carer or a foster carer (38% and 34% respectively).

149. The Third Action Plan of the National Framework aims to reduce the likelihood of children entering the child protection system. Out-of-home care is considered an intervention of last resort, and the preference is always for children to be reunited with their birth parents if possible.

150. All jurisdictions have measures in place to review out-of-home care placements. In all jurisdictions, child protective services work with other relevant authorities to ensure children's wellbeing is upheld.

Indigenous Children in out-of-home care* (Concluding Observation 52)

151. Indigenous children are much more likely than non-Indigenous children to be in out-of-home care. At 30 June 2016, 36.27% (16,846 children) of children in out-of-home care were Indigenous. Indigenous children were 10 times more likely to be in out-of-home care than non-Indigenous children.

152. All Australian governments have committed to implementing the Aboriginal and Torres Strait Islander Child Placement Principle. The Principle recognises the value of culture and the importance of enabling Indigenous children, families and communities to participate in decisions about the safety and wellbeing of children. The Principle comprises five core elements:

1. Prevention — each Indigenous child has the right to be brought up within their own family and community;
2. Partnership — ensuring the participation of community representatives in service design, delivery and individual case decisions;
3. Placement — prioritizing placement of Indigenous children in order, with their Indigenous family, community, or other Indigenous families, where such placement is safe for the child;
4. Participation — consulting with Indigenous families, communities and organizations about child protection intervention, and child placement and care;
5. Connection — ensuring that Indigenous children in out-of-home care are supported to maintain connection to their family, community and culture, especially children placed with non-Indigenous carers.

153. At 30 June 2016, more than half of Indigenous children in out-of-home care were placed in relatives, kin, other Indigenous caregivers or in Indigenous residential care.

154. The Australian Human Rights Commission undertook a scoping study on the overrepresentation of Indigenous children in the child protection system and in out-of-home care. The Australian Government is currently considering that study.

Royal Commission into Institutional Responses to Child Sexual Abuse

155. In 2013, the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) was established to investigate how public, private and non-government organizations have managed and responded to allegations and instances of child sexual abuse. The Royal Commission's objective was to investigate where systems have failed to protect children, and make recommendations on how to improve laws, policies and practices to prevent and better respond to child sexual abuse in institutions.

156. The Royal Commission released an Interim Report^{xxxix} (June 2014), a Working with Children Checks Report (August 2015),^{xxx} a Redress and Civil Litigation Report^{xxxi} (September 2015) and a Criminal Justice Report (August 2017)^{xxxii} In response to these reports, the Australian Government has undertaken a number of actions, including:

- Changing how it treats limitation periods in cases where it is the defendant in a matter involving allegations of institutional child sexual abuse;

- Announcing a Commonwealth Redress Scheme to support people who were sexually abused as children in Commonwealth institutional settings, and
- Leading the development of nationally consistent standards for working with children check schemes and undertaking a scoping study to determine the most effective approach to sharing information to improve the effectiveness of screening processes.

157. The Commonwealth Redress Scheme is expected to be established by July 2018 and will be available for 10 years. It will offer a direct personal response for those eligible survivors who seek it, options to receive psychological counselling and a monetary payment (up to \$150,000). The Australian Government committed \$33.4 million in 2017–18 to establish the Scheme. States and Territories and institutions have been invited to opt-in to the Scheme.

158. The Royal Commission’s final report was submitted on 15 December 2017. It is expected that the findings and recommendations of the Royal Commission will improve responses to child sexual abuse wherever it happens. The Australian Government is considering the Royal Commission’s findings.

Juvenile Justice and Detention* (Art 25) (Concluding Observation 84)

159. Australian governments are taking active steps to improve their juvenile justice systems and ensure respect for the rights of children in detention. There have been a number of State and Territory inquiries into youth detention in the past two years regarding the treatment of children in detention.

160. States and Territories maintain separate places of detention for juveniles and in the vast majority of circumstances, juveniles are separated from adults. The Australian Government does not operate any youth justice detention facilities.

161. In 2015–16 there were around 5,500 young people under youth justice supervision in Australia on an average day, with 11,007 supervised at some time during the year. Of these, 84% were supervised in the community and 17% were in detention.^{xxxiii} Overall, rates of supervision are falling.

162. Specific circumstances may require that children in Australia be detained in adult prisons. For example, in Victoria, the Youth Parole Board may direct a person aged 16 years or more to be transferred to an adult prison to serve the unexpired period of detention. Such a decision may only be made with regard to the age and maturity of the person, their behaviour, and, in the majority of cases, where the Board is satisfied that the person cannot be properly controlled in a youth centre and has engaged in conduct that threatens the good order and safe operation of the centre.

Indigenous Children in detention*

163. Indigenous young people are over-represented in youth justice supervision in all States and Territories. Although less than 6% of young people aged 10–17 in Australia are Indigenous, 43% of young people under youth justice supervision on an average day in 2014–15 were Indigenous.^{xxxiv} This proportion was higher in detention where more than half (54%) were Indigenous.^{xxxv}

164. Australia’s focus is on addressing the drivers that lead to Indigenous people having higher rates of contact with the criminal justice system and poor community safety, including alcohol and drug misuse, child abuse and neglect, the impact of intergenerational and direct experiences of trauma, unemployment and poor educational attainment.

165. Under the Indigenous Advancement Strategy, the Australian Government provides funding for a range of activities to complement efforts by the States and Territories to improve justice and community safety outcomes for all Indigenous Australians. In 2017–18, approximately \$264 million is being provided to the *Indigenous Advancement Strategy Safety and Wellbeing Programme* to improve community safety and wellbeing, including activities which aim to prevent young people from engaging in offending or antisocial

behaviour and to divert them away from the justice system (\$3 million increase from 2016–17).

166. The Australian Government is providing is \$10.6 million over three years to develop a new model of through-care for Indigenous young people who are leaving youth detention to return to their families and communities safely and break the cycle of reoffending. Through-care provides intensive case management to support rehabilitation and address the underlying causes of offending behaviour, including low education, unemployment, drug and alcohol abuse and poor community engagement.

167. In December 2016, the Australian Government asked the Australian Law Reform Commission to examine the factors leading to the national over-representation of Indigenous people in prisons, including children and young people, and consider law reform to ameliorate it. The Report is due to be tabled in Parliament in early 2018.

Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory

168. In response to reports of serious abuse of boys detained in the Don Dale Detention Centre in the Northern Territory, the Australian Government (in partnership with the Northern Territory Government) established the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory on 1 August 2016. The Royal Commission and Board of Inquiry considered what improvements could be made to the child protection and youth detention systems of the Northern Territory. It produced an Interim Report on 31 March 2017 and the Final Report was released on 17 November 2017.^{xxxvi} The Northern Territory and Australian governments are considering the Report.

169. The Northern Territory Government has already agreed in-principle to the Royal Commission and Board of Inquiry's recommendations to:

- Close the High Security Unit at the Don Dale Youth Detention Centre, introducing supported bail accommodation;
- Expand the Office of the Children's Commissioner to include monitoring the implementation of the Commission's recommendations;
- Implement a public health approach to child protection with greater involvement of the Aboriginal Community Controlled sector in family support and early intervention, and
- Create a greater emphasis on diversion at the point of police contact and alternatives to detention.^{xxxvii}

Abuse and neglect and psychological recovery* (Arts 19, 39) (Concluding Observation 56)

170. In 2015–16, 45,714 children were the subject of a child protection substantiation. 12,903 (43.6 per 1,000) were Indigenous children — almost seven times the rate of non-Indigenous children (6.4 per 1,000). About 162,000 children received child protection services.

171. The National Framework aims to deliver a substantial and sustained reduction in child abuse and neglect over time. It adopts a public health model for use in child protection, which emphasizes universal support and early intervention for families, with more intensive services provided to families that require additional assistance. All jurisdictions are implementing policies and programs alongside the National Framework.

Child victims of domestic abuse and violence

172. Australian governments provide and fund a number of services to support children who have experienced or witnessed violence, within the family law system, in the child protection system and as victims of crime. These include online and telephone counselling services, frontline crisis services and other workforces to support women and children,

homelessness services, protections and supports for vulnerable witnesses in judicial processes, case management services and post-separation services for children of separating parents.

173. In 2016, the Australian Government invested approximately \$2.4 million over three years to trial the Trauma Assessment, Response and Referral Outreach Teams project in at least six (up to 10) priority areas across Australia. The project will apply an innovative child-centric approach to treatment to contribute to breaking the cycle of trauma for Indigenous families.

Children with incarcerated parents and children living in prison* (Concluding Observation 73)

174. Australia acknowledges the significant social risks and disadvantages faced by children of incarcerated parents and the impacts on family structure and care arrangements.

175. A parent in prison may apply for parenting orders and the *Family Law Rules 2004* make provision for a party in prison to attend proceedings and give evidence by electronic communication. A family court will regard the best interests of the child as paramount when making parenting orders, which could include maintaining a meaningful relationship with an incarcerated parent where this is safe for the child.

176. The Northern Territory, Queensland and Tasmania have facilities that accommodate mothers and their children, where that is in the best interest of the child. These jurisdictions, as well as the Australian Capital Territory, Victoria and Western Australia operate programs that facilitate contact between incarcerated parents and their children.

VII. Disability, basic health and welfare

Children with Disability* (Art 23) (Concluding Observation 58)

177. The Australian Government recognizes that children with disability require additional support to recognise their rights. In 2015, there were approximately 327,400 children aged 0–14 with disability in Australia, of which approximately 176,000 had severe or profound disability.^{xxxviii}

178. Section 4 of the Disability Discrimination Act defines disability to include physical, intellectual, sensory, neurological, mental illness, learning disability, physical disfigurement or immunological conditions.

179. The Australian Government committed \$550 million over four years (from 2017) to the *Inclusion Support Programme* for the early childhood and child care sector. The Programme aims to increase access and participation in mainstream child care services for children with additional needs (including those with disability). Child care services are required to develop a Strategic Inclusion Plan to identify their current inclusive capacity and capability and identify strategies to address barriers to participation.

The National Disability Strategy 2010–2020

180. The *National Disability Strategy 2010–2020* provides a 10-year national framework for improving the lives of persons with disabilities in Australia. The Strategy is the primary mechanism for implementing the *Convention on the Rights of Persons with Disabilities* in Australia. It sets out six priority areas for action to improve the lives of people with disability:

- Inclusive and accessible communities;
- Rights, protection, justice and legislation;
- Economic security;
- Personal and community support;

- Learning and skills, and
- Health and wellbeing.

181. The Strategy aims to ensure that governments are responsive to the particular needs of children and young people in areas such as early intervention and education.

182. The Strategy is evaluated every two years, through a high-level report to COAG. The second progress report (covering 2015–2016) is currently being finalized.

National Disability Insurance Scheme*

183. The *National Disability Insurance Scheme* (NDIS), launched in 2013, is central to Australia’s disability reform agenda. The Scheme provides people with a permanent and significant disability, including children, with the reasonable and necessary supports they need to live an ordinary life.

184. The NDIS is being rolled out incrementally across Australia, with transition expected to be complete by 2020. Existing Australian Government and State- and Territory-based services and supports continue until individuals are eligible to enter the NDIS.

185. The NDIS specifically recognizes the need for easy access to early intervention for young children and their families and careers. The *Early Childhood Early Intervention* gateway (released February 2016) approach allows children with developmental delay or disability from birth to six years to be assessed and provided with immediate therapeutic assistance without first having to obtain a diagnosis or seek formal admission to the NDIS. At 30 June 2017, more than 6,100 children were being supported through the gateway. An additional 33,028 children aged 7–18 years have entered the NDIS, with intellectual disability and autism being the most common disability groups for participants up to age 18 years.^{xxxix}

186. Once fully implemented, the NDIS will support approximately 160,000 children who have a significant and permanent disability.

Sterilization of children with disability

187. A procedure for the purposes of sterilization may only occur in Australia with the person’s consent or with authorization from a court or guardianship tribunal if the person is unable to give valid consent.

188. All States and the Australian Capital Territory have guardianship tribunals to decide a range of matters for people who have an impaired capacity to make independent decisions, including regarding sterilization. The Family Court of Australia (Family Court) can also make orders relating to the sterilization of children where the best interests of the child is the paramount consideration.

189. In 2013, an Australian Senate Committee completed an inquiry into the involuntary or coerced sterilization of people with disability and intersex people, which made a range of recommendations. The Australian Government considered its recommendations but does not propose changes to existing arrangements.

Maternal, Perinatal and Infant Health*

190. Maternity care in Australia is amongst the safest in the world. The Australian Government recognizes the importance of providing national coordination and leadership for maternity services to improve outcomes for mothers, babies, and their families.

191. Australia has high rates of hospital births. In 2014, 95% of mothers had five or more antenatal visits, 87% had seven or more visits and 57% had ten or more visits, and 98% of women gave birth in hospitals.^{xl}

192. The Australian Government recognizes that women in remote areas experience additional challenges in accessing sexual and reproductive health services, including maternity care. It provides approximately \$27 million annually to support the Rural Health Outreach Fund which improves access to GPs, medical specialists, allied and other health services for people living in regional, rural and remote Australia.

Maternal Mortality*

193. Australia's maternal and perinatal mortality rates remain relatively low. Between 2008–12, the maternal mortality rate was 7.1 deaths per 100,000 women who gave birth. Indigenous mothers experience a higher rate of maternal mortality at 13.8 deaths per 100,000 women who gave birth.^{xii} Cardiovascular conditions, psychosocial conditions and obstetric haemorrhage were the leading causes of maternal deaths among Australian women.^{xiii}

194. Australian governments are committed to Closing the Gap targets in maternal mortality between Indigenous and non-Indigenous mothers. The Australian Government funds *New Directions: Mothers and Babies Services*, which provide Indigenous children and their mothers with access to antenatal and postnatal care, including information, practical advice and assistance, monitoring of developmental milestones, and health checks and referrals to treatment. The program delivers services in 110 urban, regional, rural and remote locations across Australia and will be expanded to 136 sites by 2017–18.

Perinatal and Infant Mortality*

195. In 2014, there were 10 perinatal deaths for every 1,000 births (a total of 2,986 perinatal deaths). There were 3.4 infant deaths for every 1,000 births (a total of 338 infant deaths). Gestational age and birth weight were the biggest predictors of perinatal death.

196. Between 2011–15, the mortality rate for Indigenous infants (less than one year of age) was 1.9 times the non-Indigenous rate (6.1 per 1,000 live births compared with 3.3 per 1,000 live births). However from 1998–2015, the Indigenous infant mortality rate has decreased from 13.5 to 6.3 per 1,000 live births.

197. Australia has shown significant progress in reducing infant deaths particularly through the work of neonatal intensive care units, increased community awareness of the risk factors for sudden infant death syndrome, and reductions in vaccine-preventable diseases.

Breastfeeding* (Art 24e) (Concluding Observation 63)

198. The Australian Government is committed to protecting, promoting, supporting and monitoring breastfeeding throughout Australia. According to the 2015 Australian National Infant Feeding Survey:

- 72.6% of children were exclusively breastfed to at least two months of age;
- 61.6% of children were exclusively breastfed to at least four months of age;
- 24.7% of children were exclusively breastfed to at least six months of age.^{xiiii}

199. The 2014–15 *National Aboriginal and Torres Strait Islander Social Survey* show that 80% of Indigenous children aged 0–3 years had been breastfed. There has been no significant change in breastfeeding rates for Indigenous children aged 0–3 years between 2004–05 and 2014–15 (80%). By six months of age, 7% of Indigenous infants were exclusively breastfed.

200. Australian governments are working together, and with stakeholders, to develop a high-level strategy to incorporate research on effective strategies to support breastfeeding in Australia. The Australian Government, through the National Health and Medical Research Council, also publishes *Infant Feeding Guidelines*, which assist health workers to provide evidence-based advice to the general public about breast- and infant-feeding.

201. The Australian Government has funded the Australian Breastfeeding Association since 2008 to facilitate the provision of breastfeeding information and support services to more than 80,000 mothers each year. The current funding of \$3.21 million over three years is in place until 30 June 2019.

202. At 29 September 2017, 71 hospitals Australia-wide hold “baby-friendly” accreditation in accordance with the World Health Organization’s Baby Friendly Hospital Initiative.^{xliv}

Vaccination rates*

203. The Australian Government strongly supports immunization as key to achieving public health outcomes and protecting the community from vaccine preventable diseases. Australia is making available around \$460 million in 2017–18 through the National Immunization Program, which provides free essential vaccines to protect against polio and hepatitis B, pertussis, rotavirus, diphtheria, meningococcal C, *haemophilus influenzae* type b, measles, mumps, rubella, varicella, and tetanus, pneumococcal, hepatitis A (at-risk groups), influenza (at-risk groups), shingles and HPV (adolescents).

204. In September 2017, 92.90% of all children (92.15% Indigenous children) were up to date with their immunizations by the age of 12 months.

Health and health services (Art 24)

205. All Australian children have access to Medicare, which provides access to a range of medical services, lower cost prescriptions and free care as a public patient in a public hospital. Total spending on health for all age categories in Australia (recurrent and capital expenditure combined) was \$170.4 billion in 2015–16, \$6.0 billion higher in real terms than in 2014–15.

206. The Australian Government is taking steps to reduce the disparity in health-outcomes between Indigenous and non-Indigenous Australians. In 2013, the Australian Government released the *National Aboriginal and Torres Strait Islander Health Plan 2013–2023* — a 10 year road map for Indigenous health policy. This is supported by an Implementation Plan (launched October 2015).

207. The *Aboriginal and Torres Strait Islander Health Performance Framework* reports biennially to monitor progress towards achieving Closing the Gap targets and implementation of the *Health Plan*.

Mental Health* (Concluding Observation 65)

208. The 2015 *Report on the Australian Child and Adolescent Survey of Mental Health and Wellbeing* found almost 13.9% 4–17 year olds were assessed as having mental disorders in the previous 12 months.^{xlv} ADHD was the most common mental disorder in children and adolescents (7.4%), followed by anxiety disorders (6.9%), major depressive disorder (2.8%) and conduct disorder (2.1%).^{xlvi}

209. In August 2017, all Australian Health Ministers endorsed the *Fifth National Mental Health and Suicide Prevention Plan* (the Fifth Plan). The Fifth Plan seeks to establish a national approach for collaborative government effort from 2017–2022 across eight targeted priority areas:

- Achieving integrated regional planning and service delivery;
- Effective suicide prevention;
- Coordinated treatment and supports for people with severe and complex mental illness;
- Improving Aboriginal and Torres Strait Islander mental health and suicide prevention;
- Improving the physical health of people living with mental illness and reducing early mortality;
- Reducing stigma and discrimination;
- Making safety and quality central to mental health service delivery, and
- Ensuring that the enablers of effective system performance and system improvement are in place.

210. The Implementation Plan for the Fifth Plan sets out that regional mental health and suicide prevention plans should include specific consideration of the requirements of children with or at risk of severe mental illness.

211. In June 2017, the Australian Government announced the *National Workforce Support in Child Mental Health* initiative and the *Mental Health in Education* program in response to the *National Mental Health Commission's Review of Mental Health Programmes and Services*.^{xlvii}

212. To address the issues raised by the Review, \$18.7 million in funding is being provided to assist clinical and non-clinical professionals and services who work with children to identify, support, and refer children at risk, and to promote resilience building.

213. \$52.6 million is being provided to deliver a national, integrated mental health program in early childhood services, and primary and secondary schools to support promotion and prevention activities and help to build resilience skills in children and young people.

214. The Australian Government also funds two mental health services for children and young people:

- *Headspace* provides young people aged 12–25, and their families, with information, support, and advice on general health; mental health and wellbeing; alcohol and other drugs; education, employment and other services, and
- The Early Psychosis Youth Services Program which provides early intervention and intensive support for young people aged 12–25 who are experiencing, or at risk of, their first episode of psychosis.

Female Genital Mutilation (Art 24(3))

215. States and Territories comprehensively criminalize female genital mutilation (FGM), including performing FGM overseas on a child that usually resides in Australia. The first FGM convictions were secured in New South Wales in November 2015.

216. Australian paediatricians report a very small number of children presenting with FGM, primarily in children born outside of Australia, and are carrying out further research into prevalence and consequences. Dedicated FGM education and training programs and health services are available in most Australian jurisdictions.

Medical treatment for gender diverse and transgender children

217. The Australian Government recognizes that individuals may identify and be recognized within the community as a gender other than the sex they were assigned at birth or during infancy, or as a gender which is not exclusively male or female. Treatment to support transgender children to live in their affirmed gender is typically administered in three stages:

- Administration of hormones to suppress the advancement of puberty;
- Administration of hormones to influence changes promoting the affirmed gender, and
- Surgical interventions, although these are not usually considered until the child reaches 18 years.

218. Stage one treatment requires parental consent. Following the decision of the Full Court of the Family Court in *Re: Kelvin*^{xlviii} on 30 November 2017, Family Court approval is no longer required in Australia to authorize stage two treatment in instances where there is no conflict between the child and their parents or doctors. The Australian Government welcomes this decision and is considering options for reform in this area.

Sterilization of children with intersex variations

219. In October 2013, the Australian Senate Committee released its report on the involuntary or coerced sterilization of intersex people in Australia, recommending, amongst

other things, that multidisciplinary teams best manage the treatment of infants with intersex variations. Some major hospitals in Australia have formed multidisciplinary teams to coordinate the treatment of infants with intersex variations.

220. The Australian Government has encouraged all State and Territory governments to review current principles, and to consider adopting or developing specific principles for their jurisdiction in consultation with intersex support groups and medical experts.

221. In 2013, the Victorian Government released a set of principles setting out best practice for decision-making for infants and adolescents with intersex variations. The principles provide that hospitals must consider the best interests of the child, the right to protection from medical treatment without consent, the right of children to protection, the right to privacy and the right to equality.

222. The Australian Government is aware of recent decisions of the Family Court concerning medical treatment for intersex children, including *Re Carla*^{xlix} and *Re: Kaitlin*.¹ The Australian Government recognizes that protection of the rights of children with intersex variations is an issue that requires further consideration and is considering the implications of these decisions.

Adolescent Pregnancy and Reproductive Health*

223. Australia's teenage and child birth rate has declined since 2009. In 2015, there were 2,302 births to mothers aged 17 years and younger (0.75% of all births).^{li} Of the total births to mothers aged under 19 years, 26% were born to Indigenous mothers.

224. The Australian Curriculum requires students from years 3–10 learn about reproduction and sexual health, and practices that support reproductive and sexual health (including contraception, negotiating consent, and prevention of sexually transmitted infections and blood-borne viruses). The Australian Government funds access to contraception through the Pharmaceutical Benefits Scheme or Medicare Benefits Scheme for contraceptive methods requiring a reimbursable procedure.

Communicable Diseases* (Concluding Observation 67)

225. The Australian Government is leading and coordinating the implementation of five National Strategies (established in 2014) to reduce the transmission, morbidity, mortality and personal and social impacts of communicable diseases. The Australian Government is currently developing the new National Strategies for 2018–2022, in consultation with all partners including State and Territory governments, community-based and NGOs, research and clinical experts, and other key stakeholders in the blood-borne virus and STI sector.

226. The five strategies address Hepatitis B, Sexually Transmissible Infections, Hepatitis C, HIV and Blood-borne Viruses and Sexually Transmissible Infections in Indigenous populations.

227. The *National Hepatitis B*, *National Sexually Transmissible Infections* and *National Aboriginal and Torres Strait Islander Strategies* identify young people and children as a priority population, and report against indicators and youth specific priority areas of action.

228. The Australian Government has allocated funding to the following for 2016–17 to 2018–19:

- \$39.83 million for blood-borne virus and STI prevention and education programs;
- \$11.94 million for blood-borne virus and STI epidemiological and social surveillance activities, and
- \$14.02 million for blood-borne virus research activities.

229. The National HPV Vaccination Program provides free HPV vaccines to all female (since 2007) and male (since 2013) school students aged 12–13 years. A 2014 evaluation of the Program found it had effectively reduced the prevalence of cervical abnormalities in females and anogenital warts in both males and females.

Drug Use and Smoking (Art 33)

230. The *National Drug Strategy* (established 1985) has provided an overarching framework for a consistent and coordinated approach to addressing licit and illicit drug use in Australia. The Australian Government has invested \$20m over 2015–16 and 2016–17 into a National Drugs Campaign, which aims to raise awareness and understanding of the harms of methamphetamine and other high prevalence illicit drugs among young people and families.

Smoking*

231. The Australian Government has taken comprehensive measures to reduce smoking rates — including uptake amongst young people. Smoking rates in Australia are amongst the lowest in the world, with a long-term decline in smoking prevalence taking place over the past several decades.

232. Selling tobacco products to children under the age of 18 is prohibited. Each Australian jurisdiction implements and enforces smoke free environment regulations. Since 2012, all tobacco products sold, offered for sale, or otherwise supplied in Australia must be in plain packaging and carry graphic health warnings to reduce the appeal of tobacco products. A review of the measures in 2016 showed reduced appeal of cigarette packs, increased effectiveness of health warnings and that the initiative encouraged changes in smoking behaviour, including a reported decrease in youth purchasing cigarettes.

233. Other ongoing policy measures include ongoing excise increases on tobacco, education programs and campaigns, prohibitions on tobacco advertising and support for smokers to quit.

Indigenous smoking rates

234. The Australian Government is investing up to \$116.8 million over 2015–16 to 2017–18 in the national *Tackling Indigenous Smoking* program. The majority of funds are provided to Aboriginal Community Controlled Health Organizations, which support multi-level approaches to tobacco control that are locally designed and delivered.

235. Between 2004–05 and 2014–15 there was a significant reduction in the proportion of Indigenous children aged 0–14 years living in households with daily smokers, falling from 68% to 57%. For young people 15–17 years, the proportion who never smoked increased from 62% in 2002 to 78% in 2014–15 and for those aged 18–24 years, from 34% to 46%.

Petrol Sniffing

236. Since 2005, the Australian Government has made low aromatic fuel available in more than 175 fuel outlets in regional and remote parts of the Northern Territory, Queensland, Western Australia and South Australia. Low aromatic fuel has been designed to discourage people from sniffing by lowering the amount of the toxic aromatic components which give people who sniff petrol a “high”. The Australian Government funds the extra costs of producing low aromatic fuel.

237. Research, released in 2016, found that in selected communities surveyed since 2005–07 petrol sniffing has reduced on average by 88% since the introduction of low aromatic fuel, and a 90% reduction in the number of people sniffing at least once week and who are most at risk of potentially irreversible physical harm.

VIII. Education, leisure and cultural rights

238. The Australian Government is committed to providing Australian children with a quality education. In the 2017–18 Budget, the Australian Government announced it would increase funding for schools, investing a record \$23.4 billion in recurrent funding over the next decade, including \$8.1 billion from 2018–21.

239. In 2016 3,798,226 students were enrolled in schools across Australia, and 207,852 identified as Indigenous.^{lii} The apparent retention rate for students from Year 7/8 to Year 12 was 84.3%.

240. While States and Territories are constitutionally responsible for the quality of school education in their jurisdictions, the Australian Government takes a strong interest in supporting quality education including through the ministerial-level Education Council of COAG.

241. In July 2017, the Australian Government commissioned Mr David Gonski AC to chair the *Review to Achieve Educational Excellence in Australian Schools*. The review will continue to build an evidence base, to ensure the additional funding provided by the Australian Government is spent on proven initiatives that make a difference to student outcomes. The Australian Government will work with States and Territories and the non-government sector to implement national reform priorities to ensure an increasing investment in schooling drives better outcomes.

Indigenous Children and education (Concluding Observations 30, 75)

242. The Australian Government has set Closing the Gap targets on school attendance, Year 12 attainment, numeracy and literacy. The Australian Government is working alongside Indigenous communities to meet these targets.

243. In May 2017, the Australian Government announced a \$138 million Indigenous education package. The package invests in scholarships and mentoring and support services for secondary students and will assist Indigenous students to study and secure jobs in science, technology, engineering and mathematics. This includes \$15 million to develop an academy for Indigenous girls and women, expected to commence in 2018.

School Attendance*

244. In May 2014, COAG set a target to close the gap in school attendance by the end of 2018.

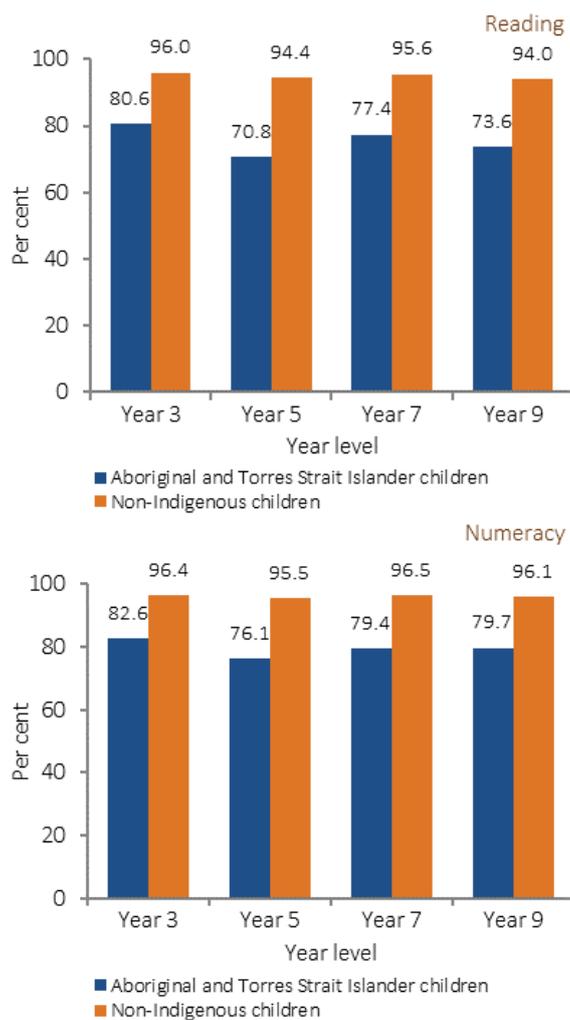
245. In 2016, the overall attendance rate for Indigenous students nationally was 83.4%, compared with 93.1% for non-Indigenous students. There has been no meaningful change in the national Indigenous school attendance rate from 2014 (83.5%) to 2016 (83.4%). School attendance for Indigenous students decreases with remoteness. In 2016, Indigenous attendance rates ranged from 86.9% in inner regional areas to 66.4% in very remote areas.

246. In 2014, the Australian Government's *Remote School Attendance Strategy* employed around 480 Indigenous people, primarily local community members, to develop culturally appropriate strategies supporting families in ensuring children go to school.^{liii} The Strategy currently supports approximately 14,500 students in 78 sites across remote areas of Australia. Around 56% of schools under the Strategy had higher attendance rates between Semester 1 in 2013 and 2016.

247. The *Remote School Attendance Strategy* was initially funded for \$46.8 million for 2014–15. \$80.1 million has been allocated for 2016–18.

Literary and Numeracy*

248. The Closing the Gap target to halve the gap for Indigenous children in reading, writing and numeracy between 2008–18 is not on track. Across the reading and numeracy targets for Years 3, 5, 7 and 9, the proportion of Indigenous students achieving national minimum standards in NAPLAN is on track in only one area (Year 9 numeracy).^{liiv}



249. Although the literacy and numeracy gap remains, the numbers required to halve the gap are within reach. In 2016, if an additional 440 Indigenous Year 3 children across Australia had achieved national minimum standards in reading, that target would have been met.

Indigenous Languages in Schools*

250. The Australian Curriculum includes a *Framework for Aboriginal Languages and Torres Strait Islander Languages* (covering Foundation to Year 10), to support the teaching and learning of languages indigenous to Australia. The *National Aboriginal and Torres Strait Islander Social Survey 2014–15* estimated approximately 14,500 Indigenous children aged under 15 were learning an Indigenous language at school.

251. Children have the opportunity to learn an Indigenous language where a school is located in a community which has established a partnership with the community who are the owners and custodians of the language(s).

Inclusive education* (Art 29) (Concluding Observation 58)

252. All school-age children in Australia have a right to enrol in a safe and supportive school. The 2016 Nationally Consistent Collection of Data on School Students with Disability identified 18.1% (685,911 students) of all school students as receiving an educational adjustment due to disability.^{lv}

253. The *Disability Standards for Education 2005* clarify the obligations of education and training service providers under the Disability Discrimination Act and the rights of people with disabilities in relation to education and training.

254. Under the *National Disability Strategy 2010–2020*, Australian governments have agreed to focus on actions that seek to:

- Strengthen the capability of all education providers to deliver inclusive high quality educational programs for people with all abilities from early childhood through adulthood;
- Reduce the disparity in educational outcomes for students with disabilities and other students;
- Ensure that government reforms and initiatives for early childhood, education, training and skill development are responsive to the needs of people with disabilities, and
- Improve pathways for students with disabilities from school to further education, employment and lifelong learning.

255. As part of the *Quality Schools* reforms, the Australian Government will invest an estimated \$22.7 billion for students with disability from 2018–27, increasing funding for students with disability by an average of 6.3% each year.^{lvi} From 2018 onwards, funding for students with disability will be better targeted based on needs identified through the *Nationally Consistent Collection of Data on School Students with Disability*.

Bullying* (Art 29) (Concluding Observation 79)

256. The Australian Government recognizes that student resilience and wellbeing are essential in academic and social development and that all students have the right to be safe at school. All Australian Ministers for Education endorsed the *National Safe Schools Framework* in 2010. The Framework provides Australian schools with a set of guiding principles to assist school communities to develop positive and practical student safety and wellbeing policies and practices. A review of the Framework is expected to be completed by June 2018.

257. The *Safe and Supportive School Communities Working Group* (a sub-group of COAG's Education Council) supports Australian schools to implement solutions to bullying, harassment and violence through the *Bullying. No Way!* website, the *National Day of Action against Bullying and Violence* and the production of quality resources, including research snapshots, bullying prevention information and information for school communities on how to seek help.

Cyberbullying

258. Under the *Enhancing Online Safety Act 2015*, children can complain to the eSafety Commissioner or have a complaint made on their behalf if they have been the target of cyberbullying material on a social media platform. The eSafety Commissioner may investigate complaints and, if needed, work to have serious cyberbullying material removed as quickly as possible. The Commissioner also educates children and young people on positive and practical measures they can take to address cyberbullying behaviours.

Early childhood education* (Concluding Observation 77)

259. In 2016, there were 344,676 (approximately 95%) children aged four or five years enrolled in a preschool program in Australia. All jurisdictions had at least 94% of children enrolled for 15 hours or more per week, apart from New South Wales (84%). Early childhood education is delivered to children through a range of settings, in the year before full-time schooling.

260. Since 2008, the Australian Government has made over \$2.8 billion available in funding to the States and Territories to support the provision of 600 hours of preschool for all children in the year before full-time school through a series of *National Partnership Agreements on Universal Access to Early Childhood Education*. Enrolments have increased significantly since the first National Partnership Agreement. In 2008 it was reported that 77% of children in the year before full-time school were enrolled in a preschool program.

By 2016, preschool enrolments had increased to over 95%.^{lvii} \$428 million has been allocated to extend National Partnership arrangements in 2018.

261. The *Child Care Safety Net* is being rolled out progressively from July 2016 and aims to give the most vulnerable children a strong start, while supporting parents into work. It has three components.

- The *Additional Child Care Subsidy* is a top up payment to the Child Care Subsidy which will provide targeted additional fee assistance to vulnerable families and children facing barriers in accessing affordable child care;
- The *Community Child Care Fund* will provide grants to eligible child care services to reduce barriers to addressing child care, particularly in disadvantaged, regional or remote communities, including Indigenous communities, and
- The *Inclusion Support Programme* provides support to early childhood and childcare services to build their capacity and capability to include children with additional needs in mainstream services, providing them an opportunity to learn and develop alongside their typically developing peers.

National Quality Framework for Early Childhood Education and Care Services

262. The *National Quality Framework for Early Childhood Education and Care Services* is designed to deliver higher standards for most long day care, family day care and outside school hours care services and preschools in Australia. States and Territories each have a regulatory authority, responsible for licensing and approving child care providers and services, quality assessments, monitoring, enforcing compliance and investigating complaints.

Indigenous Early Childhood Education*

263. In December 2015, the Australian Government renewed its target to achieve 95% of all Indigenous four year olds enrolled in early childhood education by 2025.

264. In 2015, 87% of all Indigenous children were enrolled in early childhood education in the year before full-time school, compared with 98% of their non-Indigenous counterparts. South Australia, Western Australia and the Australian Capital Territory are showing 100% enrolment rates for both Indigenous and non-Indigenous children.

265. The Australian Government is investing approximately \$42 million over three years from 2016–17 to 2018–19, in the *Connected Beginnings Program*, focusing on integrating early childhood, child and family health, and family support services with schools in up to 16 Indigenous communities, so that their children are healthy and well prepared for school. A formal evaluation of the program will be completed by June 2019.

266. From 2016–17, the Australian Government is investing around \$10 million a year to support the integration of child care, maternal and child health and family support services with schools in a number of disadvantaged Indigenous communities. The Australian Government has committed about \$60 million annually (from July 2018) to the operational cost of child care and early learning services located in regional, remote and Indigenous communities.

Rest, leisure, recreation and cultural activities (Art 31)

Preserving Indigenous culture*

267. All Australian governments recognize that the preservation and safeguarding of traditional knowledge and traditional cultural expressions is crucial to maintain Indigenous culture and identity. In 2017, New South Wales passed legislation to recognize and protect Aboriginal languages.

268. The *Indigenous Languages and Arts program* supports Indigenous communities to revive and maintain languages and to develop and present art. In 2017–18, the program is funding projects for children including the *Jarjums Learning Space* project, to create a

space for Indigenous children to share songs, games and videos to connect with Indigenous culture and the *A to Z Yorta Yorta Way* project to produce a Yorta Yorta alphabet book.

Participation in physical activity*

269. In 2014–15, 27.4% of children aged 5–17 were overweight or obese.^{lviii} The Australian Government invested \$100 million in the *Sporting Schools* program from January 2015 to June 2017. The program has been funded until December 2018. *Sporting Schools* provides grants to primary and secondary schools to deliver sporting activities for children and to coordinate sporting organizations to deliver sport before, during and after school hours, across 32 major sports. More than 7,000 schools (86% of all eligible schools) have registered.

Access to Cultural Activities and the Performing Arts*

270. Australian governments fund a variety of cultural activities in their jurisdictions to ensure children have access to the Arts. The *National Arts and Disability Strategy* articulates all Australian governments' commitment to improving access to the arts for all Australians, including children with disability.

271. The Australian Government funds programs that support arts and cultural development in regional and remote communities. The Regional Arts Fund will provide \$153,810 over four years between 2016–17 and 2019–20 to deliver a program to give young people in regional South Australia the opportunity to develop the skills to pursue an arts career through intensive artist retreats, residences and youth-led projects.

IX. Special protection measures

Child Migrants, Asylum Seekers and Refugees* (Concluding Observations 32, 34, 81)

272. In 2016–17, 3,400 child visas were granted (the total permanent migration program was 183,608 places).^{lix} Between 1 July 2012 and 30 June 2017, 27,388 children were granted an offshore humanitarian visa and 1,756 children were granted an onshore permanent protection visa.

273. The Humanitarian Program increased to 16,250 places in 2017–18 (13,750 in 2016–17). The Humanitarian Program is set to increase to 18,750 places in 2018–19 and remain at this level.

Guardianship of unaccompanied migrant children

274. The Minister for Home Affairs assumes legal guardianship responsibilities for the care and welfare of unaccompanied minors who fall under the auspices of the *Immigration (Guardianship of Children) Act 1946* (IGOC Act). Unaccompanied minors who fall under the Minister's guardianship are referred to as "IGOC minors".

275. The IGOC Act recognizes that the Minister (and his delegates) have the same rights, powers, duties, obligations and liabilities as a natural guardian of a child. The best interests of the child are a primary consideration in all welfare, care and support services provided to IGOC minors.

276. The *Unaccompanied Humanitarian Minors Programme* facilitates the provision of relevant care, supervision and support services to minors on certain visas in Australia without a parent or legal guardian, who fall under the auspices of the IGOC Act, and for whom the Minister is the legal guardian.

Support for children and families

277. The Australian Government funds the *Humanitarian Settlement Program* to provide initial settlement support to people, including children and their families, who arrive under the Humanitarian Program. Humanitarian Settlement Program providers develop an

individual case management plan for each client receiving services, including youth and children. Case managers work with clients to identify their individual needs, goals and risks and provide support to achieve outcomes in housing, physical health and well-being, community participation and networking, family functioning and social support, language services, education and training, and employment.

Children in Immigration Detention*

278. At 30 October 2017, there were fewer than five children in Immigration Residential Housing, Immigration Transit Accommodation or Alternative Places of Detention (APOD), and 180 children in the community under a residence determination. In total, there were 3,538 children in the community on a Bridging E visa.^{ix}

279. Australia considers the best interests of children, including those who are unaccompanied, as a primary consideration in any action taken concerning that child, including action taken in relation to a parent or guardian which would have an effect on them. Detention of children is always a last resort and children are detained for the shortest practicable time and in alternative places of detention wherever possible.

280. Australia routinely prioritizes unaccompanied minors and family groups with minor children for consideration of a community placement. This means that vulnerable non-citizens, under these categories may be able reside in the community either under residence determination arrangements (community detention) or on a bridging visa while they resolve their immigration status. A range of care, welfare and support arrangements are in place to provide for the needs of children and young people residing in the community, including health, education, recreational and cultural services.

281. Where children are placed in an APOD they are provided with health care and education services comparable to those available to the Australian community under public health and education systems. The Department also engages independent observers in certain held detention processes to act in the best interests of children and ensure that treatment of children is fair, appropriate and reasonable.

Immigrant children with disability (Concluding Observation 58(g))

282. The Australian Government's current method of assessing whether any visa applicant meets the health requirement does not discriminate between applicants who have a disability and/or disease.

283. Where a person has a disability, this condition in itself will not result in a failure to meet the health requirement. During an Immigration Medical Examination, as part of the visa application process, a Medical Officer of the Australian Government will assess whether a visa applicant's condition, including disability, would be likely to result in "significant" health care and community service costs or prejudice the access of Australian citizens to health care and community services that are in short supply, if a visa were to be granted.

284. A health requirement waiver is available in some visa subclasses and is exercised where the delegate is satisfied that there are compassionate and compelling circumstances, or mitigating factors which outweigh the potential costs and or prejudice to access involved.

285. Australia has implemented the majority of the recommendations from the 2010 Australian Joint Standing Committee on Migration Inquiry into Migration Treatment of Disability, including raising the significant cost threshold, introducing automatic health waivers for humanitarian visa applicants, and improving the transparency and consistency of decision-making through systems changes and better information management.

Children in conflict with the law, victims and witnesses*

286. All States and Territories have separate Children's Courts to deal with criminal matters involving juvenile offenders. Children's Courts maintain a focus on the special needs of young offenders, which may include alcohol and drug abuse or mental health

problems. In 2015–2016, 60,572 criminal matters and 26,211 civil matters were lodged with Children’s Courts Australia-wide.

287. Children’s Courts operate in a relatively informal manner to ensure children understand the proceedings, their right to have a lawyer, rights around entering a plea and the consequences of this, the offence and any penalties.

288. State and Territory governments provide funding to ensure that children are legally represented. In Western Australia, duty lawyer schemes provided by Legal Aid WA, the Aboriginal Legal Service of WA and Youth Legal Service WA ensure every child who appears is provided with adequate legal advice and representation.

Mandatory Sentencing

289. Mandatory sentences do not apply to any federal offences committed by children. Most States and Territories do not apply mandatory sentences for children.

290. In jurisdictions where mandatory sentencing schemes apply to children (Northern Territory and Western Australia), mandatory sentencing applies in limited circumstances, for limited offences. In all cases, the judge may have discretion as to whether the sentencing provisions apply to an individual child’s circumstances.

Children on bail and remand

291. State and Territory governments have implemented a range of strategies to support young people, including Indigenous young people, in meeting bail requirements and to support young people to remain in the community whilst awaiting their court hearing. In New South Wales and Western Australia, caseworkers support young people attending court by providing information on what supports can be provided should the young person be released on bail.

292. A number of jurisdictions have programs to reduce the number of children on remand. The Australian Capital Territory provides short to medium term residential and crisis accommodation and intensive case management primarily for Indigenous children aged 15–18 years who are on community-based justice orders, and provides an After Hours Bail and Crisis Service that assists young people. The Victorian Government has established a Fast Track Remand Court in the Children’s Court to speed up the processing of young people on remand.

Juvenile Diversion Programs*

293. All jurisdictions have diversionary programs to for juveniles. Queensland, New South Wales and Western Australian legislation provides for the diversion of children through options such as verbal and written warnings or youth justice conferences. States and Territories also support diversion programs, which may include drug support programs, support for return to education or employment, or mental health treatment. The majority of jurisdictions have reported an increased proportion of juvenile offenders undergoing diversionary programs from 2013–14 to 2015–16.

Children with mental illness in proceedings (Concluding Observation 84)

294. All jurisdictions have legislation that deals specifically with situations where a person with a mental illness commits an offence. Section 20BQ of the *Crimes Act 1914* (Crimes Act) provides a person, including a child over the age of criminal responsibility, is not criminally responsible for an offence if, when they committed it, they were suffering from a mental impairment, which affected their ability to control their conduct or otherwise know their conduct was wrong.

Homeless Children* (Concluding Observation 71)

295. On Census night in 2011, there were approximately 28,758 children and young people who were considered as homeless, a 13% increase from 2006.

296. The number of children accessing specialist homelessness services increased from 82,000 in 2011–12 to 180,000 in 2015–16. Specialist homelessness services aim to provide children and young people with better pathways out of the homelessness system, including through: early intervention and prevention, assistance with family reconciliation, case management to ensure young people remain engaged with education or employment, and intensive support for young people exiting institutions.

297. The Australian Government supports State and Territory governments in their role of providing services to people experiencing homelessness, or those at risk of homelessness, with funding through the *National Affordable Housing Agreement and the 2017–18 Transitional National Partnership Agreement on Homelessness*.

298. The *2015–17 National Partnership Agreement on Homelessness* prioritises young people aged 12–24 years who are homeless or at risk of homelessness to re-engage with their family where it is safe to do so, maintain stable accommodation and engage with education and/or employment. States and Territories deliver a range of homelessness services for vulnerable populations, including for girls leaving out of home care and Indigenous children.

299. Under the *Transitional National Partnership Agreement*, the Australian Government is providing \$117 million, matched by States and Territories, to fund frontline homelessness services. The Transitional National Partnership Agreement will continue to prioritize support for women and children escaping domestic and family violence and young people.

300. From 2018–19, funding from the *National Affordable Housing Agreement and the National Partnership Agreement on Homelessness* will be combined under the *National Housing and Homelessness Agreement*, with total funding increasing to around \$1.5 billion per year. Funding will be tied to the delivery of mutually agreed, measurable actions targeting priority areas, and will be indexed to keep pace with costs.

301. The Australian Government provides approximately \$25 million per annum to the Reconnect program, which uses community-based early intervention services to assist young people aged 12–18 years (or 12–21 years for newly arrived youth) who are homeless, or at risk of homelessness, and their families.

X. Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography

General Measures of Implementation (OPSC Concluding Observations 10, 13)

302. Australia is actively engaged in efforts against human trafficking and implements strong programs to prevent and address human trafficking and slavery. Responsibility for implementing the OPSC is divided amongst individual Australian Government agencies and States and Territories according to their areas of responsibility.

303. In December 2014, Australia launched the *National Action Plan to Combat Human Trafficking and Slavery (2015–2019)*.^{lxi} The Plan aims to prevent human trafficking and slavery, detect and prosecute offenders and to provide support for trafficked people. The Plan includes a focus on operational protocols in response to minors and refining Australia's approach to forced marriage. The Australian Government is taking a strong leadership role domestically and internationally to encourage cooperation between States and Territories, local governments, civil society and the community.

304. The Australian Government intends to establish a requirement for large businesses in Australia to report annually on their actions to address human trafficking and slavery in their operations and supply chains. Following an extensive public consultation process to refine the proposal, the Australian Government intends to introduce legislation into Parliament by mid-2018.

305. The Australian Parliament Joint Standing Committee on Foreign Affairs, Defence and Trade is conducting an inquiry into whether Australia should establish a Modern Slavery Act, including an Anti-Slavery Commissioner.

Data* (OPSC Concluding Observations 7, 21)

306. Data on the sale of children, child prostitution and child pornography in Australia and crime statistics are collected at federal, State and Territory levels by relevant police and government departments.

307. The Australian Government funds research on human trafficking, including through funding to independent research institutions, academic, civil society organisations, business and unions. The Australian Institute of Criminology maintains an Australian Government Human Trafficking and Slavery research program.

Dissemination, Awareness-Raising and Training (OPSC Concluding Observations 15, 17)

308. The AFP delivers a Human Trafficking Investigations course which advances expertise in areas critical to the successful investigation of human trafficking, including legislation, investigative methodologies, interviewing and victim liaison and support. All Australian policing jurisdictions and the Australian Government Department of Home Affairs (former the Department of Immigration and Border Protection) are invited to attend the training. State and Territory police forces also deliver training on offences against children, including child sexual abuse.

309. The Australian Government trains and provides information on offences with extraterritorial effect, including those giving effect to the OPSC. For example, the Department of Foreign Affairs and Trade provides training to officers on offences, including child sex abuse and posted officers' obligations to report any allegations or admissions regarding such offences.

310. The Department of Foreign Affairs and Trade has minimum child protection standards that require all funded partners (defined in the *Child Protection Policy 2017*^(xii)) immediately report any suspected or alleged case of child exploitation, abuse or policy non-compliance in connection with official duties or business.

Prevention of the sale of children, child prostitution and child pornography* (Art 9(1), (2)) (OPSC Concluding Observation 21)

311. The Australian Government is committed to working with the community and civil society to raise awareness of child trafficking and other offences against children. Since 2008, the Australian Government has provided more than \$5.3 million in practical support for specialist NGOs working to prevent human trafficking, slavery and slavery-like practices.

312. In July 2014, the Australian Government awarded almost \$500,000 in funding over three years to three specialist NGOs, Anti-Slavery Australia, the Australian Catholic Religious Against Trafficking in Humans and the Australian Muslim Women's Centre for Human Rights, to progress outreach, education and awareness-raising initiatives on forced marriage.

313. Anti-Slavery Australia used this funding to develop *My Blue Sky*, Australia's first comprehensive online resource dedicated to preventing and addressing forced marriage. Recognizing that the majority of people in, or at risk of, forced marriage are children and young people, the website includes separate pages for 7–13 year olds and 14–17 year olds with age appropriate content. *My Blue Sky* also includes a national helpline and access to Anti-Slavery Australia's free confidential legal and migration advice service offered primarily by text message and email for people in, or at risk of, forced marriage.

314. In July 2017, the Australian Government awarded a total of \$500,000 to four specialist NGOs to prevent human trafficking and slavery-related crimes in Australia.

Prohibition on the sale of children, child pornography, and child prostitution and other matters (Arts 3, 4(2)(3), 5–7) (OPSC Concluding Observations 9, 25)

315. Legislation giving effect to the OPSC is spread across federal, and State and Territory governments, particularly for criminal offences for child prostitution and child sexual abuse materials (pornography). Australia is satisfied that the legislation of each of the States and Territories complies with the Optional Protocol. Australian Governments maintain ongoing reviews of criminal laws relating to the sale of children, child prostitution and child pornography and amends them in response to operational experience.

316. Federal laws prohibiting offences criminalizing slavery, slavery-like offences and people trafficking consistent with the Optional Protocol are predominantly found in Divisions 270 and 271 of the Criminal Code (outlined in Australia's Initial Report). Penalties range from four years' imprisonment for debt bondage, to 25 years' imprisonment for slavery and trafficking in children.

317. Significant legislative updates since Australia's last report include:

- The Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013, which:
 - Introduced new offences of forced marriage, harbouring a victim,^{lxiii} and standalone offences of forced labour and organ trafficking;
 - Expanded definitions to include a range of slavery-like practices;
 - Extended the application of existing offences of deceptive recruiting and sexual servitude;
 - Increased the penalties applicable to existing debt bondage offences, and
 - Improved the availability of reparations to individual victims of federal offences.
- The *Crimes Legislation Amendment (Powers, Offences and Other Measures) Act 2015*, which expanded the definition of forced marriage and increasing the associated penalties,^{lxiv} and
- The *Crimes Legislation Amendment (Sexual Offences Against Children and Community Protection Measures) Bill 2017*, which enhances the prosecution, sentencing and post imprisonment monitoring of federal child sex offenders and introduced new measures to target emerging forms of sexual offending against children including:
 - Predators who groom and manipulate a third party, such as a parent or career, to make it easier to engage in sexual activity with a child, and
 - Individuals who provide services like websites that provide access to child abuse material online.

318. Australian laws cover crimes where they are committed inside Australia, or on board an Australian registered ship or aircraft or where the extradition of an alleged offender who is an Australian national is refused and the person is in Australia. Some offences, including those relating to child sex tourism, provide for extended jurisdiction.

Investigation and Prosecution* (OPSC Concluding Observation 27)

319. The *National Policing Protocol to Combat Human Trafficking, Slavery and Slavery-like Practices* provides the national framework for Australian police agencies to combat human trafficking, slavery and slavery-like practices.

320. The AFP received 150 new referrals for trafficking and exploitation related offences in 2016–17. Australia also sought international mutual legal assistance to support ongoing human trafficking and slavery-related investigations during the reporting period (a total of 366 new applications made in 2015–2016, relating to all criminal matters, including for

offences giving effect to the OPSC). In 2015–2016, four people were surrendered to Australia for child sex offences.

321. Since the commencement of Divisions 270 and 271 of the Criminal Code in 2010, 20 people have been convicted of trafficking in persons and slavery-related offences. 2015–2016 saw the second ever conviction for trafficking in children. The offender was sentenced to 22 years' imprisonment having pleaded guilty to 38 charges involving child trafficking, incest, indecent acts and child pornography offences.^{lxv}

Age of consent* (OPSC Concluding Observations 25, 31)

322. Under federal law, the age of consent to engage in sexual activity is 16 years. This is also the case for the majority of States and Territories (17 years in Tasmania). To reflect this, the Criminal Code criminalizes sexual conduct by an individual over 18 years with a child aged under 16 years, including outside of Australia (Division 272), via a postal or similar service (Division 471) or using a carriage service (Division 474). The Criminal Code also contains offences which criminalize child abuse material depicting children under 18 years.

323. The regulation of sexual activity between persons under 18 years of age is a matter for States and Territories. It is important that Australian laws protect vulnerable persons from sexual exploitation while also respecting the right of young people over 16 to make their own decisions about sex.

Preventing Child Sex Tourism (OPSC Concluding Observations 23)

324. Divisions 272 and 273 of the Criminal Code comprehensively criminalise the sexual abuse of children overseas by Australian citizens. On 26 June 2017, the Australian Government strengthened its regime by passing the *Passports Legislation Amendment (Overseas Travel by Child Sex Offenders) Act 2017*. The measures will come into effect in December 2017.

325. This Act prohibits registered child sex offenders with reporting obligations from travelling or attempting to travel overseas without permission from a relevant authority. A person can only be placed on the child sex offender register if they have been convicted of a registrable child sex offence, or if a court deems that they are of a significant risk to the sexual safety of children in the community. This law protects vulnerable children in overseas countries where the law enforcement framework may be weaker and reportable offender's activities may not be monitored.

Criminal Provisions relating to Adoption (OPSC Concluding Observation 25)

326. Australia is committed to preventing the abduction, sale of, or trafficking in children for the purposes of intercountry adoption through the implementation of safeguards under the Hague Convention (refer to page 17).

327. Private adoption arrangements are unlawful in Australia. Overseas adoptions must have the approval of the relevant State and Territory authority. There is no provision to grant a visa to a child who has been adopted overseas under private arrangements unless the adoptive parent has been genuine resident overseas for 12 months at the time of the visa application and meets the requirements of the *Migration Regulations 1994*.

328. Selling a child for the purposes of adoption would be captured by section 270.3 of the Criminal Code which criminalizes slavery and related acts.

Liability of legal persons* (OPSC Concluding Observation 29)

329. All legal persons will be liable for federal criminal offences where the offence, or result of the offence, occurred wholly or partly in Australia. Australian citizens, Australian residents and bodies corporate that are incorporated in Australia or which carry on their activities principally in Australia can also be liable for some offences, such as child sex abuse in travel and slavery offences, regardless of whether the conduct occurred within or outside of Australia.

Protection of the rights of child victims (Arts 8, 9(3), (4)) (OPSC Concluding Observation 33)

330. Australia's whole-of-government strategy to combat human trafficking and slavery is designed to balance victim welfare and criminal justice processes.

331. Identified, suspected victims of human trafficking and slavery-related offences are eligible to receive support through the Support for Trafficked People Program. The Program includes services to improve victim's mental and physical health and well-being, including case management support, accommodation, medical treatment and counselling, social support and referrals to legal and migration advice. In 2016–17, 12 children were referred to the Program.

332. The Justice Support Stream of the Program provides the trafficked person with support until the investigation and/or prosecution of a human trafficking and slavery-related matter is finalized. If the trafficked person is not an Australian citizen and does not have a permanent visa, they can be granted a visa for the duration of the criminal justice process. Minors' needs are met through specialist case management services. Trafficked people on the Temporary Trial Support Stream of the Program receive intensive support for giving evidence pertaining to a trafficking prosecution, including child-trafficking or child slavery-related prosecutions.

333. Trafficked children are automatically entitled to a minimum of 90 days of unconditional support. Suspected victims assisting with an investigation or prosecution are provided ongoing support until the matter is finalized. All clients exiting the Program also receive a further 20 day transition period, which may be extended on a case-by-case basis. This approach is consistent with international standards and best-practice guidance.

Protection of child victims in criminal proceedings

334. The Crimes Act provides a range of protections for vulnerable witnesses (including children) giving evidence in federal criminal proceedings, including victims of human trafficking and slavery.

335. Division 279 of the Criminal Code allows trafficked people to provide evidence by video link. Vulnerable witness protections in the Crimes Act make it an offence to publish material identifying a trafficked person, and allow trafficked people to make victim impact statements to the court outlining the harm they have experienced.

336. From 29 June 2013, the *Crimes Legislation Amendment (Law Enforcement Integrity, Vulnerable Witness Protection and Other Measures) Bill 2013* amended the Crimes Act to:

- Add a new category of vulnerable witness protections to assist victims of child sex related, slavery, slavery-like and human trafficking offences to give evidence in re-trials and subsequent trials of those offences, and
- Allow a court to hear evidence by video link from witnesses outside Australia in proceedings for slavery, slavery-like and human trafficking offences;
- The Australian Government is progressing reforms to strengthen protections for vulnerable witnesses and complainants in federal proceedings, including:
- The *Crimes Legislation Amendment (International Crime Cooperation and Other Measures) Bill 2016*, which seeks to ensure the restrictions around publishing material that could identify vulnerable witnesses apply to child complainants, and
- The *Crimes Legislation Amendment (Sexual Offences Against Children and Community Protection Measures) Bill 2017*, which
 - Enhances the prosecution, sentencing and post imprisonment monitoring of federal child sex offenders, and
 - Provides additional protections for vulnerable witnesses (including children) including removing the requirement to seek the court's permission to admit pre-recorded interviews as evidence in chief, and the requirement for federal

vulnerable witnesses to be available to give evidence at committal proceedings.

International Cooperation and Assistance (OPSC Concluding Observation 34)

337. Since 2002, Australia, as Co-Chair of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (the Bali Process), has an established leadership role in the Asia-Pacific region. In August 2017, Australia co-chaired the inaugural Bali Process Government and Business Forum. The Forum adopted a Work Plan under which business will develop proposals for practical steps governments and businesses can take to eliminate modern slavery, to be considered by governments in 2018.

338. The AFP, through its international network, is actively engaged with countries in Asia, the Pacific and South America to facilitate efforts in combating child sex offences. AFP Liaison Officers work with international law enforcement and NGO partners to promote awareness of the issue, support international investigations, develop capacity and provide training.

339. In 2015–2016, Australia processed 687 mutual assistance requests and 33 extradition requests from other countries to support their law enforcement efforts.

International Assistance

340. The *Australia-Asia Program to Combat Trafficking in Persons* is a five-year, \$50 million program and Australia's third consecutive program aimed at strengthening the criminal justice responses to trafficking in the ASEAN region. The overall goal of the *Australia-Asia Program to Combat Trafficking in Persons* is to reduce the incentives and opportunities for human trafficking in the ASEAN region. The program works with source countries to strengthen their ability to contribute to transnational investigations, including through training.

341. The Attorney-General's Department has provided technical assistance to law and justice agencies in the Indo-Pacific to address people smuggling and human trafficking since 2013. This assistance has included developing four regionally endorsed Bali Process Policy Guides that assist countries to effectively criminalize people smuggling and human trafficking and implement frameworks that support victim identification and protection. The Attorney-General's Department has also provided assistance to partner countries to strengthen legal frameworks and training on human trafficking investigations and prosecutions. Similar assistance will continue under the aid-funded Indo-Pacific Justice and Security Program, which will run from 2017–2021.

XI. Optional Protocol on the Involvement of Children in Armed Conflict

342. Australia considers that the recruitment and use of persons under 18 in the armed forces remains a serious problem for the international community and is taking steps domestically and abroad to ensure that children do not take a direct part in hostilities.

General measures of implementation (Art 6)

Criminal Legislation and Regulations in Force (OPAC Concluding Observation 6)

343. Australian laws and Australian Defence Force (ADF) policies and regulations fully comply with OPAC, as outlined in Australia's Initial Report. The ADF conducts its operations under strict rules of engagement and promotes a culture of ethical and lawful behaviour. These rules and cultural norms are designed to ensure the actions of Australian forces are ethical and consistent with Australian and international law.

Coordination and training (OPAC Concluding Observations 8, 10)

344. All ADF members are required to undergo training in law of armed conflict. Training is delivered during initial and professional development courses, specific specialist courses and predeployment training. Members are trained to a level of understanding and on subjects that are commensurate with their specific duties and responsibilities, including with respect to individual operations. Relevant mission-specific training includes briefings on obligations in relation to vulnerable persons such as children, including with reference to OPAC.

345. To further strengthen the institutional capability of ADF elements, Legal, Gender and Civil and Military Cooperation (CIMIC) specialists are sometimes included within the forces deployed on operations. CIMIC teams identify any specific needs of the local community, including whether minors are at risk, and work with local authorities, appropriate NGOs, international organizations and the UN, to provide assistance within available resources.

Data collection (OPAC Concluding Observation 12)

346. There is standard application/recruitment paperwork completed on joining the ADF and ADF Cadets. Statistical data on ADF and the separate ADF Cadets is provided in the Defence Department's Annual Report.

Prevention (Arts 1, 2 and 3)**Voluntary Recruitment (Art 3) (OPAC Concluding Observation 18)**

347. At 30 June 2017, there were 116 people under the age of 18 in the ADF (0.2% of the total workforce). Australia draws attention to its interpretative declaration to OPAC.

348. Children aged 16 years and 6 months may apply to enlist in the ADF, with the approval of at least one parent or guardian. However, candidates must have reached the age of 17 years before they can be enlisted or appointed. All persons under 18 years of age must also have the written consent of their parent or guardian to join the ADF prior to enlistment or appointment.^{lxvi} Defence interviewers endeavour to ensure that all candidates under 18 have the maturity to cope with separation from family and the psychological rigours of military training.

349. If a minor has been recruited contrary to the requirements of OPAC, the ADF will take all feasible measures to ensure that the minor's service is terminated as soon as practicable. Australia draws attention to its interpretative declaration to OPAC.

Conscription

350. Except in times of war, there is no conscription and no compulsory recruitment in Australia. Part IV of the *Defence Act 1903* (Defence Act) provides for conscription in times of war, although only persons over 18 years are liable for service in the ADF in times of war. Conscription has not been used in Australia since 1972.

Cadet Scheme* (OPAC Concluding Observation 20)

351. Children aged from 12 years and 6 months may join the ADF Cadets, a personal development program for young people, conducted by the ADF in cooperation with the community. Cadets are not members of the ADF and are not required to become members of the ADF when they reach 18 years of age. At 30 June 2017, there were 25,429 registered ADF Cadets.

352. The Youth Policy Manual, which outlines requirements for conducting military activities for ADF Cadets, incorporates the requirements of the CRC and OPAC. The ADF Cadets military-like activities policy includes the direction that:

- Safety and the best interests of the cadets are the paramount considerations for all activities;

- Participation in activities is voluntary;
- Cadets under 18 must have parental consent to participate;
- Cadets must display a level of maturity acceptable to the supervising adults in their respective programs;
- Cadets are to be fit and well prior to each activity's commencement
- Activities are to be supervised by qualified adults in their respective programs, and
- Cadets must have completed the minimum training requirements for activity participation.

353. The ADF completed a review of the chapters of its Youth Policy Manual on ADF Cadet's use of defense weapons, cadet firearms, military-like activities and Cadet protection orders in September 2017.^{lxvii} The next review will occur by 30 September 2022.

Direct participation (Art 1) (OPAC Concluding Observation 14)

354. Australia has not defined "direct participation" or "hostilities" in domestic legislation.

355. While recruits under 18 years are required to undertake "military exercises, normal military duty, weapons training and other military training in accordance with normal Service requirements", the Military Personnel Policy Manual provides for "all feasible measures" to be taken to ensure that minors do not participate in hostilities, and sets out guidance for commanders regarding the deployment/ removal of minors from, an area of hostility.

Duty of Care Policy (OPAC Concluding Observation 16)

356. The *Defence Youth Safety Statement of Commitment* states that the ADF is committed to taking all reasonably practicable steps to ensure the safety and wellbeing of youth with whom it comes into contact through the development of a youth safety culture and the promotion of individual and collective responsibility for youth safety.

357. The *Defence Youth Safety Framework* was launched in December 2015 and it outlines the ADF's approach to youth safety and each of the youth safety risk management actions considered fundamental to achieving a youth safety environment.

358. From 1 July 2016, amendments to the Defence Act transferred the overall responsibility for the direction and administration of the ADF Cadets to the Chief of Defence Force from the Service Chiefs (Navy, Army and Air Force). The *Chief of Defence Force Directions and Authorisations (Administration of the ADF Cadets) 2016* directs the Vice Chief of Defence Force to establish policy requirements that apply to the ADF Cadets and directs the Service Chiefs to administer their respective Cadet programs in accordance with the policy guidance.

359. The "One Cadet" reform program began in 2016 to standardize the common elements of the three ADF Cadet programs and streamline accountability and lines of responsibility across the ADF Cadets. On 1 February 2017 the ADF Cadets Headquarters was established with the appointment of the Commander ADF Cadets/Head Reserve and Youth Division as a single point of accountability for youth safety to the Vice Chief of the Defence Force. The ADF Cadets Headquarters is responsible for implementing and managing the reform program, with a particular emphasis on governance and enhancement of the program's youth safety regime.

Prohibition and related matters (Art 4) (OPAC Concluding Observation 23)

360. All interactions with enemy combatants encountered in an armed conflict are governed by the authorized Rules of Engagement. These rules do not differentiate between combatants based on demographic parameters such as age or sex but were developed with regard to the law of armed conflict including OPAC.

361. Once an enemy combatant is cleared from the battlefield, the ADF has processes that support the protection of child soldiers consistent with OPAC. At the initial induction into the detainee network, enemy combatants are classified as children, male juveniles, adult males and females based upon best available evidence, including medical assessments. This classification informs the standards of treatment while in Australian detention. It also establishes a threshold (based upon, inter alia, the host nations' policy position on the treatment of child soldiers and the capability of their detention network to differentiate treatment to accord with OPAC) which must be met before Australia will transfer or release a detainee.

Protection, recovery and reintegration (Art 6(3)) (OPAC Concluding Observation 25)

362. Children who arrive in Australia from countries where they may have been engaged in armed conflict, including all refugee and humanitarian entrants, are eligible for counselling through the Program of Assistance for Survivors of Torture and Trauma.

363. The Australian Government is concerned by the use of child soldiers in conflicts abroad including Australian children by the Islamic State group. The Australian Government is aware of approximately 70 children who are in the conflict zone as dependents of a fighter or were born there to an Australian citizen. These children, who have been born in or taken to live in violent extremist conflict zones, are victims who have been exposed to unspeakable horrors.

364. Australian authorities are working closely with communities to carefully manage the return of children exposed to the terrible effects of violent extremism. Each child will be considered by law enforcement and security agencies on a case-by-case basis according to the risk they may pose. Each child will receive tailored support to suit their needs.

International Assistance and Cooperation (Art 7(2))

365. Australia takes an active approach in our international development cooperation program to mitigate the impact of conflict on children in the Asia-Pacific region, and abroad, including countering the problem of child soldiers.

366. Australia supports international efforts to protect children affected by armed conflict, by providing:

- Funding to civil society partners to support the monitoring and reporting of grave violations of child rights, including \$237,334 to Watchlist on Children and Armed Conflict in 2017;
- Voluntary contributions to the UN Peacebuilding Fund (Australia's current commitment is \$10 million over 2016–2018);
- Core unearmarked funding to mandated protection agencies (in 2017, \$27.5 million to the International Committee of the Red Cross, \$21 million to UNICEF and \$25 million to the United Nations High Commissioner for Refugees);
- Targeted humanitarian funding to mitigate the impact of conflict on children. For example, Australia's \$220 million Syria Crisis Humanitarian and Resilience Package funds efforts to improve access to quality education for disadvantaged children in Jordan and Lebanon, including Syrian refugees and local populations, and
- Funding to civil society partners to counter the use of child soldiers and mitigate the impact of conflict on children, including \$250,000 in 2016 to Geneva Call.

Arms Export (OPAC Concluding Observation 28)

367. Australia ratified the Arms Trade Treaty on 3 June 2014. Article 7(4) of the Treaty requires States Parties to assess whether exporting arms could be "used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women

and children”. If an “overriding risk” is found, the State “shall not authorize the export”. Failure to obtain permission to export arms is an offence under section 233BAB of the *Customs Act 1901*. Penalties include imprisonment for 10 years, a fine of \$450,000, or both.

XII. Ratification of other Human Rights Instruments (Concluding Observation 85)

368. The Australian Government intends to ratify the *Protocol of 2014 to the Forced Labour Convention, 1930*. The Protocol supplements the *Forced Labour Convention, 1930* (No.29), requiring member States to take effective measures to prevent and eliminate forced or compulsory labour, to provide victims protection and access to remedies, and to sanction perpetrators. However, Australia is not intending to become a party to other human rights treaties at this time.

369. The Australian Government considers that all persons, including children, have adequate avenues to submit complaints to the UN through existing procedures. Australia is a party to the seven core human rights treaties and it has accepted communications mechanisms in relation to five treaties.

Optional Protocol to the Convention Against Torture (Concluding Observation 84)

370. Australia ratified the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) on 21 December 2017. This is an important step in improving oversight of places of detention under Australia’s jurisdiction and control.

371. The Australian Government will work with Australian States and Territories to implement OPCAT. Australia’s domestic inspection arrangements under OPCAT (the National Preventive Mechanism) will monitor youth detention facilities.
