



General Assembly

Distr.: General
15 November 2010

Original: English

Human Rights Council

Working Group on the Universal Periodic Review

Tenth session

Geneva, 24 January-4 February 2011

Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1

Australia

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

I. Background and framework

A. Scope of international obligations¹

<i>Universal human rights treaties²</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations/reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	30 Sep. 1975	Yes, art. 4 (a)	Individual complaints (art. 14): Yes
ICESCR	10 Dec. 1975	None	–
ICCPR	13 Aug. 1980	Yes, arts. 10 (2) (a) and (b) and (3); 14 (6) and 20	Inter-State complaints (art. 41): Yes
ICCPR-OP 1	25 Sep. 1991	None	–
ICCPR-OP 2	2 Oct. 1990	None	–
CEDAW	28 July 1983	Yes, art. 11 (2)	–
OP-CEDAW	4 Dec. 2008	None	Inquiry procedure (arts. 8 and 9): Yes
CAT	8 Aug. 1989	None	Inter-State complaints (art. 21): Yes Individual complaints (art. 22): Yes Inquiry procedure (art. 20): Yes
CRC	17 Dec. 1990	Yes, art. 37 (c)	–
OP-CRC-AC	26 Sep. 2006	Binding declaration under art. 3: 17 years	–
OP-CRC-SC	8 Jan. 2007	None	–
CRPD	17 July 2008	Yes ³	–
OP-CRPD	21 Aug. 2009	None	Inquiry procedure (arts. 6 and 7): Yes

Treaties to which Australia is not a party: OP-ICESCR,⁴ OP-CAT (signature only, 2009), ICRMW and CED.

<i>Other main relevant international instruments</i>	<i>Ratification, accession or succession</i>
Convention on the Prevention and Punishment of the Crime of Genocide	Yes
Rome Statute of the International Criminal Court	Yes
Palermo Protocol ⁵	Yes
Refugees and stateless persons ⁶	Yes
Geneva Conventions of 12 August 1949 and Additional Protocols thereto ⁷	Yes
ILO fundamental conventions ⁸	Yes, except 138
UNESCO Convention against Discrimination in Education	Yes

1. Australia was invited to consider ratifying ICRMW,⁹ OP-CAT,¹⁰ CED,¹¹ and ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries¹² in consultation with the Aboriginal and Torres Strait Islander peoples;¹³ as well as to consider signing and ratifying OP-CESCR.¹⁴

2. Treaty bodies recommended that Australia withdraw its reservations to ICERD¹⁵ and CEDAW;¹⁶ consider withdrawing its reservations to ICCPR;¹⁷ and continue and strengthen its efforts towards a full withdrawal of its reservation to CRC.¹⁸

B. Constitutional and legislative framework

3. Five treaty bodies and four special rapporteurs referred to the inadequate incorporation of human rights treaties in Australia's legal framework,¹⁹ including the absence of a legal framework for the protection of economic, social and cultural rights and a Federal Bill of basic human rights.²⁰ The Committee on the Elimination of Discrimination against Women (CEDAW) urged Australia to give due consideration to the adoption of a Human Rights Act encompassing the full range of civil, cultural, economic, political and social rights.²¹

4. Four treaty bodies recommended measures to address their concern that the rights to equality and non-discrimination were not comprehensively protected in federal law. The Committee on the Elimination of Racial Discrimination (CERD) drew specific attention to the issues of discrimination raised by sections 25 and 51 (xxvi) of the Constitution²² and urged Australia to ensure that the review of all federal anti-discrimination laws considered the gaps in legal and constitutional protections against discrimination and that consequent harmonization did not weaken the Racial Discrimination Act (RDA).²³

5. CERD regretted that no steps had been taken by Australia to reverse the burden of proof in civil proceedings involving racial discrimination to alleviate the difficulties faced by complainants in establishing the burden of proof. It recommended that the RDA be amended in this regard.²⁴

6. According to the Special Rapporteur on indigenous people, the Government reported that the National Congress of Australia's First Peoples will play a key role in advancing constitutional recognition of Aboriginal and Torres Strait Islander First Peoples.²⁵ CERD recommended that Australia consider the negotiation of a treaty agreement to build a constructive and sustained relationship with indigenous peoples.²⁶

7. CEDAW remained concerned about the lack of harmonization or consistency in the way that the Convention was incorporated and implemented across the country, particularly when the primary competence to address a particular issue lay with the individual states and territories. It noted that inconsistent approaches had arisen with regard to the imposition of criminal sanctions, for example with regard to abortion.²⁷

8. In 2008, the Committee Against Torture (CAT) recommended that torture be adequately defined and specifically criminalized both at the Federal and States/Territories levels.²⁸ In its follow-up response to CAT Australia stated that it was intending to introduce legislation in 2009 to enact a specific offence of torture in Commonwealth law.²⁹

C. Institutional and human rights infrastructure

9. The Australian Human Rights Commission (AHRC) was accredited with A Status by the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights (ICC) in 1999 and reviewed in 2006, with “A” status maintained.³⁰

10. While expressing appreciation for the work of the AHRC,³¹ the Committee on the Rights of the Child (CRC) was concerned that there was no commissioner devoted specifically to child rights,³² and the Committee on Economic, Social and Cultural Rights (CESCR) recommended strengthening the Commission’s mandate to cover all ICESCR rights.³³ CERD urged Australia to support the AHRC through adequate financing and staffing, including through the appointment of a full-time Race Discrimination Commissioner³⁴ and CEDAW recommended that Australia consider expanding the mandate of the Sex Discrimination Commissioner to address all issues of gender equality.³⁵

D. Policy measures

11. CEDAW recommended that Australia, inter alia, provide adequate funding for the Human Rights Framework’s implementation and elaborate a National Action Plan on Human Rights.³⁶ Australia’s support for the World Programme for Human Rights Education³⁷ was noted. CERD recommended that human rights education be included in the national curriculum.³⁸ Further recommendations for human rights education, awareness-raising and training, particularly of professionals, were made by six treaty bodies.³⁹

12. CESCR recommended that Australia develop a comprehensive poverty reduction and social inclusion strategy which should integrate economic, social and cultural rights.⁴⁰

13. CERD encouraged Australia to take appropriate measures to prevent acts of Australian corporations which negatively impact on the enjoyment of rights of indigenous peoples in territories overseas and to regulate the activities of Australian corporations abroad.⁴¹

II. Promotion and protection of human rights on the ground

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

<i>Treaty body⁴²</i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	2010	Aug. 2010	Due Aug 2011	Combined eighteenth and nineteenth reports due in 2012
CESCR	2007	May 2009	–	Fifth report due in 2014
HR Committee	2007	April 2009	Overdue since April 2010 ⁴³	Sixth report due in 2013
CEDAW	2009	July 2010	Due July 2012	Eighth report due in 2014
CAT	2005	May 2008	Submitted in May 2009	Fifth report due in 2012
CRC	2003	Sept. 2005	–	Fourth report submitted in 2009
OP-CRC-AC			–	Initial report, submitted in 2009
OP-CRC-SC				Initial report, submitted in 2009
CRPD			–	Initial report due in 2010

14. The Human Rights Committee (HR Committee) recommended that Australia review its position in relation to Views adopted under ICCPR-OP 1 and establish appropriate procedures to implement them, in order to comply with guarantees for the right to an effective remedy and reparation.⁴⁴

2. Cooperation with special procedures

15. In 2010, CERD welcomed the standing invitation extended to all thematic special procedures, noting, in particular, the visits of two special rapporteurs to Australia in 2009.⁴⁵

<i>Standing invitation issued</i>	Yes
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<i>Latest visits or mission reports</i>	Special Rapporteur on the right to adequate housing (31 July–15 August 2006); ⁴⁶ Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (17–28 August 2009); ⁴⁷ Special Rapporteur on the right to health (23 November–4 December 2009) ⁴⁸
<i>Visits agreed upon in principle</i>	Special Rapporteur on migrants; ⁴⁹ Independent expert on the effects of foreign debt
<i>Visits requested and not yet agreed upon</i>	
<i>Facilitation/cooperation during missions</i>	
<i>Follow-up to visits</i>	
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, 11 ⁵⁰ communications were sent. The Government replied to 8 communications. ⁵¹
<i>Responses to questionnaires on thematic issues</i>	Australia responded to 7 of the 23 questionnaires sent by special procedures mandate holders. ⁵²

3. Cooperation with the Office of the High Commissioner for Human Rights

16. Australia made financial contributions to OHCHR in the period under consideration.⁵³ In 2008, CAT noted with appreciation Australia's previous contributions to the Voluntary Fund for Victims of Torture and encouraged it to resume its support.⁵⁴

B. Implementation of international human rights obligations taking into account applicable international humanitarian law

1. Equality and non-discrimination

17. In 2009, the Special Rapporteur on indigenous people stated that having suffered a history of oppression and racial discrimination, Aboriginal and Torres Strait Islander peoples endured severe disadvantage compared with non-indigenous Australians.⁵⁵ Detailed information on the gap between indigenous and non-indigenous peoples' quality of life in Australia was provided, in Special Rapporteurs' reports,⁵⁶ the 2009 DESA report on the State of the World's Indigenous Peoples,⁵⁷ a 2010 UNESCO report⁵⁸ and a 2009 ILO Guide.⁵⁹ Human rights mechanisms welcomed the Government's major programmatic initiative to reduce significant indigenous disadvantage through its "Closing the Gap" campaign.⁶⁰

18. Notwithstanding important advances, the Special Rapporteur expressed concern about the 2007 Northern Territory Emergency Response (NTER) legislation in response to the situation of child abuse in Aboriginal communities,⁶¹ Western Australia's response to the problems faced by the Swan Valley community,⁶² land leasing schemes⁶³ and 2006 amendments to the Aboriginal Land Rights Act (Northern Territory) 1976⁶⁴. In 2010, CERD stated that the package of legislation under the NTER continued to discriminate on

the basis of race as well as the use of so called “special measures” and urged Australia to fully reinstate the RDA, including the use of the Act to challenge and provide remedies for racially discriminatory NTER measures; and to guarantee that all special measures in Australian law, in particular those regarding the NTER, be in accordance with the Committee’s general recommendation on Special Measures (2009).⁶⁵ CESCR and HR Committee raised related concerns in 2009.⁶⁶

19. Referring to certain vulnerable groups of women, including indigenous women, women with disabilities, migrant women, women from culturally and linguistically diverse backgrounds and women from remote and rural communities, CEDAW expressed concern that Australia did not favour the adoption of temporary special measures in the form of compulsory targets and quotas to address the underrepresentation of women in decision-making bodies, in political and public life and the persistent inequality of their access to education, employment and health.⁶⁷ CEDAW reiterated its recommendation that Australia fully utilize the Sex Discrimination Act and consider the adoption of temporary special measures.⁶⁸ Additionally, CEDAW welcomed the Senate review on the effectiveness of the Sex Discrimination Act 1984 and urged Australia to re-table a Parliamentary bill which would take account of the 2008 Senate report.⁶⁹

20. CERD was concerned by information related to, in particular, the series of racially motivated assaults of Indian students, including one death, in the state of Victoria.⁷⁰ CERD noted reports highlighting issues of discrimination and inequity in access to and delivery of services experienced by members of certain minority communities including African communities, people of Asian, Middle Eastern and Muslim background, and in particular Muslim women.⁷¹ CERD encouraged Australia to develop and implement an updated comprehensive multicultural policy that reflects its increasingly ethnically and culturally diverse society and recommended strengthening the race and cultural dimensions of its Social Inclusion Agenda.⁷²

2. Right to life, liberty and security of the person

21. HR Committee recommended that Australia, inter alia, take the necessary legislative and other steps to ensure no person is extradited to a State where he/she may face the death penalty.⁷³

22. HR Committee expressed concern at reports: of excessive use of force by law enforcement officials against groups, such as indigenous people, racial minorities, persons with disabilities, as well as young people; and regretted that the investigations of allegations of police misconduct were carried out by the police itself. It also expressed concern about the excessive use of TASERs by police forces.⁷⁴

23. One or more human rights mechanisms expressed concern about: overcrowding in prisons, particularly in Western Australia;⁷⁵ the harsh regime imposed on detainees in “super-maximum” prisons;⁷⁶ the disproportionate incarceration rates⁷⁷ and persistent problems leading to deaths in custody of a considerable number of indigenous Australians over the years;⁷⁸ substandard conditions in many prisons;⁷⁹ and the overrepresentation of children with mental illness and/or intellectual disabilities in the juvenile justice system.⁸⁰ In 2010, the ILO Committee of Experts on the Application of Conventions and Recommendations reiterated its hope that measures would be taken to ensure that freely given and informed consent was required for the work of prisoners in privately operated prisons, as well as for all work of prisoners for private companies, so that such consent was free from the menace of any penalty to be consistent with the wide sense of Article 2(1) of the Forced Labour Convention (No. 29).⁸¹

24. While welcoming steps taken, treaty bodies noted that unacceptably high levels of violence against women persisted.⁸² CEDAW noted that sexual harassment continued to be

a serious problem in the workplace,⁸³ and recommended that Australia address the violence and abuse experienced by women with disabilities living in institutions or supported accommodation, and provide, inter alia, shelters for migrant women.⁸⁴ CEDAW recommended that Australia adopt national legislation and the National Action Plan to Reduce Violence against Women and their Children, including a mechanism for independent monitoring; and take appropriate measures to criminalize, prosecute and punish perpetrators of acts of domestic violence.⁸⁵ Concerned that the highest levels of violence were faced by indigenous women and girls,⁸⁶ CEDAW further urged Australia to implement specific strategies within the National Plan and fund culturally-appropriate indigenous women's legal services.⁸⁷ Concerned that child abuse remained a major problem and about the exposure of children to a high level of violence⁸⁸ as well as the overrepresentation of indigenous children having one parent in prison⁸⁹ and in out-of-home care,⁹⁰ CRC additionally recommended that Australia continue to take measures to prevent and combat child abuse and violence against children; ensure that all victims of violence have access to counselling and assistance with recovery; and strengthen measures to address the root causes of violence within the family⁹¹ and strengthen its support for indigenous families and fully implement the Indigenous Child Placement Principle.⁹²

25. CAT recommended that Australia adopt and implement legislation banning corporal punishment at home and in public and private schools, detention centres, and all alternative care settings in all States and Territories.⁹³

26. The ILO Committee of Experts in 2010 noted comments from the Australian Council of Trade Unions (ACTU) that temporary overseas skilled workers, under the 457 visa scheme, were not adequately protected from exploitation and sometimes subjected to forced labour.⁹⁴ Five treaty bodies drew attention to the issue of trafficking in human beings, despite the positive measures adopted,⁹⁵ with CEDAW recommending, inter alia, that Australia adopt a human rights framework in its revised Action Plan to Eradicate Trafficking in Persons and consider complementary approaches to the current criminal justice approach.⁹⁶

3. Administration of justice and the rule of law

27. HR Committee recommended that Australia take firm measures to eradicate all forms of excessive use of force by law enforcement officials, establish a mechanism to carry out independent investigations of complaints concerning excessive use of force, initiate proceedings against alleged perpetrators; and provide adequate reparation to the victims.⁹⁷

28. CAT recommended that Australia seek to prevent and promptly investigate any deaths in custody.⁹⁸ CERD recommended that Australia, in consultation with indigenous communities, take immediate steps to review the recommendations of the Royal Commission into Aboriginal Deaths in Custody of 1991, identifying those which remain relevant with a view to their implementation.⁹⁹ CRC and CAT recommended that Australia abolish mandatory sentencing due to its disproportionate and discriminatory impact on the indigenous population.¹⁰⁰ The Special Rapporteur on indigenous people recommended that Australia take immediate and concrete steps to address the disproportionate number of Aboriginal and Torres Strait Islanders, especially juveniles and women in custody.¹⁰¹

29. CERD recommended that Australia address the social and economic factors underpinning indigenous contact with the criminal justice system; encouraged it to adopt a justice reinvestment strategy, while continuing and increasing the use of indigenous courts and conciliation mechanisms and restorative justice strategies; and implement the measures outlined in the National Indigenous Law and Justice Framework.¹⁰² HR Committee recommended that Australia take effective measures to ensure equality in access to justice,

including for indigenous and aliens, and provide adequate funding for Aboriginal and Torres Strait Islander legal aid, including interpreter services.¹⁰³

4. Right to privacy, marriage and family life

30. CRC and CEDAW made recommendations to address their concern that non-therapeutic sterilizations of women and girls with disabilities continued in some states of Australia.¹⁰⁴

5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

31. HR Committee recommended that Australia implement its Freedom of Religion and Belief project, fully in line with ICCPR and adopt federal-level hate speech laws of the form envisaged by article 20 of ICCPR.¹⁰⁵

32. CRC recommended that Australia continue and strengthen its efforts to protect children effectively from being exposed to violence, racism and pornography through mobile technology, video movies, games and other technologies, including the Internet.¹⁰⁶

6. Right to work and to just and favourable conditions of work

33. While noting the enactment of the Fair Work Act 2009 and the Paid Parental Leave Act 2010,¹⁰⁷ the ILO Committee of Experts in 2008, CESCR in 2009 and CEDAW in 2010, raised concerns about the continued gender segregation of the labour force; the persistent gender pay gap, including its impact on the economic security of older women; and the caring responsibilities which affected women's labour force participation.¹⁰⁸ CEDAW urged Australia to develop a National Pay Strategy, establish a specialized unit to develop and monitor pay gaps mechanisms and develop a comprehensive childcare policy.¹⁰⁹

34. CESCR recommended that special programmes and measures be designed to address the significant barriers to the enjoyment of the right to work faced by indigenous people, asylum-seekers, migrants and people with disabilities, including to protect them from exploitation.¹¹⁰

35. CESCR recommended that Australia remove, in law and in practice, obstacles and restrictions to the right to strike, which were inconsistent with provisions of article 8 of ICESCR and ILO Convention No. 87, and particular reference was made to the provisions of the Building and Construction Industry Improvement Act 2005.¹¹¹

7. Right to social security and to an adequate standard of living

36. CESCR recommended, inter alia, that social security benefits, including unemployment benefits, old age pensions and youth allowance enable recipients to enjoy an adequate standard of living. The Committee strongly recommended that Australia review conditionalities such as "mutual obligations" in the welfare to work programme and review the "quarantining" of welfare payments that may have a punitive effect on disadvantaged and marginalized families, women and children.¹¹²

37. CESCR recommended measures to address its concerns of the generally inadequate health services in prison, of insufficient support for persons with mental health problems and difficult access to mental health services, particularly for indigenous peoples, prisoners and asylum seekers in detention.¹¹³ Related concerns were raised by CAT¹¹⁴ and the Special Rapporteur on the right to health, following his visit to Australia.¹¹⁵ The Special Rapporteur recommended, inter alia, that Australia undertake research regarding indigenous incarceration issues, as a matter of urgency, and ensure that new interventions concerning prevention of incarceration and treatment during incarceration were evidence based and

appropriately evaluated, with particular attention being given to research concerning mental illness and substance abuse, as well as literacy issues; and that Australia reconsider the appropriateness of detention facilities continuing to operate on Christmas Island and assess provision of mental health services to this population as a matter of priority.¹¹⁶

38. In 2006, the Special Rapporteur on the Right to Adequate Housing believed there was a serious housing crisis, which affected many sections of the population, though it had a critical and direct impact on the most vulnerable sections of the population and low-income households.¹¹⁷ He recommended, inter alia, that Australia should adopt a comprehensive and coordinated national housing policy, and develop a housing strategy that addressed structural problems, was efficient and embodied an overarching human rights approach.¹¹⁸ HR Committee¹¹⁹ and CRC¹²⁰ also referred to homelessness, particularly affecting indigenous people and children. CESCR recommended that Australia take effective measures to address homelessness and implement the recommendations of the Special Rapporteur.¹²¹ CEDAW recommended strategies to prevent homelessness resulting from domestic violence.¹²²

8. Right to education

39. While welcoming the new national approach to preserve indigenous languages, CERD was highly concerned by the recent abolition of bilingual education funding by the Northern Territory Government in the light of the precarious condition of many indigenous languages, and the lack of adequate opportunities for children to receive instruction in or of their language. CERD recommended, inter alia, that Australia, in consultation with indigenous communities, hold a national inquiry into the issue of bilingual education for indigenous peoples.¹²³

40. CESCR noted with concern the deficient quality of education provided to persons living in remote areas, in particular indigenous peoples. It also regretted that access to pre-school education was not equally guaranteed throughout Australia.¹²⁴

9. Minorities and indigenous peoples

41. The Special Rapporteur on indigenous people particularly noted the many instances of commitment made by the Government to reconcile with indigenous peoples, including its support for the Declaration on the Rights of Indigenous Peoples.¹²⁵ He recommended that the Commonwealth and state governments should review all legislation, policies, and programmes that affect Aboriginal and Torres Strait Islanders, in light of the Declaration on the Rights of Indigenous Peoples.¹²⁶

42. The Special Rapporteur on indigenous people concurred with HR Committee that Australia should adopt a comprehensive national mechanism to ensure that adequate reparation, including compensation, was provided to the victims of Stolen Generation policies, and CERD also called for similar action to address Stolen Wages practices.¹²⁷

43. Concerns about the serious limitations of the current Native Title Act framework were raised by CERD,¹²⁸ HR Committee¹²⁹ and CESCR¹³⁰ with the Special Rapporteur on indigenous people stating that according to the Government's own evaluation the native title process was complex, slow and in need of reform. Of particular concern were the high standards of proof required for recognition of the relationship between indigenous peoples and their traditional lands, considering the history of Government policies undermining indigenous peoples' connections to their lands.¹³¹ Recommendations were made by four human rights mechanisms to improve the Native Title system.¹³²

44. The Special Rapporteur on the right to health reported that indigenous people encountered a number of obstacles to access to health services, including language and cultural barriers, distance to services, lack of transportation, high service costs, and Western

dominated models of care.¹³³ The Special Rapporteur on indigenous people drew attention to documented sources of indigenous good practices,¹³⁴ as well as numerous successful indigenous-controlled programmes already in place to address issues of alcoholism, domestic violence, health, education and other areas of concern, in ways that were culturally appropriate and adapted to local needs.¹³⁵ He also observed that overall there was a need to incorporate into Government programmes a more integrated approach to addressing indigenous disadvantage across the country, *inter alia*, by encouraging indigenous self-government at the local level, ensuring indigenous participation in the design, delivery and monitoring of programmes and promoting culturally appropriate programmes that incorporate or build on indigenous peoples' own initiatives.¹³⁶ A similar recommendation was made by CERD.¹³⁷

45. The Special Rapporteur welcomed information from the Government concerning the fact that it had proposed national reforms to improve indigenous participation in decision-making over traditional sites and objects.¹³⁸ In that regard, he recommended that the Queensland Wild Rivers Act of 2005 should be reviewed and revised.¹³⁹ CESCR also made specific recommendations to address the inadequate protection of indigenous cultural and intellectual property.¹⁴⁰

46. CESCR encouraged Australia to reduce its greenhouse gas emissions and to take measures to mitigate the adverse consequences of climate change, impacting the right to food and the right to water for indigenous peoples, and put in place effective mechanisms to guarantee consultation of affected Aboriginal and Torres Strait-Islander peoples, to enable them to exercise their rights to an informed decision as well as to harness the potential of their traditional knowledge and culture.¹⁴¹

10. Migrants, refugees and asylum-seekers

47. CESCR expressed concern about negative immigration decisions based on disability and health conditions and their particular impact on the families of asylum seekers.¹⁴²

48. UNHCR noted that mandatory detention of unauthorized arrivals occurred regardless of whether the asylum-seeker lands in Australia on the mainland ("onshore arrivals"), or at an excised offshore place ("offshore arrivals").¹⁴³ UNHCR reported that the Immigration Minister, on 29 July 2008, laid out Australia's New Directions in Detention policy, which identified seven Key Immigration Detention Values. However, there were insufficient community-based alternative forms of detention to implement this new policy and existing detention arrangements, in particular Christmas Island's immigration detention facilities, placed detainees in isolated detention facilities without appropriate safeguards or adequate services, especially regarding the specific needs of vulnerable people, including women and children. UNHCR recommended that, notwithstanding the Government's reiteration of mandatory detention, which UNHCR opposed, the New Directions in Detention policy should apply throughout the Commonwealth of Australia, including any territories excised from the "migration zone". Furthermore, the Key Immigration Detention Values should be explicitly incorporated into Australia's legal framework.¹⁴⁴ UNHCR reported that Australia had established a dual refugee status determination (RSD) system which discriminated between the classes of entrants, solely on the basis of method and place of entry to Australia. Asylum-seekers who were termed "offshore entry persons", were not subject to the substantive provisions of the Migration Act. "Declined offshore entry persons" did not have access to judicial review.¹⁴⁵

49. UNHCR submitted further detailed comments on Australia's asylum-seeker and refugee policy and legislative framework and together with three treaty bodies and the Special Rapporteur on the right to health raised concerns about the system's application in practice.¹⁴⁶ CERD was also concerned by the continued suspension of the processing of refugee status assessment procedures for applicants from certain countries, notably for

Afghan asylum seekers, which lacks a legislative basis and is inconsistent with the Convention. It regretted that the Australian High Court has found that it is lawful for a stateless person to be detained indefinitely. Finally, the Committee was concerned that children were still kept in detention-like conditions in various remote areas and, at times, separated from their parents. CERD recommended that Australia review its mandatory detention regime of asylum seekers with a view to finding an alternative to detention, ensuring that the detention of asylum seekers was always a measure of last resort and was limited by statute to the shortest time reasonably necessary, and that all forms of arbitrary detention be avoided; expedite the removal of the suspension on processing visa applications from asylum seekers from Afghanistan and take the necessary measures to ensure standardized asylum assessment and review procedures and equal entitlement to public services by all asylum seekers, regardless of the country of origin or mode of entry; develop appropriate reception arrangements, in particular for children; ensure in its domestic law that the principle of *non-refoulement* was respected when proceeding with return of asylum-seekers to countries; and accompany any changes in the processing of asylum claims with adequate protection standards for those asylum seekers whose protection was suspended.¹⁴⁷

11. Right to development

50. CESCR recommended that Australia increase its official development assistance to 0.7 per cent of its GDP.¹⁴⁸

12. Human rights and counter-terrorism

51. HR Committee, in 2009, recommended that Australia ensure that its counter-terrorism legislation and practices were in full conformity with the Covenant and address the vagueness of the definition of the terrorist act in the Criminal Code Act 1995. Additionally, Australia should, inter alia, guarantee the right to be presumed innocent, and envisage abrogating provisions granting the Australian Security Intelligence Organization the power to detain people without access to a lawyer and in conditions of secrecy.¹⁴⁹ The Committee requested a reply to this recommendation within one year.¹⁵⁰ Related concerns had been raised by CAT¹⁵¹ and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in his 2006 study on Australia's human rights compliance while countering terrorism.¹⁵² In its follow-up response to CAT, Australia stated that it was firmly committed to ensuring that all proceedings, including terrorism-related proceedings, were conducted in accordance with Australia's fair trial obligations under international law.¹⁵³

52. The Special Rapporteur on promotion and protection of human rights while countering terrorism also reminded Australia that border security measures should never be used to undertake racial profiling, and CERD recommended that Australia undertake sensitization campaigns against stereotypes associating certain groups with terrorism.¹⁵⁴

III. Achievements, best practices, challenges and constraints

53. Ten human rights mechanisms and the United Nations High Commissioner for Human Rights welcomed the National Apology to indigenous peoples of Australia.¹⁵⁵ Human Rights mechanisms welcomed many other steps and initiatives, and warmly congratulated the Government for its formal support of the United Nations Declaration on the Rights of Indigenous Peoples.¹⁵⁶

54. The Special Rapporteur on indigenous people considered the position of Aboriginal and Torres Strait Islander Social Justice Commissioner within the AHRC to be an

exceptional model for advancing the recognition and protection of rights of indigenous peoples.¹⁵⁷

55. CEDAW commended Australia for its efforts to support civil society and non-governmental organizations and to encourage inclusive consultations as part of Government policy-making processes, by providing Government funding to support six National Women's Alliances, including an Alliance for Aboriginal and Torres Straits Islander women.¹⁵⁸

56. The National Human Rights Consultation regarding the legal recognition and protection of human rights in Australia, involving various stakeholders, including experts and persons belonging to vulnerable groups, was welcomed by four treaty bodies.¹⁵⁹

IV. Key national priorities, initiatives and commitments

A. Pledges by the State

57. CAT, in 2008, appreciated Australia's commitment to become a party to OP-CAT.¹⁶⁰

B. Specific recommendations for follow-up

58. CAT in 2008, HR Committee in 2009, CEDAW and CERD in 2010 requested follow-up information on recommendations made, including the HR Committee's recommendations contained in paragraphs 11 (counter-terrorism measures), 14 (re-design NTER measures in direct consultation with indigenous peoples), 17 (violence against women) and 23 (detention in immigration detention centres).¹⁶¹ Australia responded to the recommendations of CAT.¹⁶²

59. The Special Rapporteurs on indigenous people,¹⁶³ on the right to health,¹⁶⁴ and the right to adequate housing¹⁶⁵ made recommendations following their visits to Australia.

60. HR Committee requested follow-up information concerning 24 communications regarding which it found Australia in violation of the ICCPR. Australia responded to all these communications. In three cases HR Committee considered that the response was satisfactory, while it considered five responses to be unsatisfactory.¹⁶⁶ With regard to one communication in which CAT was of the view that Australia was in breach of the Convention (*non-refoulement*), Australia provided a follow-up response.¹⁶⁷ Australia also provided a response regarding one communication in which CERD, notwithstanding having found no violation to ICERD, requested follow-up information.¹⁶⁸

V. Capacity-building and technical assistance

N/A

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 1 April 2009* (ST/LEG/SER.E.26), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>

² The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to the Convention on the Rights of Persons with Disabilities
CED	International Convention for the Protection of All Persons from Enforced Disappearance

3

Declaration:

“Australia recognizes that persons with disability enjoy legal capacity on an equal basis with others in all aspects of life. Australia declares its understanding that the Convention allows for fully supported or substituted decision-making arrangements, which provide for decisions to be made on behalf of a person, only where such arrangements are necessary, as a last resort and subject to safeguards; Australia recognizes that every person with disability has a right to respect for his or her physical and mental integrity on an equal basis with others. Australia further declares its understanding that the Convention allows for compulsory assistance or treatment of persons, including measures taken for the treatment of mental disability, where such treatment is necessary, as a last resort and subject to safeguards; Australia recognizes the rights of persons with disability to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others. Australia further declares its understanding that the Convention does not create a right for a person to enter or remain in a country of which he or she is not a national, nor impact on Australia’s health requirements for non-nationals seeking to enter or remain in Australia, where these requirements are based on legitimate, objective and reasonable criteria.”

4

Adopted by the General Assembly in its resolution 63/117 of 10 December 2008. Article 17, paragraph 1, of OP-ICESCR states that “The present Protocol is open for signature by any State that has signed, ratified or acceded to the Covenant”.

5

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

6

1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

7

Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

- ⁸ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour, Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- ⁹ CERD/C/AUS/CO/15-17/CRP.1, para. 28, CEDAW/C/AUS/CO/7, para. 49 and E/C.12/AUS/CO/4, para. 35.
- ¹⁰ CERD/C/AUS/CO/15-17/CRP.1, para. 28, CAT/C/AUS/CO/3, para. 34 and A/HRC/14/20/Add.4, para. 100.
- ¹¹ CEDAW/C/AUS/CO/7, para. 49.
- ¹² CERD/C/AUS/CO/15-17/CRP.1, para. 28.
- ¹³ A/HRC/15/37/Add.4, para. 76.
- ¹⁴ E/C.12/AUS/CO/4, para. 36.
- ¹⁵ CERD/C/AUS/CO/15-17/CRP.1, para. 17.
- ¹⁶ CEDAW/C/AUS/CO/7, para. 19.
- ¹⁷ CCPR/C/AUS/CO/5, para. 9.
- ¹⁸ CRC/C/15/Add.268, paras. 7–8.
- ¹⁹ CAT/C/AUS/CO/3, para. 9; CCPR/C/AUS/CO/5, para. 8; E/C.12/AUS/CO/4, para. 11; CEDAW/C/AUS/CO/7, paras. 24–25; CERD/C/AUS/CO/15-17/CRP.1, para. 10; A/HRC/4/18/Add.2, paras. 10-11 and 15; A/HRC/14/20/Add.4, paras. 7, 14-15 and 100; A/HRC/15/37/Add.4, para. 14; and A/HRC/4/26/Add.3, paras. 8, 10, 15 and 65. See also CRC/C/15/Add.268, paras. 9-10.
- ²⁰ E/C.12/AUS/CO/4, para. 11 and CAT/C/AUS/CO/3, para. 9. See also CAT/C/AUS/CO/3/Add.1, p.1.
- ²¹ CEDAW/C/AUS/CO/7, para. 25.
- ²² CERD/C/AUS/CO/15–17/CRP.1, para. 10. See also E/C.12/AUS/CO/4, para. 14, CCPR/C/AUS/CO/5, para. 12, CEDAW/C/AUS/CO/7, para. 25, A/HRC/15/37/Add.4, para. 14.
- ²³ CERD/C/AUS/CO/15–17/CRP.1, para. 10.
- ²⁴ CERD/C/AUS/CO/15–17, para. 25.
- ²⁵ A/HRC/15/37/Add.4, paras. 14 and 75.
- ²⁶ CERD/C/AUS/CO/15–17/CRP.1, para. 15.
- ²⁷ CEDAW/C/AUS/CO/7, para. 16.
- ²⁸ CAT/C/AUS/CO/3, para. 8.
- ²⁹ CAT/C/AUS/CO/3/Add.1, p. 1.
- ³⁰ For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/13/45, annex I.
- ³¹ CRC/C/15/Add.268, para. 15. See also CAT/C/AUS/CO/3, para. 14, CCPR/C/AUS/CO/5, para. 4, E/C.12/AUS/CO/4, para. 3, and A/HRC/15/37/Add.4, para. 78.
- ³² CRC/C/15/Add.268, para. 15.
- ³³ E/C.12/AUS/CO/4, para. 13. See also A/HRC/14/20/Add.4, para. 15 and A/HRC/4/18/Add.2, para. 12.
- ³⁴ CERD/C/AUS/CO/15-17/CRP.1, para. 11.
- ³⁵ CEDAW/C/AUS/CO/7, para. 21.
- ³⁶ *Ibid.*, para. 25.
- ³⁷ See General Assembly resolution 59/113B and Human Rights Council resolutions 6/24, 10/3 and 12/4. See also letters from the High Commissioner for Human Rights dated 9 January 2006 and 10 December 2007 and a letter from the Minister of Education dated 11 March 2008, both at <http://www2.ohchr.org/english/issues/education/training/Summary-national-initiatives2005-2009.htm>, and an evaluation questionnaire from the Department of Education, Employment and Workplace Relations dated 30 March 2010 at <http://www2.ohchr.org/english/issues/education/training/evaluationWPHRE.htm>
- ³⁸ CERD/C/AUS/CO/15-17/CRP.1, para. 26.
- ³⁹ CRC/C/15/Add.268, paras. 22–23, 34, 36 (b) and 61 (b); CAT/C/AUS/CO/3, paras. 21–22;

- CCPR/C/AUS/CO/5, para. 8 (d) and 27; E/C.12/AUS/CO/4, para. 34; CEDAW/C/AUS/CO/7, paras. 23 and 48; and CERD/C/AUS/CO/15-17/CRP.1, paras. 19 and 27.
- ⁴⁰ E/C.12/AUS/CO/4, para. 24.
- ⁴¹ CERD/C/AUS/CO/15-17/CRP.1, para. 13. See also A/HRC/15/25/Add.1, p. 4.
- ⁴² The following abbreviations have been used for this document:
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|--------------|--|
| CERD | Committee on the Elimination of Racial Discrimination |
| CESCR | Committee on Economic, Social and Cultural Rights |
| HR Committee | Human Rights Committee |
| CEDAW | Committee on the Elimination of Discrimination against Women |
| CAT | Committee against Torture |
| CRC | Committee on the Rights of the Child |
| CRPD | Committee on the Rights of Persons with Disabilities |
- ⁴³ See: http://www2.ohchr.org/english/bodies/hrc/docs/Letter_Australia.pdf
- ⁴⁴ CCPR/C/AUS/CO/5, para. 10.
- ⁴⁵ CERD/C/AUS/CO/15-17/CRP.1, para. 5.
- ⁴⁶ A/HRC/4/18/Add.2.
- ⁴⁷ A/HRC/15/37/Add.4.
- ⁴⁸ A/HRC/14/20/Add.4.
- ⁴⁹ A/61/324, para. 7.
- ⁵⁰ a) A/HRC/4/30/Add.1, para. 7; b) A/HRC/4/32/Add.1, paras. 9–11; c) A/HRC/4/24/Add.1, paras. 21–25; d) A/HRC/4/28/Add.1, para. 9; e) A/HRC/7/11/Add.1, para. 11; f) A/HRC/7/7/Add.1, paras. 6–12; g) A/HRC/9/9/Add.1, paras. 33–41 and A/HRC/15/37/Add.4, Appendix B; h) A/HRC/9/9/Add.1, paras. 13–20 and A/HRC/7/10/Add.1, paras. 4–8; i) A/HRC/10/44/Add.4, pp. 10–11; j) A/HRC/14/43/Add.1, paras. 5–13 and 30; and k) A/HRC/15/25/Add.1, paras. 7–10.
- ⁵¹ a) A/HRC/4/30/Add.1, paras. 8–9; d) A/HRC/7/11/Add.1, para. 13; e) A/HRC/7/11/Add.1, para. 12; f) A/HRC/7/7/Add.1, paras. 13–22; g) A/HRC/9/9/Add.1, paras. 42–49 and A/HRC/15/37/Add.4, Appendix B; h) A/HRC/9/9/Add.1, 21–32, and A/HRC/7/10/Add.1, paras. 9–10; i) A/HRC/13/39/Add.1, pp. 10–11; j) A/HRC/14/43/Add.1, paras. 14–29.
- ⁵² The questionnaires referred to are those reflected in an official report by a special procedure mandate holder issued between 1 January 2006 and 30 June 2010. Responses counted for the purposes of this section are those received within the relevant deadlines, and referred to in the following documents: (a) E/CN.4/2006/62, para. 24, and E/CN.4/2006/67, para. 22; (b) A/HRC/4/23, para. 14; (c) A/HRC/4/24, para. 9; (d) A/HRC/4/29, para. 47; (e) A/HRC/4/31, para. 24; (f) A/HRC/4/35/Add.3, para. 7; (g) A/HRC/6/15, para. 7; (h) A/HRC/7/6, annex; (i) A/HRC/7/8, para. 35; (j) A/HRC/8/10, para. 120, footnote 48; (k) A/62/301, paras. 27, 32, 38, 44 and 51; (l) A/HRC/10/16 and Corr.1, footnote 29; (m) A/HRC/11/6, annex; (n) A/HRC/11/8, para. 56; (o) A/HRC/11/9, para. 8, footnote 1; (p) A/HRC/12/21, para. 2, footnote 1; (q) A/HRC/12/23, para. 12; (r) A/HRC/12/31, para. 1, footnote 2; (s) A/HRC/13/22/Add.4; (t) A/HRC/13/30, para. 49; (u) A/HRC/13/42, annex I; (v) A/HRC/14/25, para. 6, footnote 1; (w) A/HRC/14/31, para. 5, footnote 2.
- ⁵³ OHCHR 2009 Report, Activities and Results, p. 201.
- ⁵⁴ CAT/C/AUS/CO/3, para. 35.
- ⁵⁵ A/HRC/15/37/Add.4, Summary and paras. 4 and 5. See also A/HRC/14/20/Add.4, paras. 18–27. See also CRC/C/15/Add.268, paras. 24, 31, 37, 39, 40, 42, 47–48, 51, 55, 57, 59, 61 (a), 72, 74 (a) and 75–77.
- ⁵⁶ A/HRC/4/18/Add.2, paras. 80–99 and 133–136; A/HRC/15/37/Add.4, including paras. 5, 32, 45 and 50; A/HRC/14/20/Add.4, paras. 31–42 and 74–81.
- ⁵⁷ United Nations Department of Economic and Social Affairs, *State of the World's Indigenous Peoples*, New York, 2009, ST/ESA/328, pp. 22–24.
- ⁵⁸ UNESCO, *EFA Global Monitoring Report 2010, Reaching the Marginalized*, Paris, 2010, p. 170 and p. 201.
- ⁵⁹ ILO, *Indigenous & Tribal People's Rights in Practice - A Guide to ILO Convention No. 169*, Geneva, 2009, pp. 44–45 and p. 150, available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_106474.pdf
- ⁶⁰ A/HRC/15/37/Add.4, paras. 15 and 32. See also CERD/C/AUS/CO/15-17/CRP.1, paras. 6 and 22; E/C.12/AUS/CO/4, paras. 4 and 28 and CEDAW/C/AUS/CO/7, para. 13.
- ⁶¹ A/HRC/9/9/Add.1, paras. 33–41, A/HRC/15/37/Add.4, Appendix B and A/HRC/9/9/Add.1, paras.

- 33–49. See also CCPR/C/AUS/CO/5, para. 14, and E/C.12/AUS/CO/4, para. 15.
- 62 A/HRC/15/37/Add.4, para. 57.
- 63 Ibid., paras. 42–43 and 58. See also A/HRC/15/37/Add.4, Annex B, p. 38.
- 64 A/HRC/15/37/Add.4, paras. 44, 22 and 58.
- 65 CERD/C/AUS/CO/15-17/CRP.1, para. 16.
- 66 CCPR/C/AUS/CO/5, para. 14 and E/C.12/AUS/CO/4, para. 15.
- 67 CEDAW/C/AUS/CO/7, para. 26. See also CEDAW/C/AUS/CO/7, paras. 34, 40, 42 and 44.
- 68 CEDAW/C/AUS/CO/7, para. 26. See also CEDAW/C/AUS/CO/7, paras. 35, 41 and 43.
- 69 CEDAW/C/AUS/CO/7, paras. 20-21. See also E/C.12/AUS/CO/4, para. 17.
- 70 CERD/C/AUS/CO/15-17/CRP.1, para. 23. See also A/HRC/14/43/Add.1, paras. 5–30.
- 71 CERD/C/AUS/CO/15-17/CRP.1, para. 14.
- 72 Ibid., para. 14.
- 73 CCPR/C/AUS/CO/5, para. 20.
- 74 Ibid., para. 21.
- 75 CAT/C/AUS/CO/3, para. 23 (a). See also CRC/C/15/Add.268, paras. 73 (d) and 74 (f).
- 76 CAT/C/AUS/CO/3, para. 24 and A/HRC/7/11/Add.1, paras. 11–12.
- 77 CAT/C/AUS/CO/3, para. 23 (c). See also CRC/C/15/Add.268, paras. 72 and 74 (c), CERD/C/AUS/CO/15-17/CRP.1, para. 20, and A/HRC/14/20/Add.4, paras. 74-81 and A/HRC/4/18/Add.2, para. 123. See also ILO, *Indigenous & Tribal People's Rights in Practice - A Guide to ILO Convention No. 169*, Geneva, 2009, p. 84, available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_106474.pdf
- 78 CAT/C/AUS/CO/3, para. 23 (d), CERD/C/AUS/CO/15-17/CRP.1, para. 20, A/HRC/10/44/Add.4, pp. 10-11 and A/HRC/13/39/Add.1, pp. 10–11.
- 79 CERD/C/AUS/CO/15-17/CRP.1, para. 20. See also CAT/C/AUS/CO/3, para. 23 (b).
- 80 CRC/C/15/Add.268, para. 73 (b) and 74 (d). See also A/HRC/14/20/Add.4, paras. 69–73 and 77; and A/HRC/4/18/Add.2, para. 121.
- 81 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Forced Labour Convention, 1930 (No. 29), 2010, Geneva, doc. No. (ILOLEX) 062010AUS029, 3rd and 9th paras.
- 82 CEDAW/C/AUS/CO/7, para. 28, E/C.12/AUS/CO/4, para. 22 and CCPR/C/AUS/CO/5, para. 17.
- 83 CEDAW/C/AUS/CO/7, para. 38.
- 84 Ibid., paras. 43 and 45.
- 85 Ibid., para. 29.
- 86 Ibid., para. 40. See also E/C.12/AUS/CO/4, para. 22; CCPR/C/AUS/CO/5, para. 17; and A/HRC/15/37/Add.4, paras. 45–49.
- 87 CEDAW/C/AUS/CO/7, para. 41.
- 88 CRC/C/15/Add.268, para. 42. See also A/HRC/15/37/Add.4, paras. 46 and 48–49.
- 89 Ibid., para. 40.
- 90 Ibid., para. 37.
- 91 Ibid., para. 43 (e).
- 92 Ibid., para. 39.
- 93 CAT/C/AUS/CO/3, para. 31.
- 94 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Forced Labour Convention, 1930 (No. 29) 2010, doc. No. (ILOLEX) 062010AUS029, 1st para.
- 95 CRC/C/15/Add.268, para. 67, CAT/C/AUS/CO/3, para. 32, CCPR/C/AUS/CO/5, para. 22; E/C.12/AUS/CO/4, para. 23 and CEDAW/C/AUS/CO/7, para. 30.
- 96 CEDAW/C/AUS/CO/7, para. 31. See also CAT/C/AUS/CO/3, para. 32.
- 97 CCPR/C/AUS/CO/5, para. 21.
- 98 CAT/C/AUS/CO/3, para. 23 (d).
- 99 CERD/C/AUS/CO/15-17/CRP.1, para. 20.
- 100 CAT/C/AUS/CO/3, para. 23 (c) and CRC/C/15/Add.268, para. 74(f).
- 101 A/HRC/15/37/Add.4, para. 102. See also CAT/C/AUS/CO/3, para. 23; and CRC/C/15/Add.268, paras. 72–74.
- 102 CERD/C/AUS/CO/15-17/CRP.1, para. 20. See also A/HRC/14/20/Add.4, paras. 74–81.

- ¹⁰³ CCPR/C/AUS/CO/5, para. 25. See also CERD/C/AUS/CO/15-17/CRP.1, para. 19.
- ¹⁰⁴ CRC/C/15/Add.268, para. 45 and CEDAW/C/AUS/CO/7, para. 42.
- ¹⁰⁵ CCPR/C/AUS/CO/5, para. 26.
- ¹⁰⁶ CRC/C/15/Add.268, para. 34.
- ¹⁰⁷ CEDAW/C/AUS/CO/7, para. 8 and ILO, Report of the Committee of Experts on the Application of Conventions and Recommendations 2010, p. 56.
- ¹⁰⁸ CEDAW/C/AUS/CO/7, para. 38, E/C.12/AUS/CO/4, para. 17, ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Equal Remuneration Convention, 1951 (No. 100), 2008, doc. No. (ILOLEX) 092008AUS100, 1st para., and ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2008, doc. No. (ILOLEX) 092008AUS111, 3rd para.
- ¹⁰⁹ CEDAW/C/AUS/CO/7, para. 39.
- ¹¹⁰ E/C.12/AUS/CO/4, para. 18.
- ¹¹¹ *Ibid.*, para. 19. See also ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), 2010, doc. No. (ILOLEX), 062010AUS087, 4th-6th and 9th-10th paras.
- ¹¹² E/C.12/AUS/CO/4, para. 20.
- ¹¹³ *Ibid.*, paras. 29-30.
- ¹¹⁴ CAT/C/AUS/CO/3, paras. 23 (b) and 25.
- ¹¹⁵ A/HRC/14/20/Add.4, paras. 74–81 and 82–99.
- ¹¹⁶ *Ibid.*, para. 100. See also ILO, *Indigenous & Tribal People's Rights in Practice - A Guide to ILO Convention No. 169*, Geneva, 2009, p. 150, available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_106474.pdf
- ¹¹⁷ A/HRC/4/18/Add.2, Summary and para. 52.
- ¹¹⁸ *Ibid.*, para. 127.
- ¹¹⁹ CCPR/C/AUS/CO/5, para. 18.
- ¹²⁰ CRC/C/15/Add.268, paras. 65–66.
- ¹²¹ E/C.12/AUS/CO/4, para. 26.
- ¹²² CEDAW/C/AUS/CO/7, para. 29.
- ¹²³ CERD/C/AUS/CO/15-17/CRP.1, para. 21. See also A/HRC/15/37/Add.4, para. 36, 95 and 97 and E/C.12/AUS/CO/4, para. 33.
- ¹²⁴ *Ibid.*, para. 31.
- ¹²⁵ A/HRC/15/37/Add.4, para. 71.
- ¹²⁶ *Ibid.*, para. 74.
- ¹²⁷ *Ibid.*, para. 19, CCPR/C/AUS/CO/5, para. 15, CERD/C/AUS/CO/15-17/CRP.1, para. 26.
- ¹²⁸ CERD/C/AUS/CO/15-17/CRP.1, para. 18.
- ¹²⁹ CCPR/C/AUS/CO/5, para. 16.
- ¹³⁰ E/C.12/AUS/CO/4, para. 32.
- ¹³¹ A/HRC/15/37/Add.4, para. 26.
- ¹³² CCPR/C/AUS/CO/5, para. 16, E/C.12/AUS/CO/4, para. 32, CERD/C/AUS/CO/15-17/CRP.1, para. 18 and A/HRC/15/37/Add.4, para. 28.
- ¹³³ A/HRC/14/20/Add.4, para. 50.
- ¹³⁴ A/HRC/15/37/Add.4, para. 65.
- ¹³⁵ *Ibid.*, paras. 62–64.
- ¹³⁶ *Ibid.*, Summary. See also paras. 91–101.
- ¹³⁷ CERD/C/AUS/CO/15-17/CRP.1, para. 22.
- ¹³⁸ A/HRC/15/37/Add.4, para. 88.
- ¹³⁹ *Ibid.*, para. 89.
- ¹⁴⁰ E/C.12/AUS/CO/4, para. 33.
- ¹⁴¹ E/C.12/AUS/CO/4, para. 27.
- ¹⁴² *Ibid.*, para. 16.
- ¹⁴³ UNHCR submission to the UPR on Australia, p. 2.
- ¹⁴⁴ *Ibid.*, p. 3.
- ¹⁴⁵ *Ibid.*, p. 4.

- ¹⁴⁶ Ibid., pp. 1–5, CCPR/C/AUS/CO/5, para. 23, E/C.12/AUS/CO/4, para. 25, CAT/C/AUS/CO/3, paras. 11, 12, 15 and 25; CERD/C/AUS/CO/15-17/CRP.1, para. 24, and A/HRC/14/20/Add.4, paras. 82–86 and 95–99.
- ¹⁴⁷ CERD/C/AUS/CO/15-17, para. 24.
- ¹⁴⁸ E/C.12/AUS/CO/4, para. 12.
- ¹⁴⁹ CCPR/C/AUS/CO/5, para. 11.
- ¹⁵⁰ Ibid., para. 29 and http://www2.ohchr.org/english/bodies/hrc/docs/Letter_Australia.pdf.
- ¹⁵¹ CAT/C/AUS/CO/3, para. 10.
- ¹⁵² A/HRC/4/26/Add.3.
- ¹⁵³ CAT/C/AUS/CO/3/Add.1, p. 2.
- ¹⁵⁴ A/HRC/4/26/Add.3, para. 72 and CERD/C/AUS/CO/15-17/CRP.1, para. 12. See also CRC/C/15/Add.268, paras. 24–25.
- ¹⁵⁵ HC’s statement to the 7th regular session of the Human Rights Council, 7 March 2008; Press release of 18 February 2008 by four special procedures. CAT/C/AUS/CO/3, para. 5; CCPR/C/AUS/CO/5, para. 6; E/C.12/AUS/CO/4, para. 4; CEDAW/C/AUS/CO/7, para. 12; CERD/C/AUS/CO/15-17/CRP.1, para. 4; A/HRC/15/37/Add.4, Summary, paras. 11 and 71 and A/HRC/14/20/Add.4, para. 28.
- ¹⁵⁶ A/HRC/12/34/Add.1, paras. 484–486, CERD/C/AUS/CO/15-17/CRP.1, paras. 3–8, 15, 19-22 and 26; CEDAW/C/AUS/CO/7, paras. 7-13, 30, 32, 34, 36, 38, 40 and 44; CAT/C/AUS/CO/3, paras. 4–7, 25-26, 29 and 32-33; E/C.12/AUS/CO/4, paras. 4–8 and 23; CCPR/C/AUS/CO/5, paras. 5–7, 10, 13, 15–17, 22-23 and 26; CRC/C/15/Add.268, paras. 3–4, 15, 21, 31, 33, 42, 51, 55, 59–60 and 67; A/HRC/15/37/Add.4, Summary and paras. 12–13, 38–39, 48–49 and 71; and A/HRC/14/20/Add.4, paras. 8, 28–29, 39, 43, 47, 56, 58 and 85.
- ¹⁵⁷ A/HRC/15/37/Add.4, para. 78. See also ILO, *Indigenous & Tribal People's Rights in Practice - A Guide to ILO Convention No. 169*, Geneva, 2009, p.44, available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_106474.pdf
- ¹⁵⁸ CEDAW/C/AUS/CO/7, para. 10.
- ¹⁵⁹ CCPR/C/AUS/CO/5, para. 5, CEDAW/C/AUS/CO/7, paras. 24–25; CERD/C/AUS/CO/15-17/CRP.1, paras. 7 and 10, E/C.12/AUS/CO/4, para. 10. See also CAT/C/AUS/CO/3/Add.1, p. 1.
- ¹⁶⁰ CAT/C/AUS/CO/3, para. 6. See also UNHCR submission for the UPR, p. 3.
- ¹⁶¹ CERD/C/AUS/CO/15-17/CRP.1, para. 32, CEDAW/C/AUS/CO/7, para. 50, CCPR/C/AUS/CO/5, para. 29 and CAT/C/AUS/CO/3, para. 37.
- ¹⁶² CAT/C/AUS/CO/3/Add.1. See also <http://www2.ohchr.org/english/bodies/cat/docs/followup/AustraliaFULetter06052010.pdf>
- ¹⁶³ A/HRC/15/37/Add.4, paras. 74–106 and Appendix B, paras. 36–41.
- ¹⁶⁴ A/HRC/14/20/Add.4, para. 100.
- ¹⁶⁵ A/HRC/4/18/Add.2, paras. 126–140.
- ¹⁶⁶ A/60/40, Vol. I, p. 121.
- ¹⁶⁷ A/64/44, pp. 140–141.
- ¹⁶⁸ A/64/18, p. 114.