

# CRPD Harmonisation

Australia

# Context

- Commonwealth
  - Federal system
    - 6 States
    - 3 Territories
  - Constitution
    - Enumerated powers of the Commonwealth  
External affairs 51(29)
    - Up to 80% in developing countries

# Legislative framework

- High level of consistency with CRPD
  - ▣ Disability Discrimination Act (1992)
    - Rights based
    - Remedial
    - Individual complaints
    - Systemic focus
      - Standards
      - Action plans
      - Inquiries
  - ▣ Disability Services Act
    - Enabling legislation
    - Principles
      - Funding and delivery disability support services
  - ▣ Commonwealth Disability Strategy
    - Government agencies
    - Access and participation
      - Guidelines
  - ▣ Disability and Carers Branch (FaHCSIA)

# State and Territory Legislation

- Criminal law
  - Criminal codes in all 9 jurisdictions
  - Disability
    - Culpability
    - Aggravating factor
    - Criminal procedures vulnerable persons
- Mental Health Law
  - Care and protection
    - Compulsory treatment
    - Review
- Guardianship law
  - Substituted decision making
    - Legislation of last resort
    - Enduring guardians, advanced directives

# Areas of concern

- Incorporation into domestic law
  - ▣ HREOCA
    - CRPD not scheduled
- Migration
  - ▣ Exemption *Migration Act 1958*
  - ▣ Health assessment discriminatory
- Mental health law
  - ▣ Compulsory treatment
    - Failure to implement least restrictive alternative

# Amendments

- CRPD specific
  - National Disability Strategy
    - High level implementation strategy
    - Research agenda
  - AusAID Inclusive Development Strategy
  - DDA amendments
    - Applies the convention
    - Positive duty to adjust
- Generic
  - National Human Rights Consultation
  - Access to premises standard

# Recommendations

---

- National Audit
  - ▣ Laws, policies and programmes
  - ▣ COAG
- National Office of Disability Policy Coordination
  - ▣ Department of Prime Minister and Cabinet
- Bill of Rights
  - ▣ Schedule
  - ▣ Remedies