

THE LOST CHILDREN

WHY THE UNITED NATIONS IS WRONG ABOUT AUSTRALIAN CHILD PROTECTION

An entrenched policy mindset continues to put family preservation above child safety, argues **Kara Thomas**

An escalating child welfare crisis

Every five years Australia is required to report to the United Nation's Committee on the Convention on the Rights of the Child. The 2016 Australian Child Rights Progress Report (the CRC report), prepared by the Australian Child Rights Taskforce, drew attention to the experiences of Australia's most vulnerable children—those who are 'known' to child protection services due to parental abuse and neglect—with the aim of holding the Australian government to account on its commitment to the Convention.¹

The purpose of the Convention, in the words of the CRC report, is to 'build a better world for children'. The report 'calls on governments to take responsibility for children by addressing specific aspects of child wellbeing and development—such as health, education, protection and participation.'²

Despite some 39 federal and state government inquiries, reviews and royal commissions into child safety over the past decade,³ the CRC report reveals that maltreatment tragically remains a very real part of childhood for an increasing number of young Australians.⁴ This is clearly shown by the publicly available child protection data. For example, according to the Australian Institute of Health and Welfare (AIHW), the proportion of Australian children who need to be removed from the custody of their parents and require placement in government-funded foster or other forms of 'out-of-home' care has increased from 4.6 per 1000 children in 2005⁵ to 8.1 per 1000 children in 2015.⁶

The CRC report rightly observes that escalating levels of child maltreatment constitute a fundamental breach of children's human rights. Article 19 of the Convention requires governments to ensure that

children are properly cared for and protected from abuse and neglect. The report also notes that since the federal parliament ratified the Convention in 1990, there has been a dramatic increase in notifications of child abuse and neglect nationally, to the extent that state and territory child protection systems cannot sustain the current demand for investigation and removal in cases of child maltreatment.⁷

And yet the approach taken in the CRC report by the Australian Child Rights Taskforce—which is a self-appointed peak body for the promotion of child rights in Australia; which consists of 100 member organisations spanning advocacy, law and social services; and which is co-convened by UNICEF Australia—is flawed. The report's major recommendations will not ensure that Australian governments secure children's human right to be protected from maltreatment.

Doubling down on failure

In the period since at least the ratification of the Convention, child safety policy and practice in all Australian jurisdictions have been underpinned by the principle of family preservation. Targeted prevention, early intervention and family support services are employed in response to reported concerns about child welfare with the aim of keeping children safe at home—at



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almost all costs. According to the AIHW, removal of children from their families is a ‘last resort’, employed only in cases of ‘significant harm’ in order to keep children with families wherever possible.⁸

A wealth of evidence indicates that the family preservation-based approach to child safety is the root cause of systemic problems plaguing child protection services nationally. High levels of re-reports, multiple substantiations, multiple reunification attempts, instability in care and, consequentially, high levels of intergenerational dysfunction experienced by children unlucky enough to be caught up in the system, suggest the tragic outcome for many children is permanent developmental damage and poor lifelong wellbeing.⁹

The consequences of child protection failures include the perpetuation of intergenerational social problems such as substance abuse, mental illness, homelessness, poverty, child maltreatment and family violence.¹⁰ Consistent with the recent national focus on the issue of family violence, the 2016 CRC report drew attention to the importance of preventing and protecting Australian children from violence. The report outlined how children who experience or witness violence risk suffering harm to their development with far-reaching social and economic costs: the single biggest risk factor and predictor of children becoming either perpetrators or victims of family violence in adulthood is whether children grow up in a violent home.¹¹

The pervasive and long-term impacts of childhood maltreatment at home and instability in care were identified by the CRC report.¹² The effect of adverse childhood experiences on children’s educational and life opportunities was also repeatedly highlighted as breaching Australia’s child rights obligations. The report contends that the plethora of recent child protection inquiries highlights government failure to ensure early intervention measures to address the causal factors of maltreatment of children.¹³ It therefore asserts higher funding is required for targeted prevention, early intervention and family support services to strengthen and support families with multiple complex issues such as drug and alcohol abuse, mental health problems, poverty and domestic violence, so that they can keep their children safely at home.¹⁴

In essence, the Australian Child Rights Taskforce has advised the UN that Australian governments should increase funding for early intervention and family support services despite the way the misguided application of the family preservation principle is damaging—often irreparably—thousands of Australian children.¹⁵ If the key recommendations in the Taskforce’s report are flawed, then the imprimatur of the UN is being misused to promote an agenda that will not advance the rights of the child in Australia.

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Rather than continuing to focus on family preservation as the primary goal of the child protection system, the rights of children to have safe homes, good parenting and proper educations would be advanced by greatly expanding the use of ‘open’ adoption whereby birth parents and adoptive families have access to each other’s personal information and the option of contact. Adoption—which is rarely used in Australia to give removed children permanent homes—would provide abused and neglected children, who cannot be reunified with their parents within child-appropriate timelines, with the stable, loving families that all children need to thrive.¹⁶

The Convention recognises that the family is the foundation for children’s full and harmonious development. Timely open adoption, which ensures children have knowledge of and ongoing contact with their birth family where it is safe to do so, would enable Australian governments to fulfil their Convention obligations in the best interests of children.¹⁷

The personal, social and economic impacts of childhood trauma and instability

‘If you want to wreck a human being you do so in the first few years of life.’—
Professor Brett McDermott, Director of the Mater Adolescent and Young Adult Centre at Mater Health Service.¹⁸

A large body of research on child welfare and development conclusively demonstrates that chronic early abuse and neglect by parents have a detrimental impact on children's overall long-term wellbeing, which are extremely costly to the individual, their community and the economy.¹⁹ This is because chronic child maltreatment—also referred to as toxic stress or cumulative harm—during crucial periods of brain development in the first three years of life interrupts normal brain development leading to lifelong, permanent and irreversible impairments in learning, behaviour, physical and mental health.²⁰

Stable attachment relationships are also crucial for positive pro-social development. Children who are denied relationships with an attentive and nurturing primary caregiver are also likely to have abnormal developmental processes and altered brain function, severely impairing the child's capacity to interact with others and form healthy relationships throughout life.²¹

These research findings are especially important because the 2014-15 Australian data demonstrates that children are being admitted to care at younger ages for longer periods of time, with infants (children aged under one) most likely to be receiving child protection services. Almost half (47%) of children admitted to care in 2014–15 were aged between nought and four years of age.²²

A poor start to life also means that interventions in later life are less likely to be effective.²³ The CRC report suggested that Australian governments need to do more to increase access to quality early childhood education so that under-privileged children are ready to start school and do not fall further behind. It is common sense that acquiring a good education has significant economic, social and civil benefits for individuals, families and communities. Unfortunately, children who experience early trauma suffer developmental impairments in both learning and behaviour that inhibit their educational potential. Therefore, unless children are protected from harm, they will lack the developmental processes and brain architecture to take advantage of educational opportunities. The right to education hinges on the right to be free from child maltreatment.

Bad childhood experiences have multiple long-run adverse consequences. The CRC report pointed to the extraordinarily high number of care leavers transitioning into poverty and homelessness. Appallingly, two-thirds of homeless youth in Australia are found to have been in some form of out-of-home care; instability in care was singled out as the major contributor to these poor outcomes for young people.²⁴ Similarly, the awful reality that Indigenous children are twice as likely to be developmentally vulnerable compared to non-Indigenous children was rightly linked by the CRC report to the equally awful over-representation of Indigenous children in the youth criminal justice system.²⁵

The report acknowledged the growing understanding of the role that childhood trauma plays in mental and physical health issues for children. Not surprisingly, the report found that children in out-of-home care have higher rates of poor physical and mental health outcomes, with inequities not resolved on entering care, and often being further compounded by frequent placements due to instability when in care.²⁶ The landmark 1998 study, *The Adverse Childhood Experiences (ACE) Study*, has established a strong relationship between exposure to childhood abuse and household dysfunction and many of the leading causes of death in adults.²⁷

This is all to say that the Australian Child Rights Taskforce is correct that the impacts of trauma and instability in care are pervasive, affecting the ability of governments to reduce rates of poverty, homelessness and Indigenous disadvantage and to improve educational achievements, mental and physical health outcomes. The chronic maltreatment many Australian children experience shapes the adults they become, impairing their capacity to live positive, fulfilling and purposeful lives, which in turn leads to intergenerational disadvantage.²⁸

Does evidence support a continued focus on 'early intervention'?

The CRC report states that there is insufficient data on the impacts or lasting effectiveness of early interventions and support services in changing entrenched patterns of parental maltreatment of

children.²⁹ This is a disturbing finding, to say the least. Nevertheless, the report recommends even greater expenditure on family preservation to address the increasing rates of abuse and neglect of children and instability in care.³⁰ The belief that more early intervention and support services will protect children runs counter to what is actually known about the way the system works—or rather doesn't work—to properly protect children.

The 2012 Cummins inquiry, *Protecting Victoria's Vulnerable Children*, examined the impact of a ten-year 're-structure' of child protection services that substantially increased government funding for family support services. The Cummins report found no evidence that the increased spending had protected children, reduced the incidence of abuse and neglect or decreased the pressure on the Victorian Child Protection Service. To the contrary, the Victorian system was plagued by significant numbers of re-reports of children with unresolved child welfare concerns and multiple substantiations of abuse and neglect.³¹

What happens—not only in Victoria but nationwide—is that parents with multiple complex issues are given extensive support and almost limitless opportunities to change, which leads to multiple re-notifications and re-substantiations. If family support services ultimately fail to resolve safety concerns, then children finally enter the care system. Extensive intervention services continue to be provided to parents in order to address their multiple complex issues, with the aim to pursue family reunification at all costs.³² However, evidence suggests that the typical mix of complex parental issues is difficult to resolve and highly susceptible to relapse.³³ Foster care is often unstable, with many children experiencing multiple placements and reunification attempts, further compounding harm.³⁴

Family preservation-based policies place the rehabilitation of the parents above the safety of the child. In practice and effect, these policies have minimised the significance of children's traumatic experience at the expense of failing to protect their human rights.³⁵ Article 6 of the Convention says children have the right to live a full life and governments should ensure that children survive and develop healthily. The CRC report is right to

say that the Australian child protection system has consistently breached children's human rights. But it is wrong to say that the causal factors are poverty, social inequality and a societal failure to respond to parental mental health, substance abuse and domestic violence issues.³⁶

In reality, the breach of children's rights has been caused by the family preservation policies the CRC report not only endorses but also demands that Australian governments continue to practise. The delay in intervening to protect children, followed by a delay in achieving stability in care, is causing permanent damage to children's brains and development, and having severe and long-term consequences for all aspects of their future learning, behaviour and health with far-reaching social and economic costs.³⁷

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Conclusion: timely permanency through open adoption

Perplexingly, the CRC report has continued to repeat the same mantras that 39 other inquiries have advocated about the need for more family preservation.³⁸ The evidence, however, resoundingly contradicts this view. Research has clearly demonstrated the pervasive developmental damage chronic child maltreatment has on children's life outcomes. The evidence also suggests that family preservation is damaging children by allowing children to be harmed at home and by instability in care.

Early removal of vulnerable children is essential to prevent physical and mental harm due to chronic neglect and trauma, especially considering infants are most likely to be receiving child protection services. Where it is not possible to reunify within child-centred time limits (within one year for children aged nought to two, and within two years for children older than two), the provision of safe and stable homes—preferably through open adoption—can prevent and perhaps reverse the damaging effects of early toxic stress.³⁹

Future policy needs to reflect what is known about how the current system fails children. Timely decisions about removal and permanent placement for children, especially infants, after a child first comes to the attention of authorities, is crucial for child welfare and development.⁴⁰ Permanent placement decisions are aimed at promoting stability and can be achieved through open adoption.

Adoption gives children whose parents are unable or unwilling to care for them the loving family environment required for healthy child development. Greater use of adoption to give children permanent homes will reduce the pressure on child protection systems and meaningfully address the problem of intergenerational disadvantage.

Timely permanency of care through open adoption is the answer to our child protection crisis. Safe and stable family environments will make the national aspiration to protect children's human rights and reduce the prevalence of violence and other maltreatment experienced within the family, a reality.

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