



2011

## Child Rights NGO Report Australia

### Children with a Disability

*Disability affects all different people around the world – it's about trying hard and working together so everyone can achieve their goals and ambitions. Everyone deserves a fair chance – DANNY, BOY WITH DISABILITY<sup>1</sup>*

Despite government initiatives over the years, the voices of children with a disability remain silent in public forums and decision-making processes. It is not until these children are engaged and allowed to properly participate in these conversations that the discrimination these children face can be redressed. In particular, their interests, opinions and insights must not be forgotten or overlooked among the louder voices of adult experts and politicians.

In 2008, Australia ratified the *Convention on the Rights of Persons with Disabilities*. In the same year, the Australian Federal Government and state and territory governments signed a *National Disability Agreement* to provide a cooperative approach to support Australians with a disability. In 2011, the Council of Australian Governments endorsed a *National Disability Strategy* (NDS) which sets out a 10 year agenda for coordinated, across-government action for Australians with a disability. Whilst the NDS lacks a specific agenda in relation to children with disabilities, it recognises that people with disabilities have differing needs through childhood and into adulthood and adopts a rights based framework.

#### NATIONAL APPROACH TO DATA COLLECTION

Currently, there is very little data on children with a disability. The inadequacy of the existing evidence base means that the current system of resource allocation is deficient. A national approach to the collection of data as recommended by the UN Committee on the Rights of the Child, supported by funding, is fundamental to the formation of effective research and policy that addresses the issues faced by children and young people with a disability.

**Recommendation:** Australia should enhance its collection of data on children with a disability, and provide increased disability research.

#### PARTICIPATION OF CHILDREN WITH A DISABILITY

It is generally accepted that children and young people with a disability are 'dealt with' in the disability or health related sectors, however this misconception means that children and young people with a disability are often prevented from expressing their views on an equal basis with others. The information, communication, attitudinal and environmental barriers that exist in Australia prevents many children and young people with a disability from actively engaging in discussions, forums and decision-making processes that directly affect them.

**Recommendation:** Australia should develop comprehensive strategies to ensure that children and young people with a disability can fully and equitably participate in consultations, decision-making processes and policy developments that affect their lives.

**Recommendation:** Australia should better resource child advocacy bodies to listen to the views of children and ensure that those views are heard by policy makers at all levels of government and at all stages of the development and implementation of law and policy.

#### Case Study

Legislation in Victoria, Australia has been enacted which enshrines the right of a child to participate in decision-making processes of the Department of Human Services. Despite this, young people in Victoria surveyed as part of the *Emerging Change* report (2008) said that they felt they only sometimes had a chance to have a say or be engaged in things that happen in the local community and hardly ever at the state government level.

#### Best practice

NSW Health formulated the NSW Youth Health Policy for health service providers following consultation with a diverse range of children and young people aged 13–24. The policy encourages the participation and empowerment of young people to make informed decisions about their health and includes training for health service providers in working with young people.

#### A NEW DISABILITY SUPPORT SYSTEM

In 2010, the Australian Federal Government engaged the Productivity Commission to undertake a feasibility study into a *National Disability Long-term Care and Support Scheme*. The interim report released by the Commission in February 2011 concluded that the 'current disability support system is under-funded, unfair, fragmented and inefficient, and gives people with a disability little choice and no certainty of access to appropriate supports'. Under the current system, children with a disability miss out on crucial and timely early intervention services, supports to assist with life transitions and prevention of family or carer crisis and breakdown.

In August 2011, the Commission's final report was released. The report recommends a national disability insurance scheme (Scheme) to provide all Australians with insurance for the costs of support if they or a family member acquire a disability. Whilst the Australian Federal Government has endorsed the report's key recommendations, there remains significant uncertainty as to how this Scheme will operate.

### Family care and support

Ensuring that a new disability support system respects the rights of children means that children with a disability should have the right to live and grow up with their families with appropriate support. Effective support for the family environment includes consideration of the rights and needs of siblings of children with a disability. These children often experience higher rates of depression whether or not they have roles as carers in the family. They can experience a range of stresses due to the lack of support provided to the child with a disability, their family experience and social stigma.

**Recommendation:** Australia should develop a scheme which ensures evidence based effective, equitable and integrated planning and service strategy for all children with a disability using human rights principles, which is developed and implemented in consultation with families, children with a disability and peak bodies representing those children. The new Scheme should be child and family focused taking into account the needs and rights of all children in the family.

## DISCRIMINATION AGAINST CHILDREN WITH A DISABILITY

### Education

Many families of children with a disability have lost confidence in the ability of the education system to provide their children with equal opportunities and protection from bullying. It has been reported that 63 per cent of children with a disability experience difficulties at school.

There are inadequate levels of funding and resources to provide quality education for children with a disability. A child's right to quality, mainstream education must be upheld and not compromised by reason of their disability. A child with a disability is as entitled to inclusive education as any other child.

**Recommendation:** the Australian Federal Government should work with state and territory governments, as part of the NDS, to develop a disability education action plan which specifically identifies current inadequacies in funding and resources, sets appropriate benchmarks, targets and goals and allocates sufficient funding so that the educational rights of children with a disability are adequately met.

### Sterilisation

In February 2011, the Committee on the Rights of the Child issued General Comment 13 (2011), which identified the forced sterilisation of girls with a disability as a form of violence. All forms of violence against children are unacceptable and there are no exceptions. While sterilisation may be seen by carers or parents as a solution to issues such as managing menstruation and contraception, this must be viewed in light of the rights of a child. A practice that fundamentally strips a child of their right to fertility and reproduction cannot be justified by arguments of practicality.

Australia does not have federal legislation prohibiting this practice: a practice which has in the past targeted females with intellectual disabilities. Anecdotal reports and health insurance statistics provide evidence that non-therapeutic sterilisation still occurs in Australia.

### Recommendation

Australia should develop federal legislation prohibiting, except where there is a serious threat to life or health, the non-therapeutic sterilisation of children, regardless of disability.

For more information see the full *Listen to Children* Report at [www.childrights.org.au](http://www.childrights.org.au)

<sup>i</sup> Quoted in Children with Disability Australia, *Family Voices* (August 2010).