

Ten years on: life chances and human rights of Indigenous children

By Tom Calma

In 1987, former Prime Minister Bob Hawke famously pledged ‘by 1990 no Australian child will be living in poverty’.¹ In 2008 Prime Minister Rudd declared that he wanted Indigenous peoples to be ‘full participants’ in society, rather than marginalised Australians.² Despite such intentions, the reality for many Indigenous children is that their lives are a repetition of the deprivation and discrimination experienced by previous generations.

As a wealthy country and a signatory to several international conventions including the *Convention on the Rights of the Child*, Australia is required to ensure that Indigenous children have the same life chances as other Australian children. This includes a right to resources to enable Indigenous children to realise their full potential in full equality with other Australians. All children are entitled to a future in which they can thrive, develop and live fulfilled lives.

Unfortunately, Indigenous children continue to experience inequality. The 17 year gap in life expectancy between Indigenous and non-Indigenous Australians is perhaps one of the clearest indications of disparity in resourcing and support for Indigenous Australians during the life cycle. From birth there are disparities in access to health services, and these disparities are greatest in remote areas of Australia. The infant mortality rate is two to three times higher amongst Indigenous infants compared with their non-Indigenous counterparts. Indigenous children continue to suffer higher incidences of preventable diseases such as otitis media which can cause deafness; rheumatic fever which can lead to heart disease; and eye infections which can lead to trachoma.

Indigenous children under the age of four are hospitalised for injury and preventable diseases at twice the rate of non-Indigenous children.³

The lack of a rights based approach to address Indigenous children’s needs has meant that the current status of Indigenous children remains marginalised and compromised. However, some recent advances in the recognition and protection of Indigenous children’s rights (particularly at the international level), coupled with commitments made by the current Government to achieving equality in life chances within a generation, present the most promising opportunities to date, provided a rights based framework is adopted.

The situation for Indigenous children in 2008

It has been ten years since the release of the *Seen and Heard* report by the Australian Law Reform Commission and the Human Rights and Equal Opportunity Commission. This Report recommended the establishment of an Office for Children to monitor Australia’s compliance with its international obligations to children, particularly those outlined in the *Convention on the Rights of the Child*. However, in 2008 there is still a lack of an overarching policy framework to address, guide and monitor the delivery of resources and services to Australian children. An Office with responsibility for the rights of children could bring attention to matters such as the disparity between Indigenous and non-Indigenous children’s health and educational outcomes. It could advocate for the rights of children and implement processes to redress disadvantage. It could progress action and solutions to issues such as those raised by a recent *NGO Report to the Committee on the Rights of the*

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Child. The NGO Report found that for many Indigenous children there is a lack of access to adequate healthcare and education services, inadequate housing, over-representation in child protection and juvenile justice systems, and a lack of meaningful participation in decision-making and policy development.⁴

Important life chances indicators

Health and education are both important components of a person's wellbeing. They are also the foundation for other life chances. They affect employment prospects, income levels, likelihood of substance abuse and involvement in the criminal justice system.

Indigenous children's educational outcomes are extremely poor when compared with those of other Australian children. Indigenous students' outcomes in reading, writing, and numeracy are substantially lower than those for non-Indigenous students, and they have not been improving.⁵ Whilst there have been improvements in school retention rates, with the Indigenous apparent school retention rate to year 12 rising from 32% in 1998 to 43% in 2007, this statistic still does not compare favourably with the non-Indigenous apparent school retention rate to year 12, which is 75.6%. The impact of these statistics on Indigenous children's life chances is clear. According to the Australian Bureau of Statistics, Indigenous young people aged 18-24 years who have completed year 12 are four times as likely to have full-time employment than those who left school in year 9 or earlier, and a similar trend is evident in relation to non-school qualifications.⁷ Low employment levels have an adverse effect on income, living standards, self-esteem, social integration and health.

Indigenous education also plays an important role in preserving Indigenous languages and cultures. Article 29 of the *Convention on the Rights of the Child* states that the education of children should be directed to respect for the child's own cultural identity, language and values. This has been recognised as very important for Indigenous children, not only because culture is an important factor in Indigenous wellbeing, but also because many Indigenous languages are at risk of being lost. According to the *National Indigenous Languages Survey Report 2005*, of over 250 known Australian Indigenous languages, it is estimated that 100 have been lost, about 145 are still spoken, but of these 110 are at critical risk of being lost.⁸ Further, whilst there

are currently some primary and secondary schools that teach Indigenous studies, there is a wide disparity between different schools' approaches to Indigenous curriculum content and language.⁹

Right to participation

Attempts to rectify the disparity between the life chances of Indigenous and non-Indigenous children are often made in the absence of adequate consultation with Indigenous communities. This in turn affects the ability of Indigenous communities to exercise control over our development. My *Social Justice Report 2007* noted that where there is ownership of policies and programs, there is likely to be greater participation and compliance. We see this in relation to policies such as alcohol management. The management of alcohol and other drugs is essential for the health and wellbeing of all Australian children. In North East Arnhem Land and Groote Eylandt the alcohol management plans are enjoying a high measure of success because they have been developed and implemented with the full participation of the local people. In contrast, the alcohol management aspects of the Northern Territory Emergency Response have been less effective. What is missing from the Emergency Response is collaboration with Indigenous communities so that we can be the architects of the strategies and policies to improve outcomes for our children and our people.¹⁰

Advances at the international level

In September 2000 at the United Nations Millennium Summit, world leaders agreed to the *Millennium Development Goals* which provided measurable goals and timelines for combating poverty, hunger, disease, illiteracy, environmental degradation and discrimination against women.¹¹ These goals outline an intention to improve all aspects of disadvantage including improving the literacy rates of children and improving the health and wellbeing for marginalized peoples.

Under the *Convention on the Rights of the Child*, Australia has accepted a responsibility to ensure children's rights in relation to health and education. This means that whilst the status of Indigenous children's life chances is a social justice issue, it is also a human rights issue. Under Article 2(1) of the *Convention on the Rights of the Child*, states must ensure children's rights, irrespective of race, colour, or

ethnic or social origin. According to Article 4 of the *Convention on the Rights of the Child*:

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources.

So an equal start in life for Indigenous children is a requirement of Australia's international human rights obligations, and the current status of Indigenous children's life chances is especially unsatisfactory given the economic resources available in 21st century Australia.

The UN Committee on the Rights of the Child in its concluding observations of Australia in 2002 noted that it was 'particularly concerned at the discriminatory disparities existing towards Aboriginal and Torres Strait Islander children, especially in terms of provisions of and accessibility to basic services'.¹² It recommended that the Australian Government:

- o ensure the full respect of the rights of Aboriginal and Torres Strait Islander children to their identity, name, culture, language and family relationship;
- o reduce the significant number of Indigenous children placed in out-of-home care in a time-bound manner, inter alia, by strengthening its support for indigenous families and fully implementing the Indigenous Child Placement Principle;
- o provide Indigenous children with adequate support, including counselling, and to facilitate contacts with their parents in prison;
- o ensure that all children enjoy the same access to and quality of health services, with special attention to children belonging to vulnerable groups, especially Indigenous children and children living in remote areas; and overcome, in a time-bound manner, the disparity in the nutritional status between Indigenous and non-Indigenous children; and
- o provide affordable housing options and take all possible measures to raise the standard of living of Indigenous children and children living in rural and remote areas.¹³

In the last decade there have been some

useful advances made in the recognition and protection of the rights of Indigenous people in general, and in relation to Indigenous children specifically:

- o The UN Committee on the Rights of the Child held discussions on the rights of Indigenous children and have issued recommendations for States on the realisation of rights of Indigenous children (3 October 2003);¹⁴
- o The UN *Declaration on the Rights of Indigenous Peoples* came into force in 2007, and specifically recognises the rights of Indigenous children with regard to their education and protection from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

Advancements within Australia

There have been encouraging advancements within Australia. In 1997 the Human Rights and Equal Opportunity Commission released the *Bringing Them Home* report, which outlined the experiences of the Stolen Generations and the impacts of the removal of children from their families. The Report made recommendations for making apologies and reparations to the Stolen Generations as well as for improving current child protection systems in Australia.¹⁶

On 13 February 2008, the Australian Parliament acted on one of the *Bringing Them Home* recommendations when it apologised to the members of the Stolen Generations. In addition to being an important symbolic gesture, the Apology established important foundations for concrete measures to be introduced for future Indigenous generations.

In 2005, I made three key recommendations in my annual *Social Justice Report* including:

1. achieving equality of health status and life expectation between Aboriginal and Torres Strait Islander and non-Indigenous people within 25 years;
2. establishing a process for what would need to occur for this commitment to be met. It called for:
 - o the governments of Australia to commit to achieving equality of access to primary health care and health infrastructure within ten years for Aboriginal and Torres Strait

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- Islander peoples;
 - o the establishment of benchmarks and targets for achieving equality of health status and life expectation—negotiated with the full participation of Aboriginal and Torres Strait Islander peoples, and committed to by all Australian governments;
 - o resources to be made available for Aboriginal and Torres Strait Islander health, through mainstream and Indigenous specific services, so that funding matches need in communities and is adequate to achieve the benchmarks, targets and goals set out above; and
 - o a whole of government approach to be adopted to Indigenous health, including by building the goals and aims of the *National Strategic Framework for Aboriginal and Torres Strait Islander Health* into the operation of Indigenous Coordination Centres regionally across Australia; and
3. making a National Commitment to achieve Aboriginal and Torres Strait Islander Health Equality.¹⁷

In March 2008 the Australian Government signed a *Statement of Intent* committing itself to

a new partnership between Indigenous and non-Indigenous Australians. The core of this partnership for the future is closing the gap between Indigenous and non-Indigenous Australians on life expectancy, educational achievement and employment opportunities. This new partnership on closing the gap will set concrete targets for the future: within a decade to halve the widening gap in literacy, numeracy and employment outcomes and opportunities for Indigenous children, within a decade to halve the appalling gap in infant mortality rates between Indigenous and non-Indigenous children and, within a generation, to close the equally appalling 17-year life gap between Indigenous and non-Indigenous when it comes to overall life expectancy.¹⁸

The Council of Australian Governments (COAG) on 20 December 2007 made similar commitments to closing the 17 year gap in life expectancy between Indigenous and non-Indigenous Australians by developing a partnership between all levels of government and Indigenous communities to achieve the target of closing the gap on Indigenous

disadvantage. COAG committed to:

- o closing the life expectancy gap within a generation;
- o halving the mortality gap for children under five within a decade; and
- o halving the gap in reading, writing and numeracy within a decade.¹⁹

There are important lessons that we can learn from the last ten years. The lack of a rights based approach to ensuring Indigenous children have access to necessary health care, education, training, housing and other services, and the lack of participation of Indigenous people in the development of policies and programs has led to a disappointing lack of progress in improving the life chances and human rights of Indigenous children.

Changes are needed across all levels of government and across all jurisdictions to provide for children's access to, and appropriate participation in, the legal, social and economic processes that affect them. The recent recognition of Indigenous children's rights at the international level, and the commitments at the national level, provide an opportunity to achieve some positive changes towards equalising the life chances and human rights of Indigenous children.

Endnotes

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The 'Glass Sculpture' has been created by Sam Juparulla and the 'Flowers' image on the previous page has been created by Nora Campbell. Both artworks have been purchased by the Australian Law Reform Commission and are displayed in their offices at Level 25, 135 King St, Sydney.