

Submission to the
Australian Human Rights Commission on the United
Nations convention of the rights of the child
Submitted by
Fighters against child abuse Australia [FACAA]



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About the author:

Adam Washbourne is the founder and President of the charity group Fighters against child abuse Australia. He founded the charity July 2010 to fill a big gap that he saw within the community and to bring about an end to an issue that has plagued our nation for far too long now.

Adam has a Diploma of Community services (Welfare) specializing in child trauma counselling and has worked in the field for the past 15 years since completing his degree. Adam is also a martial arts instructor and has been teaching children how to defend themselves for the past 17 years.

Adam has worked for various community centres, mental health facilities and martial arts schools but currently counsels for FACAA and teaches for KMA martial arts in Liverpool Sydney, one of Australia's premier martial arts schools.

This submission was prepared by Fighters against child abuse
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About Fighters against child abuse Australia

Our mission is to end child abuse once and for all within Australia.

Our vision is to make Australia the only nation on the planet that does not suffer from the scourge of child abuse.

Our guiding principals are to remain completely non denominational and non political to achieve our mission of ending child abuse once and for all by whatever means are required (within the laws of the land). If a program does not exist to meet the needs of our clients then we will make one to meet their needs.

FACAA has been working actively for the past 7 years to end child abuse within Australia. We are currently running a survivor's healing programs, educational and legal reform programs, domestic violence programs, anti bullying programs and a social media awareness campaign which regularly receives over 1.5 million unique views making it the single most successful social media campaign of its kind in Australia.

FACAA is a national organisation that has full deductible gift recipient status as a public benevolent society. We have survivors in our survivor's healing programs from every part of Australia and we have members of our social media awareness campaign from all over the world.



Introduction

We are quite lucky in FACAA to have access to over 100 thousand members and their families, to prepare this report we went to these members and asked if we could speak to their kids. Those who allowed us we sent an inbox with a series of questions in plain language asking them for the issues they believed needed to be addressed. We are very happy with the outcome as it shows the views of a wide cross section of Australians from kids to the elderly and everyone in between.

In our submission we use the article number and then address that particular article with our issue and recommendation.



Issues and Recommendations by article

Article 2.2 – Children and parents with poor socio-economic status have difficulty getting access to good legal assistance to secure themselves and their wishes in the event of a family break up. If there is abuse in the home the child is often forced to live with the abuser due to family court orders which can not be broken, or even reviewed. If the abuser gets legal aid before the non-abusing parent, due to legal aid rules the non-abusing parent can then not get legal aid of any kind and is often forced to self-represent in court which leaves them particularly vulnerable to losing the case and subsequently losing custody of the child to their abuser. We believe this is discriminatory against low socio-economic children.

Article 3.1 Once again in the case of family court the best interest of the child is rarely even considered. The child is not consulted on their custody preferences and the experts the courts ask for their opinion are have dubious opinions in many cases. Quite often when abuse occurs in the home the child gets told that they have been “coached” and the non-abusing parent gets told they are committing parental alienation syndrome. Even if the child’s story is consistent and holds up under questioning, the court appointed advocates will rarely listen to the child. Even when there have been child abuse convictions, the convicted parent has still been granted full custody of the child. The family court system will often not take the interest of the child into account, yet the Australian government will not investigate the family court system at all despite several child advocacy groups calling for a Royal commission.

In reference to schooling the best interest of the child is often disregarded for the best interest of the school in particular the school’s reputation. The classic example that we at FACAA consistently see is the case of bullying. Bullying is a shocking problem in all schools Australia

wide. Some schools are doing more than others to stop it however most schools will deny that there is even any level of bullying at their school. This denial lead to a complete lack of action to stop bullying. This is most certainly not in the best interest of the child. All too often we are told that children do the right thing Land report the bullying only to be told that “kids will be kids” or “you need to toughen up”. It is almost as though to admit the school has a problem will leave the school open to litigation or something because even when the children are reporting bullying the school takes every possible step to minimize the bullying and all too often blame the victim of the bullying. Quite often the bully victim will be forced to sit with their bully in a way of mediating the relationship. As you can imagine this does not mediate the relationship but instead gives the bully forced access to their victim. This is clearly not in the best interest of the child who is a victim of the bullying.

With regards to our justice system, the children’s best interest is not being met or even considered when our justice system sets a child rapist free without letting the local population know of their status as a convicted child rapist. This is information that parents of children must know in order to adequately protect their children. One state Western Australia does have this information available to their population in the form of an online child abuser’s register. We believe that it is clearly in the best interest of the children of Australia that this register be extended to be a national child abuser’s register. The arguments against a child abuser’s register are easily defeated by the simple statement that it is in the best interest of the children of Australia and protecting their safety. The rights of children to be safe supersedes the rights of child rapists to have privacy and is clearly in the best interest of the children.

Rarely is the best interest of the child thought of when child abusers are sentenced. Part of issuing a convicted criminal with a custodial punishment is to act as a deterrent for other potential criminal and in the case of imprisoning child abusers this deterrence is in the best interest of the child to be quite stringent and harsh. Our judges all too often throw away chances to deter future child abusers by giving ridiculously low sentences literally in spite of the Australian government recommended sentences. In this case the government has done the right thing by the interest of the child and it is the judges who let them down, however are the government not in charge of the judges and to allow them to time and time again offer absolutely no deterrence for future child abusers by way of good sentences, is in no way shape or form in the best interest of the child.

While the Australian state governments consistently have very high recommended sentences that judges often ignore entirely, one aspect where our governments consistently let our children down is in the punishment and categorizing of child exploitation material. Under the English system it is considered to be a very high risk factor for child abusers to be caught with child exploitation material, it is considered to be an instant red flag if a child abuser on parole is caught with child exploitation material. Under the Australian system across all states it is not even slightly a worry for our authorities to catch child abusers with child exploitation material. The collection and dissemination of child exploitation material is considered a very low category of crime. Those found guilty of possession or distribution of child exploitation material are all too often given wholly suspended sentences and even no conviction recorded. It is almost as though the Australian system perceives child exploitation material as a victimless crime. This is prevalent on all levels, there are federal level charges pertaining to the international

collection and distribution of child exploitation material (usually using the internet as a carriage service) and even as a federal charge there is very little prison time when convicted if any at all. This is clearly not in the best interest of Australian children or children from around the world for that matter as to take crimes associated with child exploitation material so lightly is a slap in the face to child victims across the world. With the rise and rise of the dark web, social media platforms and peer to peer video calling, child exploitation material is on the rise in a massive way. We are seeing parents selling their children to the highest bidder over Skype calls in which the abuser gets to tell the parents what they want to see done to their child. This usually affects parents in poorer countries with a lower socio-economic status than the average who are forced to sell their children online to literally be able to buy food for them. For the Australian government to take such a shockingly light attitude towards these types of crimes is not in the best interest of children everywhere. More than that it literally puts these children at risk that they simply do not need to be in. It is a very easy problem to fix, simply give those who produce, collect and distribute child exploitation material behind bars, where they belong for a very long time. Send a clear message to child abusers and child exploitation material producers worldwide that child exploitation material is not a victimless crime and is not accepted in Australia. More to this, children both here and abroad are valued and we will not give you a light sentence just because you are not face to face with your victim. Victims of child abuse are victims of child abuse if their abuser is face to face with them or on the other end of a Skype video call. This is what is in the best interest of the children of Australia and the world and the Australian government needs to do much more to put a stop to this growing problem before it becomes an epidemic.

Article 3.3 – This is one instance where the state governments of Australia consistently let the children of Australia and recent migrants down. We at FACAA would like to see the responsibility of child protection removed from the states and put in the hands of the federal government, as the state governments have sub contracted the responsibility of the foster system off to companies like [REDACTED]. Time and time again there are examples of how these companies have failed the children they have removed from parents with fatal consequences. The classic example is that of [REDACTED]. [REDACTED] was removed from her parents by the QLD family services due to drug issues and placed with a family that had full approval by the foster agency [REDACTED]. The [REDACTED] family proved to be a fatal choice for [REDACTED] when the eldest son [REDACTED] who was [REDACTED] at the time started raping the [REDACTED]. When she fell pregnant to him the father [REDACTED] killed her to cover up for his son. The mother and younger brother both lied to police to cover up the crime. If proper checks had been done by [REDACTED] into the [REDACTED] perhaps [REDACTED] would be alive today.

Another example of the foster care system letting down the vulnerable children who have been removed was [REDACTED]. [REDACTED] when he was removed from his father after he approached Family and community services to get help with his son while he detoxed by Family and community services NSW. He died after drowning in a backyard pool which did not have a latch on the gate. The pool was also green, and no child should have been anywhere near it. The autopsy done into his death found that if [REDACTED] (the company sub-contracted to provide care to the removed children in NSW) had even inspected the home they would have clearly seen that no child should have been there, and it was in no way fit for children, let alone the vulnerable

children placed in foster care. This poor child [REDACTED] was left unsupervised at [REDACTED] old in a home that was in no way shape or form safe for children to live in, he died as a direct result of the negligence and dereliction of duty of [REDACTED]. You would think this would lead to [REDACTED] losing their contract to provide care for children removed from their families. You would of course be wrong. [REDACTED] case was 2 years ago and in that 2 years it appears nothing has changed as only last weekend a 12-year-old autistic child who was with [REDACTED] for respite care lost his life when he simply ran off on his carer who did not run after him. The child ran all the way to the local train station where he was hit by a passing train. Once again the company and the government has come under fire for the child's death as it was easily preventable and sadly once again no one is being held accountable, no one is being brought up on criminal neglect charges (we would like to see whomever approved [REDACTED] to have their contract renewed after the [REDACTED] case be brought up on neglect homicide charges every time a child in their care dies and irresponsibility on the part of the company can be found) in fact no one is even losing their job over this.

One massive failing of the Australian government in regard to the removal of children and the foster care system is the Indigenous population of Australia. The indigenous children are grossly over represented in the foster care system with indigenous children being 10 times more likely to be spending some time in foster care than non-indigenous children and while indigenous children make up only 5 % of the population of 10 – 17 year olds they make up more than 50% of our juvenile justice system population (source Australian institute of family studies) . We at FACAA believe there is a direct correlation between these facts. We believe that if the

Indigenous population had a more stable home environment they would be less likely to commit crimes which would see them incarcerated in the juvenile justice system. We would like the reasons they are being removed to be investigated and alternatives to removal of the children be sought out. Removal of a child should be a last resort but when it comes to indigenous children it seems to be the first point of call sadly. We would like to see extended family-based options explored, education programs for parents of remote communities increased, outreach programs by nurses and mental health care professionals increased, better access to medical and drug and alcohol assistance.

All of these factors could be easily done if there was a federal approach to the foster care system. There are dozens more cases from all around Australia where the state governments sub-contact out the care of removed children where children have paid the ultimate price for the government's laziness towards the foster care system. It is time the Australian federal government stepped in and took the foster care system back.

As it stands the states have sub-contracted out their foster care system so once the child is removed by the states it goes into a privately run foster care company whose sole purpose is to provide care for children but instead make profit and please the shareholders of the company's parent corporations. Therefore we would like to see the federal government take back the foster care system. Not only to improve services to the children by opening it up to the federal level powers and access, but also so a department can be set up that has one sole purpose and that is to provide the best level of care for both the child and the child's parents. This must be the only concern of the department and the bottom line should never come into

play and certainly there should never be a shareholder's meeting when you are dealing with the lives of children.

While the care of children who have been removed by the state is in the hands of privately owned and run companies (particularly in the case of indigenous children), their focus will always be on profit over children's welfare. We believe if the federal government set up a specialist department just for the care of removed children with the express purpose and mission statement to provide the best possible care for the vulnerable children who have been removed, then and only then would we see the children getting the care they deserve and the mortality rate amongst children in foster care diminish to the only acceptable level of 0.

Article 8 – With regards to children always being able to retain their name, nationality and family ties all too often we see our government not recognizing our indigenous Australians as a nation and not allowing the children to use their indigenous names. The children once removed have zero access to their families or family units as is the policy of the child protection system in Australia. While they do try to use other indigenous families to house them, they are, by a rule not allowed to be of the same family and are also the family cannot know anything about where the children are and likewise the children cannot know what their family are doing. This is in direct contravention with Article 8 of the United nations rights of the child. Being left ignorant of their heritage and culture is extremely detrimental of their mental health, confidence and resilience of the indigenous children and once again in contravention with Article 3 which states the best wishes of the child should always take precedence in decision making processes.

Article 9 – This is one of the most breached articles in the convention. While FACAA are entirely on the side of removal of children when it is necessary, however FACAA has been made aware of dozens of cases where children are being removed from their parents completely unnecessarily. Most of the time when a child is removed from their parents the department responsible gives little or no explanation as to the removal. In cases where children have been removed unfairly the parent is given little or no explanation and absolutely no way of getting the children back in a timely manner. The children are never told anything about why they are not allowed to see their parents and the parents are told there is nothing they can do until the parents face court. In several cases we have heard of the case notes were falsified and contacts were often outright lied about. In many cases when children have been unfairly removed, rather than admit an error occurred the agency goes into self-preservation and cover up mode. If they would just admit a mistake was made then the children could be returned, and nothing would be a problem, but because they go into cover up mode they then falsify documents and contacts and it spirals out of control. The issue that caused the initial removal of the child is made to seem much worse and the spiral continues.

We at FACAA believe that all of this could be simply fixed by holding the child protection departments to account for their actions and remove their anonymity. At the present moment, all child protection departments and the family courts are completely autonomous and are unaccountable to anyone. Their decisions are not questionable or appealable and this makes them a law unto themselves. When children are removed unfairly there are no consequences and the press release simply read “We are over worked and underfunded and mistakes will

happen” and when you are dealing with children’s lives that is simply not acceptable.

Article 12 – Children’s voices are never heard in decision making processes that concern their future. One so called “expert” Doctor [REDACTED] once said that “children mostly lie” when it comes to abuse claims. This is not only completely inaccurate (98.5% of all child abuse claims made by children are completely true) but this attitude flies directly in the face of article 12 of the convention of the rights of the child. Children are never asked for their opinion on where they want to live when it comes to the family court, they are never asked what they want when it comes to medical issues or what school they want to go to. While the United nations is telling people to listen to children Australia’s child protection systems are doing the exact opposite and denying their voices.

Article 17 – In Australia our media outlets are entirely politically motivated and often used by political parties as propaganda merchants. We have several shows in Australia similar to America’s Fox and friends that are nothing more than right wing agenda propagandists. We at FACAA would like an independent children’s voice. Perhaps a kid’s news YouTube channel with unbiased reporting on issues that relate to children. Currently there is only one show geared towards children which is called Behind the news. Sadly, this is on the national broadcaster the ABC and they are being defunded day by day so it won’t be long until either the station or the show is no longer running.

Article 18 – Sadly this is another frequently broken charter. Both parents do have a responsibility to help raise children, however in the case of divorce often we find that one parent will not pay their fair share of child support. If the child support is not paid one parent can be seriously

detrimentally financially burdened. Sometimes we have even heard of cases where the parent denies the child support as a way to punish the other parents for leaving them or for winning child custody. Australia needs a government regulated system where by not paying child support is a crime. Currently there is no penalty for not paying child support no matter how financially burdened one parent is (and subsequently the child). We simply cannot allow this to continue and parents who do not pay child support must be held legally accountable for their truancy in paying. That is how the government can better support both parents helping to raise their child.

Article 19 – Just like it is all too often that we see children being removed from parents for no good reason at all, the reverse is also very true. Every week we hear of another child passing away that was “known to authorities” children’s lives just do not seem to matter, and the same old tired excuse is always brought out “We are over worked and underfunded” which as we said before is simply not good enough.

One idea FACAA have to quickly fill a hole in the system is to criminalize contraventions and breaches of apprehended violence orders or domestic violence orders. Every time we get a domestic violence related client come to us we ask them if there is an AVO or DVO in place and we nearly always get the same response “They are not worth the paper they are printed on”. We then get told that their ex-partner has breached the order dozens of times only to be told “now don’t you do this again” yet when they ring the police to say the partner is breaching the order they get told “nothing we can do until they do something”. Sadly, it takes a violent attack for the police to do something.

This is NOT protecting children from violence as the convention of rights of the child Article 19 states they should do. If they criminalized breaching the AVO or DVO we would not see children's lives being taken at the hands of people the system was supposedly protecting them from. Very easy solution to a very bad problem.

Article 20 – Shockingly with the privatization of our child protection industry in Australia the churches got all of the contracts to provide foster care. With that any child who isn't Christian is nearly always placed in a Christian household and told that their current beliefs (no matter what they are) will not be tolerated and they are to adhere to the household's Christian beliefs. This is of course backed up by the agency as they are either ██████████ ██████████ (Catholic agency) or ██████████ ██████████ (heavily Christian). This is in direct contravention with Article 20 of the United Nations Convention of the rights of the child. We need the government to take back the child protection system as the privatization is simply not taking the rights of the child as the priority it needs to be.

Article 27 – Children are consistently being found in less than squalid conditions which we believe is because our government is not providing nearly enough money for parents to live on. The fact is parental income support is as low as \$450 per week. How they expect anyone to live on this when the average 2-bedroom apartment in Sydney costs \$350 per week in a low income area. That leaves \$100 per week for food, water, power, school, transport, insurance, medicals..... Seriously our government thinks this is acceptable and gives themselves a pay rise of over triple that per week! that's a pay rise on top of their currently exorbitant wages. Yet they tell those on welfare that they are the reason our economy is in trouble. Fact is our government is not providing adequate financial assistance to parents in need in direct contravention of

article 27 of the United Nations convention of the rights of the child.

Article 28 – Schooling in Australia is quite good compared to a lot of other countries, however we don't have a good track record when it comes to dealing with children with disabilities, particularly children on the autism spectrum. Sadly, there is an attitude that children on the autistic spectrum can be cured with simply strict discipline. This is simply not the case and often leads to horrendous punishments for children whose only crime is being autistic and out of touch with social norms. Recently newspaper reports have said that as many as a dozen autistic children were locked in specially amended rooms or cages to stop them from hurting themselves or others. This is not even slightly good enough and the way Australia treats it's autistic children in it's schools must improve dramatically.

Article 39 – Children should receive special help to heal from their ordeals, we at FACAA would like to see our programs federally funded so we can help them do just that and we can help Australia adhere to the Article 39 of the United Nations convention on the rights of the child.

Article 42 – The Australian government has not made the Convention known to any parents that I know of. I have not ever heard of it and I do not know anyone who has heard of it. When we asked our group, which features over 100,000 members the result was overwhelmingly negative. Our government is not making this known to parents and children and we are not sure why.



Conclusion

The Australian government are doing a decent enough job when it comes to our children. In particular the children's health and education systems are quite up to grade when compared to other first world nations like the United states and the United Kingdom. However much more work is needed when it comes to our child protection systems. We simply can not allow our family court and child protection departments to run with complete anonymity and without answering to anyone for their mistakes. For far too long now there has been a culture of cover ups at the expense of children's lives.

This is the main way that the Australian government is directly contravening the United nations convention on the rights of the child, Sadly the Australian government has been told time and time again about repeated breaches of the convention due to judges actions or inactions or child protection departments unfairly removing children from good parents and knowingly placing them with bad parents. In some extreme cases these children have paid with their very lives.

We believe a complete overhaul of the child protection and family court systems is needed in order to bring Australia into line with the United Nations Convention on the rights of the child.



References

Direct interviews, emails and phone calls with over 500 FACAA members and clients who answered our call to let us speak to their kids and have their voices and their parent's voices heard loud and clear.

Council of Australian Governments (COAG) National Framework for the Protection of Australia's Children 2009-2020,

United Nations Convention for Rights of the Child explained in language children can understand (UNICEF)

Bravehearts Australia in particular Hetty Johnstone

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