



General Comment on Equality and Non-discrimination (Article 5)

14 November 2017

United Nations Committee on the Rights of
Persons with Disabilities

About Queensland Advocacy Incorporated

1. Queensland Advocacy Incorporated (QAI) is an independent, community-based systems and individual advocacy organisation and a community legal service for people with disability. Our mission is to promote, protect and defend, through systems and individual advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.
2. QAI has an exemplary track record of effective systems advocacy, with thirty years' experience advocating for systems change, through campaigns directed to attitudinal, law and policy reform and by supporting the development of a range of advocacy initiatives in this state. We have provided, for almost a decade, highly in-demand individual advocacy through our individual advocacy services – the Human Rights Legal Service, the Mental Health Legal Service, the Justice Support Program and the NDIS Appeals Support Program. Our expertise in providing legal and advocacy services and support for individuals within these programs, particularly through our Human Rights Legal Service and our systemic advocacy around issues of guardianship and administration, has provided us with a wealth of knowledge and understanding about relevant issues in this area.
3. QAI deems that all humans are equally important, unique and of intrinsic value and that all people should be seen and valued, first and foremost, as a whole person. Further, QAI believes that all communities should embrace difference and diversity, rather than aspiring to an ideal of uniformity of appearance and behaviour. Central to this, and consistent with our core values and beliefs, QAI will not perpetuate use of language that stereotypes or makes projections based on a particular feature or attribute of a person or detracts from the worth and status of a person with disability. We consider that the use of appropriate language and discourse is fundamental to protecting the rights and dignity, and elevating the status, of people with disability.
4. QAI has contributed to the review of Article 19 of the Convention on the Rights of Persons with Disabilities (CRPD) (living independently and being included in the community) and, as part of the Disability Rights Sub-Committee of Australian Lawyers for Human Rights, to the Draft General Comment on Article 24 of the CRPD (the right to inclusive education).
5. QAI thanks the United Nations for the opportunity to provide feedback on the draft general comment. We congratulate the UN on this document – the draft general comment provides a detailed insightful and appropriate perspective on the nature and meaning of equality and discrimination, in a way that contributes to theoretical understanding and offers relevant and timely practical guidance for member states as regards compliance with their obligations under Article 5 of the CRPD.

I: Introduction

6. QAI agrees that there are significant implementation gaps with regard to article 5 of the Convention on the Rights of Persons with Disabilities, including in Australia. We are concerned but unsurprised by the Committee's findings that disability-based discrimination with detrimental consequences persists. The Australian Human Rights Commission has reported that discrimination on the grounds of disability is the most frequent concern for people who enquire about their human rights or who lodge complaints about breaches of those rights,¹ and this has been the case for the past 20

¹ Australian Human Rights Commission. 2017. 2016-17 complaints data and 2016-17 Annual Report (tabled in Parliament on 19 October 2017).

years. Australia is ranked 27th out of 27 OECD countries when it comes to relative poverty risk for people with a disability and ranks 21st out of 29 OECD nations for employment rates for people with a disability.²

7. QAI is aware, both from our individual and systemic advocacy, that the examples documented in the draft General Comment of the types of discrimination against people with disability all occur in Australia. We agree that this treatment is not consistent with the human rights model of disability but is instead wrongly justified on the basis of 'protection', 'beneficial treatment'/'behaviour support' or 'best interests' of the person with disability.
8. QAI agrees that laws, policies, media and practices based on charitable or medical paradigms of disability significantly contribute to the perpetuation of disability-based discrimination and are inconsistent with the terms or spirit of the CRPD. Importantly, we note that Australia has yet to embrace a supported decision-making approach and that laws, policies and practices remain situated within a substituted decision-making, best-interests paradigm. We agree that there has been insufficient work on dismantling negative stereotypes and assumptions about people with disability.
9. QAI considered that the development of the National Disability Strategy (NDS) represented an important opportunity for Australia to foster a fresh national response to people with disability that consistent with the CRPD. The NDS sets out a 10 year national policy framework aimed at improving life for all people with disability and their families. The NDS is the culmination of commitment by all levels of government, industry and the community to a unified national approach to policy and program development in Australia and was developed following consultation in 2008-9 by the National People with Disabilities and Carer Council. Marketed as a means by which Australia would become an inclusive, enabling and equal environment for those with and without disabilities, the NDS is underpinned by and was designed to complement the commitments Australia made by signing and ratifying the Convention on the Rights of Persons with Disabilities (CRPD). Yet we are now well past the half-way point in the life of the NDS. The indicators of progress are not encouraging and suggest there has not been a consistent commitment to faithful implementation of the intent of the NDS.
10. The lack of comprehensive legislative protection of basic human rights is also problematic. Australia stands alone among Western industrialised market economies in our lack of legal protection of equality – the absence of an act or charter dedicated to protecting human rights. While there have been assertions by the Australian judiciary of the primacy of such human rights as freedom, dignity and equality,³ there is no blanket implication of equality as an individual right or fetter on governmental power.⁴ Rather, protection of equality falls to the patchy and incomplete bundle of laws that have been enacted. Notwithstanding strong successive community campaigns for the introduction of a Human Rights Act, the Australian government has failed to act in this regard, as have the majority of the states and territories (only Victoria and the Australian Capital Territory have enacted human rights acts or charters to date).
11. The anti-discrimination laws in Australia, at both a federal and a state and territory level, are weak and ineffective. The anti-discrimination framework is comprised of parallel anti-discrimination legislation at both a state and federal level, between which there is

² Price Waterhouse Coopers. 2011. *Disability expectations: Investing in a better life, a stronger Australia*.

³ *Gerhardy v Brown* (1985) 159 CLR 70, 101-2 and 125-6; *Mabo v The State of Queensland (No 1)* (1988) 166 CLR 186, 229.

⁴ *Leeth v The Commonwealth* (1992) 174 CLR 455; *Krugerv The Commonwealth* (1997) 190 CLR 1; Rosemary Owens, Joellen Riley and Jill Murray, *The Law of Work*. 2nd edition (Oxford University Press, 2011), 395.

presently, unfortunately, a significant degree of inconsistency.⁵ Even within the same regulatory level, there are significant gaps and inconsistencies. The patchwork enforcement framework for Commonwealth anti-discrimination laws was recently reviewed, with the Federal government considering a proposal to, among other things, consolidate the disparate anti-discrimination laws⁶ by amalgamating the five existing anti-discrimination acts into a single comprehensive statute, making the laws clearer and more effective and streamlining the complaints procedures. The review, initiated in 2009, was stalled for a number of years at the draft discussion stage, being put on hold by the federal Government on the basis that the draft laws failed to strike the desired balance.⁷

12. The laws do explicitly recognise disability as a prohibited ground of discrimination in spheres including work, education, accommodation and the provision of goods and services. Yet the anti-discrimination framework is significantly limited in terms of its scope, standing and remedies. Key failings include:
 - a) A predominantly individualist approach is taken to a systemic problem;
 - b) an inappropriate test (the comparator test) is used to identify discriminatory action;
 - c) the model aspires to achieve formal, rather than substantive, equality;
 - d) there is a focus on negative, rather than positive or affirmative, action;
 - e) the lack of effective sanctions or remedies; and
 - f) the exceptions, exclusions and exemptions narrow the scope of the laws.
13. QAI agrees that public authorities all too frequently acquiesce in disability-based differential treatment of persons with disabilities, and that this can have humiliating and negative consequences for people with disabilities. QAI holds significant concerns that government-sanctioned practices, when carried out consistently with the requirements established by relevant legislation, can have significant, adverse effects on people with disability, including violence, abuse and neglect, indefinite detention and the application of Restrictive Practices including seclusion and restraint.

II: Equality and non-discrimination for persons with disabilities in international law

14. QAI considers it appropriate to note the important differences between concepts of equality and equity. While equality involves treating all people equally, equity strives for fairness by treating 'unequals unequally' – that is, acknowledging that people are not all on a level playing field and attempting to reduce the differences in opportunity that exist. 'Equity' has a more far-reaching impact upon vulnerable people – particularly people with disability – as it creates scaffolding supports to assist in translating rights, such as the right to inclusive education, into practice. While equality would simply mean provision of equal support to all students, equity enables the particular support needs of students with disabilities to be addressed, so that they may participate and excel and have the same range of opportunities as their peers. QAI therefore proposes that the language of equity

⁵See for example: *Viskauskas v Niland* (1983) 153 CLR 280 and *Ansett Transport Industries (Operations) Pty Ltd v Wardley* (1980) 142 CLR 237.

⁶This was proposed in April 2010 as a key part of the Australian Human Rights Framework. In September 2011, a Consolidation Discussion Paper was released to initiate the formal process for consultation and law reform: see <http://www.ag.gov.au/antidiscrimination>; Attorney-General's Department, *Consolidation of Commonwealth Anti-Discrimination Laws: Discussion Paper*, September 2011 (Commonwealth of Australia). At present, there are no clear indications of the likely changes that will result from the review.

⁷See: <http://www.ag.gov.au/Consultations/Pages/ConsolidationofCommonwealthanti-discriminationlaws.aspx> for more information.

should be adopted as the core focus, particularly in any discussion of human rights for vulnerable people.

15. QAI agrees that the right to equality and non-discriminatory treatment are proclaimed by a number of core human rights treaties, including general human rights conventions (the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights) and thematic human rights conventions – in this regard we note Article 5 of the CRPD, Article 2 of the Convention on the Rights of the Child, Article 2 of the Convention on the Elimination of all Forms of Discrimination Against Women and Article 5 of the Convention on the Elimination of Racial Discrimination. The mutual recognition of these core human rights across a diversity of important human rights instruments demonstrates the fundamental importance of these human rights, as recognised by a large sector of the international community (including Australia). This provides a compelling argument for the formal adoption of these core human rights in Australian law, in a way that is binding on all actors at both a state and federal level.
16. QAI recognises and supports the primacy of dignity to the CRPD and commends the drafters of the CRPD for placing the dignity and equal worth of people with disability, along with principles of equality and non-discrimination, at the heart of the convention. QAI recognises the many forms that denials of dignity, integrity and equality to people with disabilities can take. We are cognisant, both from our individual legal advocacy work and our systemic work for people with disability, that brutal practices including forced sterilisation, involuntary medical treatment, denial of basic human rights such as the right to liberty and freedom from torture, cruel and inhuman treatment and punishment, continue across many areas. We endorse the findings of the Office of the High Commissioner on Human Rights set out in para [8] and note that these findings resonate with Australian law, policy and practice in their perpetuation of exclusion, isolation, discrimination and violence against persons with disabilities, notwithstanding international human rights law standards. We agree that these practices stem from deprivation of legal capacity, forced institutionalisation, exclusion from general education, pervasive negative stereotypes, prejudices and lack of access to employment, as well as from disregard and disrespect for preferred alternative means of communication. We further concur that some people are particularly vulnerable as they face multiple vulnerabilities, including women and girls with disabilities.
17. To the exclusionary factors identified in the draft General Comment, QAI suggests the addition of exclusion from the community [8].

III: The history of Art 5 and Art 2 of the CRPD and the human rights model of disability

18. QAI agrees that the medical, charitable and welfare models of disability have been substantive barriers to the application of the equality principle for people with disabilities [9; 10; 11].
19. QAI agrees that affirmative action is necessary and notes that in Australia, there is a lack of relevant positive initiatives, such as workplace quotas for the employment of people with disability or school-based quotas for the educational outcomes for students with disability, particularly those who required adapted but not alternative curriculum [10].

IV: Legal character and non-discrimination and equality

20. QAI agrees that non-discrimination and equality are both a principle and a right. We also agree that non-discrimination must be subjective to immediate, rather than progressive,

realisation [13]. As discussed further in this submission, Australia has significant work to do in this regard.

V: Normative content

Article 5(1): Being equal before and under the law

21. QAI endorses the approach taken to the construction of the terms 'being equal before the law' and 'being equal under the law' [17].

Article 5(1): Equal protection and equal benefit of the law

22. QAI agrees that equality before the law demands more than formal equality and requires positive action. There is insufficient positive action and initiatives mandating equitable treatment of people with disabilities in Australia. The Australian experience supports the conclusion that reasonable accommodation can function as a means of providing support, on a case-by-case basis, where systemic measures have not been developed [18].

Article 5(2): Prohibition of discrimination and equal and effective legal protection

23. QAI submits that, given that discriminatory practices, by their very definition, only affect persons because of their membership of a particular class or group, a key requirement of any anti-discrimination system should be that claims are understood in a collective light. While the ability to lodge an individual complaint is central to protecting individual rights to equality and non-discriminatory treatment, it is also important that the collective vulnerability of certain groups in our society is properly understood. In other jurisdictions, class action has proved a vital means of challenging embedded or institutional discrimination, however in Australian jurisdictions the sole collective right contained in the legislation (the right to make a representative complaint) is not designed in a user-friendly way and so is not utilised [20]. Further, there are measures that actually impede collective action for people with disabilities in this realm.

24. The Australian legislative regime, at both state/territory and federal levels, is deficient in its lack of positive measures to protect persons with disabilities against discrimination [23].

25. There has been some progress in Australia, at a federal level, in terms of the amount of damages awarded for breaches of the anti-discrimination legislation. Yet a landmark decision of the Full Federal Court which set a new benchmark for compensation awarded to victims of sexual harassment in the workplace⁸ has not led to any significant, routine, increase in the amount of damages awarded to successful complainants.⁹

26. QAI is also concerned that the Australian government misuses the power to seek exemption applications under s 55 of the Disability Discrimination Act 1992 (Cth). In particular, we are concerned that exemption applications are sought and granted in inappropriate circumstances: such as to render lawful, for a period of up to five years, public transport services that are not compliant with the relevant standards; and the application of the Business Services Wage Assessment Tool (BSWAT) by Australian Disability Enterprises (ADEs). In these circumstances, there would be significant value in denying governments any exemptions and instead requiring the government to comply with the anti-discriminatory legislation, particularly in circumstances where action has been taken with full awareness of the legal requirements as to equality and non-discrimination.

⁸ *Richardson v Oracle Corporation Australia Pty Ltd* [2014] FCAFC 82.

⁹ *Green v State of Queensland* [2017] QCAT 008.

Article 5(3): Reasonable accommodation

27. QAI is concerned that in Australia, denials of reasonable accommodation are frequently justified on the basis of discriminatory, negative stereotypes about people with disability [28]. The commonly utilised defence of ‘unjustifiable hardship’ is, by its very nature, demeaning and illustrates negative stereotypes. Where this has been the outcome of legal challenges that have denied such accommodations, the interpretation of ‘justifiable hardship’ has in many cases been incredibly minor and rarely been exorbitant hardships of any type. We are directly and anecdotally aware of many instances where people with disability are denied reasonable accommodation in the workplace and this contributes, in our view, to the inappropriately low rates of employment of people with disability in the Australian workforce. We are also aware of many instances where children with disability are denied reasonable accommodation in schools. This is inappropriate and based on damaging and inaccurate stereotypes and the decisions to deny reasonable accommodation are made notwithstanding evidence of the value of inclusivity for all students with and without disability.

Article 5(4): Specific measures

28. QAI agrees that specific measures must be consistent with all principles and provisions of the CRPD [31]. We emphasise that such measures must be developed in direct consultation with people with disability, so that the value of any measures is directly assessed by those who may access the measure, rather than by others making this value judgment on their behalf.

29. We agree with the recognised need for careful monitoring and evaluation of specific measures [31].

VI: General obligations of states parties under the CRPD relating to non-discrimination and equality

30. It should read “In particular, ...” [32, line 3].

31. In Queensland, a recent review of the guardianship and administration and related legislation, which had progressed to the stage of consultation on a draft bill, exemplifies the need for greater compliance by the Queensland government with the obligation to respect, protect and fulfil the right of all persons with disabilities to non-discrimination and equality.¹⁰ In certain key aspects, the legislative regulation of guardianship laws fails to accord equality to all people with disabilities. This is also the case with aspects of the mental health legislation in Queensland, notwithstanding recent improvements¹¹ [32].

32. The Australian anti-discrimination legislation is not sufficiently comprehensive and specific. While it offers some protection in the realms of education, employment and the provision of goods and services, it fails to cover social protection [33].

33. As noted above [see paras 10-11], there is a need for significant improvement to the Australian anti-discrimination legislative framework, at both state and federal level. While Australia is compliant with Article 5 of the CRPD insofar as there is a system of entities to guard and protect the rights of persons with disabilities to non-discrimination and equality, their independence and power is frequently challenged by the Australian government. The Australian Human Rights Commission and its President have been subjected to harsh, public attacks in circumstances where action has been taken that is not consistent

¹⁰ *Guardianship and Administration and Other Legislation Amendment Bill 2017* (Qld).

¹¹ *Mental Health Act 2016* (Qld).

with the political motives of the Government of the day.¹² The Commission has also been subject to funding cuts that significantly limit its availability and accessibility.¹³

34. The Australian judiciary has not embraced the concepts of equality and reasonable accommodation. Indeed, the Australian High Court recently denied a deaf person the right to participate as a member of a jury¹⁴ [34].
35. QAI agrees that DPOs have a decisive role to play in the implementation and monitoring of the CPRD. We are significantly concerned that in the current climate, where funding for advocacy, particularly systems advocacy, is increasingly threatened and restricted, the ability for DPOs to perform this work is challenged. The recent move to merge and unify different disability organisations is not, in our opinion, a positive initiative, as it limits the scope and diversity and the degree of specific expert knowledge [38].
36. QAI agrees there is a need for appropriate research on disability discrimination and equality rights for persons with disabilities that embeds persons with disabilities throughout the entirety of the process and centres around their lived experiences [40].

VII: Relationship with other specific articles of the CRPD

Article 6: Women with disabilities

37. QAI agrees that women with disabilities are among those who are most vulnerable to experiencing multiple and intersectional discrimination and that Article 6 should be regarded as illustrative, rather than exhaustive [41].

Article 7: Children with disabilities

38. QAI agrees that children with disabilities are also vulnerable to multiple and intersectional discrimination and that their experience of discrimination and harmful treatment is exacerbated by virtue of their age [42].
39. Within the Australian education system, children with disabilities are frequently denied the rights to equality and non-discrimination and are subjected to inhuman and degrading treatment and punishment, including the application of restrictive practices such as seclusion and restraint in circumstances where these practices are not monitored or documented. This sub-optimal experience within the educational system leads to further discrimination and exclusion in later life [43].

Article 8: Awareness raising

40. A full stop should be inserted after “stereotypes” [44, line 5].
41. QAI strongly endorses the findings of the Committee of the need for adequate awareness raising measures and measures to change or abolish compounded pejorative disability stereotypes. We also concur with the need to address discriminatory portrayals of

¹² See for example “Gillian Triggs says 'highly personal' attacks aimed at derailing Human Rights Commission”, <http://www.abc.net.au/news/2017-07-24/gillian-triggs-says-human-rights-debate-derailed-by-attacks/8737548>; “Lauded and vilified: Gillian Triggs, Australian Human Rights Commission president”, <http://www.smh.com.au/federal-politics/political-news/lauded-and-vilified-gillian-triggs-australian-human-rights-commission-president-20170616-gwsk3b.html>; “Academics and law bodies warn attack on Gillian Triggs threatens democracy”, <https://www.theguardian.com/australia-news/2015/feb/15/academics-and-law-bodies-warn-attack-on-gillian-triggs-threatens-democracy>.

¹³ Under the federal LNP government, the budget of the then Human Rights and Equal Opportunities Commission (now the Australian Human Rights Commission) was cut by 40%, reducing its staff by one-third. Staff of the human rights branch of the Attorney-General’s department was also reduced, from 21 to five.

¹⁴ *Lyons v Queensland* [2016] HCA 38.

persons with disabilities in the media and to address stigmatization through modern forms of disability discrimination, such as disability-selective antenatal screening and the persistent offering of death-making to families by health professionals [44].

Article 9: Accessibility

42. QAI notes the importance of adopting a broad understanding of accessibility, which recognises the barriers to access faced by people that go beyond physical access [46].

Article 11: Situations of risk and humanitarian emergencies

43. QAI agrees that persons with disabilities can be at heightened risk in times of armed conflicts, humanitarian emergencies or natural disasters [49]. We strongly support recognition by the Committee of support as an urgent requirement of people with disability in times of emergency, and note that the support must be appropriate, to the greatest extent possible in the relevant situation [50].

44. QAI is particularly concerned by the plight of refugees with disability, who can be highly disempowered [51]. Similarly, we draw your attention to the plight of prisoners with disability, whose basic supports needs are often not, or inappropriately, met (such as by the employment of another prisoner, who is untrained and unscreened, to provide support services on an ad hoc basis).

Article 12: Equal recognition before the law

45. QAI endorses the findings of the Committee with respect to the importance of unqualified support to legal capacity. We draw your attention to the recently published *Queensland Handbook for Practitioners on Legal Capacity*, which explicitly notes the role of appropriate support in increasing and maintaining a person's legal capacity [55].

46. QAI notes that the Australian government needs to enact significant law and policy reform to be compliant with Articles 5 and 12 of the CRPD [56].

Article 13: Access to justice

47. QAI supports the findings of the committee on Article 13 [58 – 62].

48. QAI welcomed the adoption of the CRPD by the United Nations and its signing and ratification by Australia. The CRPD made significant progress insofar as it not only reaffirms that people with disability have the right to equal recognition before the law, it also requires states parties to ensure effective access to justice for persons with disabilities. The imposition of this fresh, positive obligation constitutes significant progress. To date however, Australia has not translated this obligation into practical steps to dismantle some of the many and substantial barriers that prevent people with disability from accessing justice.

Article 14: Liberty and security of person; Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment; Article 16: Freedom from exploitation, violence and abuse; and Article 17: Protecting the integrity of the person

49. QAI agrees that discriminatory deprivation of liberty, discriminatory torture or cruel, inhuman or degrading treatment or punishment, violence against persons with disabilities and discriminatory forced treatment of persons with disabilities in and outside mental health facilities is of paramount concern [63].

50. QAI calls for the elimination of the use of Restrictive Practices on people with disability. We also call for measures to address the indefinite detention and warehousing of persons with disability in forensic disability service units, authorised mental health services and

institutional-like congregate care settings, including aged care facilities, boarding houses and hostels. Australia is currently in contravention of the prohibition on the institutionalisation of a person on the grounds of actual or perceived impairment (Article 14) in its continuation of these practices.

Article 19: Living independently and being included in the community

51. Again, we emphasise that true inclusivity requires more than physical access. It requires that a person is given the supports and services they need to live and participate in their community [65]. This requires a holistic approach to disability responsive supports and services, so that all mainstream services are accessible and responsive to the needs of people with disability [67].
52. Decentralisation remains a pressing concern in Australia, with people with disabilities in regional, rural and remote localities often particularly marginalised and disempowered [68].
53. Following full roll-out of the National Disability Insurance Scheme (NDIS) in Australia, many people with disability will remain lacking vital supports and services, as the scheme does not cover all people with disability, nor all of the needs of those within the scheme. This is particularly concerning in light of the diminishing of other supports and services, including independent advocacy, as a result of the introduction of the NDIS.

Article 24: Education

54. Notwithstanding Australia's signing and ratification of the core international human rights law instruments that give rise to the right to inclusive education (particularly the CRPD, but also the UN Convention on the Rights of the Child, the World Declaration on Education for All, the UN Standard Rules on Equalization of Opportunities for Persons with Disabilities and the Salamanca Declaration and Framework for Action), there remains significant work to be done before the right to inclusive education is enjoyed by all, or sadly even many, people with disabilities. Inclusive education and indeed any education at all, remains an elusive goal for many people with disabilities throughout the world, including in Australia.
55. In Australia, progress has been made with respect to inclusive education. Between 2000 to 2013, Australia's Report Card documents some progress across a range of markers. Yet, as Jackson and Wills conclude, we are at present only mediocre in our pragmatic translation of this commitment to inclusivity in the educational realm.¹⁵ This is the case notwithstanding express commitment from the Australian government to inclusive education in a raft of laws and policies, including the Council of Australian Government's *National Disability Strategy* (2011), the *Disability Discrimination Act 1992* (Cth) and the *Disability Standards for Education* (2005) made pursuant to that Act, the *Australian Curriculum*, the *Australian Professional Standards for Teachers*, the *National Quality Framework* and the *Early Years Learning Framework for Australia*.
56. We propose that along with addressing the issue of segregation, the draft General Comment should address the issue of violence and abuse of children with disabilities within the educational system. As noted above, the use of Restrictive Practices within Australian educational institutions is in breach of international human rights standards and is of significant concern.

Article 27: Work and employment

¹⁵ Jackson, Robert and Wills, Darrell. *The 2013 inclusion report card: From failure to mediocrity*.

57. We support the suggestions made in the draft General Comment to achieve true equality and attain full economic and social participation. However, we suggest that the General Comment could be more prescriptive – rather than proposing to “facilitate the transition away from segregated work environments”, we propose that the General Comment should call for cessation of all segregated work environments [73].

Article 29: Participation in political and public life

58. QAI supports the recommendations proposed in para [74]. Additionally, we suggest that minimum quotas should be prescribed for the representation of people with disability within government and political life.

Article 31

59. QAI agrees with the need for further data collection and analysis and emphasise that qualitative data that documents the lived experiences of people with disability is particularly helpful in providing insight and understanding, as well as suggestions for improvement [75].

VIII: Implementation at the national level

60. QAI endorses the proposals made for implementation at the national level and calls upon the Australian Government, as well as state and territory governments, to specifically adopt these measures [76].

61. QAI notes the need for a federal Human Rights Act or charter that recognises and protects civil, political, economic, social and cultural rights for people with disabilities.

Conclusion

62. QAI thanks the UN for the opportunity to provide feedback on this draft General Comment and congratulate the UN for this excellent document.

63. We look forward to seeing the outcome of this process and would welcome the opportunity to be involved further.