

# Children

Children and Their Rights  
World Vision Australia's  
Public Policy Position

# World Vision Australia's position on children and their rights<sup>1</sup>

World Vision Australia defines 'child' as anyone below the age of 18. Although the Convention on the Rights of the Child (CRC) allows for an adjustment to this standard through national legislation, World Vision Australia takes 18 as the legal limit in reflection of standards recognised in international law.<sup>2</sup>

World Vision Australia recognises that childhood is a particular stage of life during which the capacities of children evolve.<sup>3</sup>

During childhood, children are entitled to special care and assistance,<sup>4</sup> and also entitled to exercise their right to participate in matters affecting them.<sup>5</sup> Events occurring during childhood are foundational and can have a lifelong impact.

Children may be vulnerable to particular challenges during particular stages of their childhood. For example, early childhood (the period from birth throughout infancy, during pre-school years and during the transition to school)<sup>6</sup> and adolescence<sup>7</sup> are both periods of growth and rapid change in a child's life. However, up to the age of 18, World Vision Australia views all children as rights-holders consistent with the CRC, and all children are owed special obligations.

World Vision Australia recognises children as agents of change and partners in development, working alongside and with children to empower them and their communities. World Vision Australia works with children in all regions of the world<sup>8</sup> through relief and development, policy advocacy and change, collaboration, and in many contexts with an emphasis on personal growth, social justice and spiritual values.

## World Vision's mandate to advocate for children

World Vision Australia and the broader Partnership works with children and their communities in all areas of the world, often over the course of long-term, multi-year programmes and across diverse sectors.

This operational, field-facing experience means World Vision has a deep understanding of the status and experience of children internationally, and the ways in which their rights are challenged and violated in a range of contexts, countries and regions. The World Vision Partnership also works in many of the world's most fragile contexts and conflict affected regions, meaning it has a strong understanding of the state of the world's most vulnerable children.<sup>9</sup>

World Vision Australia focuses its efforts on the most vulnerable children<sup>10</sup> to ensure their needs are met through its programming and by partnering with them, their families and communities to lead transformational development.

As well as working internationally, World Vision Australia works with children in Aboriginal and Torres Strait Islander communities in Australia to support them to be strong in their cultural identity, to build their capability and have opportunities to lead their own development.<sup>11</sup> In this work, World Vision Australia focuses on ensuring equal protection for Aboriginal and Torres Strait Islander communities and the realisation of their rights, especially their right to be cared for, educated and nurtured within their own language, family and cultural group.

# World Vision Australia's policy recommendations for change

## **World Vision Australia calls on the Australian Government to:**

1. Place a central focus on children and the protection and realisation of their rights in the government's official development assistance (ODA) by taking a child rights approach and:
  - a) including children as an investment priority area for ODA;
  - b) introducing and integrating a child rights mainstreaming model into its development and humanitarian programme, so that children and their rights are made a priority, and ensuring that the impact on children's rights in all development and humanitarian interventions is considered; and
  - c) including and listening to children's experiences in order to support effective systems-based responses (from the community level to the government level) in order to protect children's rights.
2. Ensure that data is collected concerning the realisation of children's rights and wellbeing in its development and humanitarian programmes in order to report on the state and progress of children and to enable the development of credible responses to improve children's lives.
3. Fully implement the CRC in Australia through legislation and policy to ensure the protection and realisation of the rights of all children in Australia.
4. Ratify the Optional Protocol to the CRC on a communications procedure, in order to ensure that children have the ability to submit complaints to the Committee on the Rights of the Child regarding alleged violations of their rights under the CRC and its optional protocols.
5. Partner with indigenous Australians to resolve the over representation of Aboriginal and Torres Strait Islander children in State care and ensure that the 'Child Placement Principle' is adhered to in all Australian jurisdictions so that children are able to grow up strong in their cultural identity, be secure in their own language and nurtured within their own families or where this is not possible, within their own communities.

## Background

### The United Nations Convention on the Rights of the Child

The United Nations Convention on the Rights of the Child (CRC) is the primary international law on the rights of children.<sup>12</sup> States are bound by the CRC, meaning they are obliged to implement and uphold the standards it sets out. The CRC defines children as "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier."<sup>13</sup> By 2050, the world's population is estimated to reach 10 billion, and 2.6 billion of the population will be under 18 years old.<sup>14</sup> 'Youth' or 'young people' are the terms used to describe some children and young people, but also include persons older than 18 years of age.<sup>15</sup> 'Youth' is not defined under international law.<sup>16</sup>

The rights of the child under the CRC all relate to and depend on each other. With the exception of the United States, every country in the world has agreed to be bound by the CRC.<sup>17</sup> The CRC makes clear that children are rights-holders and are owed particular protections by parents and caregivers, private and public authorities and decision-makers, and governments.<sup>18</sup>

In addition to the range of rights included in the CRC, the CRC has five guiding principles: the definition of the child;<sup>19</sup> non-discrimination;<sup>20</sup> best interests of the child;<sup>21</sup> right to life, survival and development;<sup>22</sup> and respect for the views of the child.<sup>23</sup> These principles guide how the rights of the child should be implemented in practice.

Although Australia is a States Party to the CRC, under Australian law, an international treaty such as the CRC is not a direct source of individual rights and obligations unless it is directly incorporated by legislation.

The CRC has not been directly incorporated into Australian law as a whole. However, the CRC is still an indirect source of rights in Australia, and certain provisions of the CRC are reflected in some Australian legislation at the Commonwealth and state levels.<sup>24</sup>

The CRC has three optional protocols: the Optional Protocol on the involvement of children in armed conflict;<sup>25</sup> the Optional Protocol on the sale of children, child prostitution and child pornography;<sup>26</sup> and the Optional Protocol on a communications procedure.<sup>27</sup>

The Committee on the Rights of the Child (the Committee) is the United Nations (UN) body monitoring the implementation of the CRC and its optional protocols. It issues reports on implementation of the CRC and optional protocols at country-level on a periodic basis. The Committee also issues general comment on particular rights and issues under the CRC, providing definitive guidance on CRC implementation.<sup>28</sup> Under the Optional Protocol on a communications procedure, the Committee can issue views on complaints by children of alleged violations of their rights (which have not been resolved through domestic complaints

mechanisms).<sup>29</sup> The Committee hosts an Annual Day of General Discussion on a specific child rights issue.

Other organs and procedures of the UN also have a mandate to focus on children in their work. Unicef is the main UN agency focusing on the protection and development of children worldwide. One UN Special Rapporteur exists with a mandate solely focusing on children: the UN Special Rapporteur on sale of children, child prostitution and child pornography. Two UN Special Representatives of the Secretary-General have a sole focus on children: the Special Representative for Children and Armed Conflict, and the Special Representative on Violence Against Children. The UN Human Rights Council holds an Annual Day on the Rights of the Child to discuss a specific child rights theme.

Children and their rights and well-being are central to the Sustainable Development Goals (SDGs) adopted by the United Nations General Assembly in *Transforming our World – the 2030 Agenda for Sustainable Development*.<sup>30</sup> Many of the 17 goals and 169 targets established in this global Agenda relate specifically to children, for example, SDG 16.2 on ending all forms of violence against children.<sup>31</sup>

In 2013 the Australian Government appointed its first National Commissioner for Children,<sup>32</sup> who has a mandate concerning children in Australia (those under the age of 18).<sup>33</sup>

Among their functions, the Commissioner is tasked with:

- promoting discussion and awareness of matters relating to the human rights of children in Australia;<sup>34</sup>
- undertaking research, educational or other programmes to promote respect for the human rights of children in Australia;<sup>35</sup> and
- examining Commonwealth legislation to ascertain if they are consistent with children's rights.<sup>36</sup>

In discharging their mandate, the Commissioner may give particular attention to children who are at risk or vulnerable and may consult with children.<sup>37</sup> In performing their functions, the Commissioner must have regard to the core international human rights treaties, including the CRC.<sup>38</sup>

# Key resources & references

## Key resources

United Nations Committee on the Rights of the Child, available at: <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>

United Nations Special Rapporteur on sale of children, child prostitution and child pornography, available at: <http://www.ohchr.org/EN/Issues/Children/Pages/ChildrenIndex.aspx>

United Nations Secretary General Special Representative on Children and Armed Conflict, available at: <https://childrenandarmedconflict.un.org/>

United Nations Secretary General Special Representative on Violence Against Children, available at: <http://srsg.violenceagainstchildren.org/>

World Vision International, *World Vision's Child Well-Being Reference Guide*, (n.d.), available at: <http://www.wvi.org/sites/default/files/ChildWell-beingReferenceGuide.pdf>

Secretariat of National Aboriginal and Islander Child Care (SNAICC), *Aboriginal and Torres Strait Islander Child Placement Principle Aims and Core Elements*, 2015, available at: <http://www.snaicc.org.au/wp-content/uploads/2015/12/03167.pdf>

## References

<sup>1</sup> This position has considered and incorporated World Vision International's public policy positions contained in: World Vision International, *Here We Stand: World Vision and Child Rights* (2nd. ed.) 2012, p. 1, available at: [http://www.wvi.org/sites/default/files/Here\\_We\\_Stand.pdf](http://www.wvi.org/sites/default/files/Here_We_Stand.pdf); and World Vision International, *Child and Youth Participation Strategic Direction FY2015-FY2020*, 2015, p.5 available here: [http://www.wvi.org/sites/default/files/Strategic%20Direction%20Child%20and%20Youth%20Participation%202015-2020%20World%20Vision\\_1.pdf](http://www.wvi.org/sites/default/files/Strategic%20Direction%20Child%20and%20Youth%20Participation%202015-2020%20World%20Vision_1.pdf)

<sup>2</sup> World Vision International, *Public Policy Positions: A Guide for Staff*, 2013, p. 5. Including, e.g., Art. 3(d), Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, adopted and opened for signature, ratification and accession by General Assembly resolution 55/25 of 15 November 2000; and Art. 2, Worst Forms of Child Labour Convention, 1999 (No. 182).

<sup>3</sup> Article 5, United Nations Convention of the Rights of the Child, 1989.

<sup>4</sup> Article 25(2), Universal Declaration of Human Rights, A/RES/3/217 A (III), 1948.

<sup>5</sup> Article 12, United Nations Convention of the Rights of the Child, 1989. Also see World Vision Australia Policy Position on child participation.

<sup>6</sup> Committee on the Rights of the Child, General Comment No. 7, Implementing child rights in early childhood, CRC/C/GC/7/Rev.1, 2005, [4].

<sup>7</sup> As discussed in Committee on the Rights of the Child, General Comment No. 4, Adolescent health and development in the context of the Convention on the Rights of the Child, CRC/C/GC/2003/4, 2003. N.B., the Committee on the Rights of the Child is currently elaborating a General Comment on realising the rights of children during adolescence. The current draft is available at: [http://www.ohchr.org/Documents/HRBodies/CRC/GC\\_adolescents.doc](http://www.ohchr.org/Documents/HRBodies/CRC/GC_adolescents.doc)

- <sup>8</sup> World Vision Australia, *Annual Report 2015*, 2015, p.21, available at: <https://www.worldvision.com.au/docs/default-source/annual-reports/wv-annual-reports/annual-report-2015-v2.pdf?sfvrsn=2>
- <sup>9</sup> E.g., see: World Vision International, *Bringing Hope to Forgotten Faces: 2015 Syria Crisis Response Report*, 2016, available at: <http://www.wvi.org/sites/default/files/2015%20Syria%20Response%20report%20-%20Bringing%20Hope%20to%20Forgotten%20Faces.pdf>; World Vision South Sudan, *South Sudan Annual Report 2015*, 2015 available at: <http://www.wvi.org/sites/default/files/South%20Sudan%20Annual%20Report%202015%20re-done.pdf>; World Vision Pacific Timor Leste, *Child Well-Being Annual Report FY15*, 2015, ..\..\..\Child Rights Policy Work\EVAC Research materials 2016\Pacific Timor Leste resources\CWB Report FY15\_FINAL\_Submitted.pdf (internal World Vision Australia access only)
- <sup>10</sup> World Vision Australia Policy Position on the Most Vulnerable Children, 2017.
- <sup>11</sup> World Vision Australia, *Walk With Us 2016-2018*, 2016, available at <https://www.worldvision.com.au/docs/default-source/default-document-library/australia-program-prospectus-2016-18.pdf?sfvrsn=2>
- <sup>12</sup> United Nations Convention on the Rights of the Child, 1989, available at: [www.ohchr.org/en/professionalinterest/pages/crc.aspx](http://www.ohchr.org/en/professionalinterest/pages/crc.aspx)
- <sup>13</sup> Article 1, United Nations Convention on the Rights of the Child, 1989.
- <sup>14</sup> UNICEF, *State of the World's Children 2015: Executive Summary*, 2014, p. 1, available at: [http://www.unicef.org/publications/files/SOWC\\_2015\\_Summary\\_and\\_Tables.pdf](http://www.unicef.org/publications/files/SOWC_2015_Summary_and_Tables.pdf)
- <sup>15</sup> See World Vision Australia Policy Position on Young people and their role as change makers in ending poverty and building peace, 2017.
- <sup>16</sup> For further information, see World Vision Australia Policy Position on Young people and their role as change makers in ending poverty and building peace, 2017.
- <sup>17</sup> See, United Nations, *Status of Treaties*, 2015, available at [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-11&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&clang=_en). The United States signed the United Nations Convention on the Rights of the Child in 1995; this does not create any binding obligations on the United States but only signals the United States' willingness to continue to become bound by the CRC in future (however, to date, no practical steps have been taken towards this). UNICEF addresses some of the reasons why the United States has not ratified the United Nations Convention on the Rights of the Child, available at: [http://www.unicef.org/crc/index\\_30229.html](http://www.unicef.org/crc/index_30229.html) World Vision United States supports World Vision International's position on the United Nations Convention on the Rights of the Child.
- <sup>18</sup> Article 3(1), United Nations Convention on the Rights of the Child, 1989; Article 18(1), United Nations Convention on the Rights of the Child, 1989.
- <sup>19</sup> Article 1, United Nations Convention on the Rights of the Child, 1989.
- <sup>20</sup> Article 3, United Nations Convention on the Rights of the Child, 1989.
- <sup>21</sup> Article 3(1), United Nations Convention on the Rights of the Child, 1989.
- <sup>22</sup> Article 6, United Nations Convention on the Rights of the Child, 1989.
- <sup>23</sup> Article 12, United Nations Convention on the Rights of the Child, 1989.
- <sup>24</sup> For further discussion, see: Australian Human Rights Commission, *A Last Resort? National Inquiry Into Children in Immigration Detention*, 2004, at [4.2], available at:



<https://www.humanrights.gov.au/publications/last-resort-national-inquiry-children-immigration-detention/4-australias-human-rights>

<sup>25</sup>Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, A/RES/54/263, 2000.

<sup>26</sup>Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, A/RES/54/263, 2000.

<sup>27</sup>Optional Protocol to the Convention on the Rights of the Child on a communications procedure, A/RES/66/138, 2011.

<sup>28</sup> General Comments are available at:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11)

<sup>29</sup> Article 10(5), Optional Protocol to the Convention on the Rights of the Child on a communications procedure, A/RES/66/138, 2011.

<sup>30</sup>General Assembly Resolution 70/1 (2015) (Transforming our world: the 2030 Agenda for Sustainable Development), A/RES/70/1.

<sup>31</sup>Sustainable Development Goals 16.2: End abuse, exploitation, trafficking, and all forms of violence and torture against children.

<sup>32</sup> See: <https://www.humanrights.gov.au/about/commissioners/ms-megan-mitchell-national-childrens-commissioner>

<sup>33</sup> Section 3, Australian Human Rights Commission Act 1986 (Cth).

<sup>34</sup> Section 46MB(1)(b), Australian Human Rights Commission Act 1986 (Cth).

<sup>35</sup> Section 46MB(1)(c), Australian Human Rights Commission Act 1986 (Cth).

<sup>36</sup> Section 46MB(1)(d), Australian Human Rights Commission Act 1986 (Cth).

<sup>37</sup> Section 46MB(4), Australian Human Rights Commission Act 1986 (Cth).

<sup>38</sup> Section 46MB(6), Australian Human Rights Commission Act 1986 (Cth).