

## **Senate Committee on Legal and Constitutional Affairs**

### **Inquiry into the Human Rights (Parliamentary Scrutiny) Bill 2010 and the Human Rights (Parliamentary Scrutiny) (Consequential Provisions) Bill 2010.**

**Senator Barnett requested that the Department respond on the following issue at the hearing on 25 November 2010:**

Provide the Committee with a view as to whether the conventions as set out in the Bill apply to [ie the 'right to life' outlined in Article 6 of the *International Covenant on Civil and Political Rights* (ICCPR), Article 6 of the *Convention on the Rights of the Child* (CRC) and Article 10 of the *Convention on the Rights of Persons with Disabilities* (CRPD)] children and to the foetus before birth.

#### **The Department's response to the Senator's request is as follows:**

The right to life as set out in Article 6 of ICCPR, Article 6 of CRC and Article 10 of CRPD, applies to all human beings, including children.

The ICCPR, CRC and CRPD do not define the point at which life commences.

The ICCPR is silent on whether a right to life includes pre-natal human life, for example, from the moment of conception. Draft proposals that would have covered the right to life from conception in the ICCPR were ultimately not adopted in the final version of the text.

Article 1 of the CRC defines children as 'every human being below the age of 18 years'. The issue of when protection should start was debated during the negotiation of the CRC. Proposals considered included stipulating application from the moment of birth or from the moment of conception, but the text was left general due to a lack of consensus on the issue.

The right to life under Article 10 of the CRPD reflects the right to life under Article 6 of the ICCPR. This is consistent with the aim of the CRPD, which was not to create any new human rights, but rather to express existing rights in a manner that addresses the needs of persons with disability.

The longstanding position of the Australian Government has been to interpret the protection from arbitrary deprivation of life in Article 6(1) of the ICCPR, and the right to life in Article 6(1) of the CRC and Article 10 of the CRPD, as applying from birth. This interpretation has not attracted any adverse comment from the relevant UN human rights treaty bodies when considering Australia's reports under the human rights treaties.