



General Assembly

Distr.: General
2 June 2021

Original: English

Human Rights Council

Forty-seventh session

21 June–9 July 2021

Agenda item 6

Universal periodic review

Report of the Working Group on the Universal Periodic Review*

Australia

Addendum

**Views on conclusions and/or recommendations, voluntary commitments
and replies presented by the State under review**

* The present document is being issued without formal editing.



1. Australia has considered the 344 recommendations received during the third-cycle UPR appearance on 20 January 2021.
2. Australia has developed a genuine response, noting there was limited time for full consideration across all levels of government. Consistent with Australia's federal system, a number of recommendations are the responsibility of states and territories.
3. Australia's monitoring mechanisms provide scope to consider these issues further in the future.
4. Australia recognises a number of recommendations are highly aspirational and broad in nature. Certain recommendations also imply a position which is not an accurate reflection of Australia's legislation, policy or practice. Consistent with Australia's longstanding commitment to human rights and the UN, Australia has responded to these recommendations in good faith. This does not indicate that Australia agrees with the underlying assumption made.

International instruments

5. Australia commits to ratification of the 2014 ILO Protocol to the Forced Labour Convention. Australia will further consider the ratification of the ICPPED. Australia will also further consider withdrawing its reservation to Article 20 of the ICCPR.
6. Australia is not intending to ratify additional international instruments at this time. Australia is not in a position to withdraw any other reservations at this time.
7. Australia:
 - Accepts 36;
 - Notes 8-9, 39-40, 43;
 - Notes and will consider further 1-7, 41;
 - Notes but will not consider further at this time 10-35, 37-38.

International engagement

8. The Australian Government has determined that the \$4 billion official development assistance program budget is a proportionate, sustainable and responsible spend which allows us to help our neighbours and partner countries with their most pressing development needs, while also meeting our domestic requirements.
9. Australia will continue to advocate at the international level for the prevention of crimes against humanity and mass atrocities more broadly.
10. Australia:
 - Accepts 42, 52, 134;
 - Notes but will not consider further at this time 108-109, 126.

Domestic frameworks

11. Australia is confident the Australian Human Rights Commission is appropriately resourced to undertake its independent statutory functions.
12. Australia has comprehensive anti-discrimination legislation at the federal, state and territory levels that serves to protect and promote human rights. On this basis, Australia does not propose to introduce a charter or bill of rights at the federal level. Nor does Australia plan to consolidate existing anti-discrimination legislation.

13. Australia is committed to international human rights obligations and ensures those obligations are implemented in domestic law, policy and practice to the extent considered necessary.

14. Australia:

- Accepts 44-46, 48, 50, 57, 62, 64-65, 68, 92-93, 107, 273-274;
- Notes and will consider further 207;
- Notes 47, 49, 58, 60, 61, 63, 87, 229, 232-233;
- Notes but will not consider further at this time 272, 285-286.

Indigenous Australians

15. Australia supports the rights of Indigenous Australians through existing laws, policies and programmes at federal, state and territory level. Australia gives practical effect to the UN Declaration on the Rights of Indigenous Peoples through the co-design of domestic policy and programs in partnership with Aboriginal and Torres Strait Islander peoples.

16. Australia is committed to recognising Indigenous Australians in the Constitution and will hold a referendum when a consensus has been reached and it has the best chance of success. Australia is also committed to co-designing an Indigenous ‘Voice’ to Parliament.

17. Australia’s implementation of the new Closing the Gap Agreement seeks to address disparity in health and socio-economic outcomes between Indigenous Australians and other Australians. The Australian Government is working with state and territory governments to address the underlying causes of disadvantage, relevant to health, education, housing, employment, incarceration and contact with child protection systems.

18. Australia is committed to ensuring Commonwealth law provides the right protections for Aboriginal and Torres Strait Islander peoples’ cultural heritage.

19. Australia:

- Accepts 51, 54, 71, 73, 88-90, 93, 106-107, 114, 122, 136-137, 199, 204, 208, 215, 219-220, 224, 253-258, 260-271, 273-276, 278-284, 287, 289-291;
- Notes 87, 110, 182;
- Notes and will consider further 56, 211, 259, 277;
- Notes but will not consider further at this time 272, 285-286, 288.

Racism

20. Australia’s social cohesion policies encourage effective participation and engagement with the broader community. Australia remains committed to playing its part in abhorring racism and race-based discrimination in all its forms and continuing to support Australia’s successful multicultural society.

21. Australia:

- Accepts 68-70, 72-84, 86, 91, 94-97;
- Notes 59;
- Notes and will consider further 85.

Older Australians

22. Australia is committed to promoting and protecting the rights of older people and removing barriers that prevent older Australians from fully participating in society. The Age

Discrimination Act 2004 protects individuals from discrimination on the basis of age in employment, education, accommodation and the provision of goods and services.

23. Australia established the Royal Commission into Aged Care Quality and Safety to inquire into the quality of aged care services, how aged care services can be strengthened, and how to ensure services are delivered in a sustainable way and are people-centred. The Final Report was delivered to Government on 26 February 2021. The Report contained 148 recommendations to implement comprehensive reform and major transformation of the aged care system in Australia. The Report is an important document, the culmination of a two-year inquiry, and demands a carefully considered response. The Australian Government has committed to providing a response by 31 May 2021.

24. Australia:

- Accepts 55, 98-99.

Sexual orientation, gender identity and intersex status

25. The *Sex Discrimination Act 1984* prohibits discrimination on the basis of sexual orientation, gender identity and intersex status along with other attributes including sex, pregnancy, family responsibilities and relationship status.

26. Non-therapeutic procedures can only be carried out with the consent of the person being treated in Australia or, if the person is a child or otherwise cannot validly consent, with authorisation from a court or guardianship tribunal. Court authorisation is required for any surgical or sterilisation procedure that is not medically necessary for children with intersex characteristics.

27. Australia:

- Accepts 102-103;
- Notes 100-101, 104.

Climate change and disasters

28. Australia is committed to the goals of the Paris Agreement and is taking the practical action needed to reduce emissions. Australia will meet its 2030 Paris target and reach net zero as soon as possible, preferably by 2050.

29. The Australian Government works with vulnerable communities to implement local solutions for disaster preparedness and to manage extreme weather events and build resilience. The Australian Government works in close partnership with state, territory and local governments including Aboriginal and Torres Strait Islander peoples to plan and prepare to ensure appropriate, coordinated responses in the event of disasters.

30. Australia:

- Accepts 115-117;
- Notes 111-113;
- Notes but will not consider further at this time 118.

Rights of women

31. Australia is committed to eliminating discrimination against women as well as advancing gender equality and the rights of women.

32. Australia has zero tolerance for violence against women and their children. *Australia's National Plan to Reduce Violence against Women and their Children* brings together government and community efforts to prevent and reduce family, domestic and sexual violence. Australia has committed to a new National Plan developed in consultation

with State and Territory Governments and the broader community including the family and domestic violence sector.

33. Australia has set a target on reducing violence against Aboriginal and Torres Strait Islander women by 50 percent by 2031 through the Closing the Gap Framework. During development of the successor plan to the National Plan to Reduce Violence against Women and their Children 2010-2022, a targeted engagement strategy with Aboriginal and Torres Strait Islander peoples will ensure the Australian Government identifies appropriate strategies to meet the target and the Closing the Gap priority to work in genuine partnership and with shared decision-making.

34. The Australian Government is committed to boosting women's economic security by creating more opportunities and removing barriers to women's workforce participation. Australia is acting to eliminate gender pay inequality through the 2018 and 2020 Women's Economic Security Statements.

35. Australia:

- Accepts 66-67, 106, 125, 128-133, 195-198, 208-210, 212-222, 224-227, 281;
- Notes 223, 228;
- Notes and will consider further 211.

Rights of children

36. Responsibility for the minimum age of criminal responsibility is shared between the Australian Government and states and territories. Some Australian Governments have announced an intention to raise the minimum age of criminal responsibility.

37. Australia has incorporated its obligations under the CRC into domestic law to the extent considered necessary. This includes providing that a part in the *Family Law Act 1975 (Commonwealth)* which concerns children's matters has been drafted with the objective to give explicit effect to the CRC.

38. Australia:

- Accepts 66, 202, 230, 234-235;
- Notes and will consider further 207;
- Notes 140-169, 229, 231-233, 237.

Rights of persons with disabilities

39. The National Disability Strategy (NDS) provides Australia's overarching framework for disability policy. The vision of the NDS is to create an inclusive Australian society that enables people with disability to fulfil their potential as equal citizens. The Strategy focusses on all people with disability including women and children and includes a policy focus on rights protection, which aims to promote awareness and understanding of the rights of people with disability to enable them to participate fully in the economic, civic and social life of our nation.

40. The Australian Government established a Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability in April 2019. The Royal Commission will run for three years (until 29 April 2022) and has broad terms of reference covering all forms of violence against, and abuse, neglect and exploitation of, people with disability, in all settings and contexts. Australia is committed to ensuring that no one is deprived of their liberty on the basis of their disability.

41. All Australian governments recognise effective access to justice for persons with disabilities is crucial in ensuring the rights of people with disability are respected. A number of states and territories have Disability Justice Plans, which aim to enable more

seamless service delivery arrangements and greater ease in dealing with the diversity of client and users' needs.

42. Australia:

- Accepts 55, 66, 106-107, 123, 202, 220, 236, 239, 243, 249-251;
- Notes 237, 240-241, 252;
- Notes and will consider further 124, 135, 238, 242, 244-248.

Modern slavery, human trafficking and business and human rights

43. Modern slavery has no place in Australian society. The Australian Government has implemented a strong program of initiatives to combat modern slavery. The Australian Government's *National Action Plan to Combat Modern Slavery 2020-25* outlines Australia's strategic approach to prevent, disrupt, investigate and prosecute modern slavery practices over the next five years.

44. In response to modern slavery risks arising from COVID-19, Australia has increased efforts to support vulnerable workers and tackled forced and child labour through the implementation of international labour standards.

45. Australia:

- Accepts 69, 184-194;
- Notes 119, 120.

Migrants, refugees and asylum seekers

46. The Australian Government remains committed to a managed and equitable system of migration, consistent with Australia's non-refoulement obligations and other obligations with respect to the human rights of migrants, refugees and asylum seekers. This system of migration is enabled by Australia's ongoing commitment to strong border protection policies, tailored to Australia's own specific circumstances.

47. Immigration detention is an essential component of effective border management. Australian Government policy provides that detention in an immigration detention centre is a last resort.

48. Under the Migration Act, detention is not limited by a set timeframe, rather it ends when the person is either granted a visa or is removed from Australia in accordance with Australia's laws. Where persons seeking asylum do not engage Australia's protection obligations and do not hold a valid visa, Australia expects States to allow the return of their citizens consistent with international law.

49. Immigration detention of children is always a last resort and children are detained for the shortest practicable time. It is the Australian Government's policy that minors are not held in immigration detention centres, rather they are accommodated in alternative places of detention.

50. Australia also welcomes the important and positive role of scrutiny bodies including UN agencies and the Commonwealth Ombudsman in providing independent oversight of Australia's immigration detention system.

51. Australia:

- Accepts 54, 94, 96, 107, 206, 295-297, 299-303, 307, 314, 316-323, 329-330, 339;
- Notes 292-293, 298, 304, 311, 315, 324, 327, 331-333, 337, 340;
- Notes and will consider further 211, 306;

- Notes but will not consider further at this time 294, 305, 308-310, 312-313, 325-326, 328, 334-336, 338.

Civil and political rights

52. The Australian Government is committed to protecting and promoting traditional rights and freedoms, including freedom of speech and opinion. These rights and freedoms are protected by the common law principle that legislation should not infringe fundamental rights and freedoms unless the legislation expresses a clear intention to do so. The freedom to publish has always been subject to other considerations such as laws concerning defamation, criminal offences, the right to a fair trial and national security. Any limitations on rights and freedoms are reasonable, necessary and proportionate for the pursuit of a legitimate objective.

53. The Australian Government is committed to improving the services provided to voters with a disability and continues to review systems and processes for improvements. The Australian Government is satisfied that the temporary suspension of the right to vote, for persons serving a sentence of three years or longer, is objective, reasonable, proportionate and non-discriminatory.

54. Australia:

- Accepts 174, 181;
- Notes 175, 177, 180, 182-183, 252, 344;
- Notes but will not consider further at this time 176, 178-179.

Freedom of religion

55. The Australian Government has released two exposure drafts of a package of legislation which would further protect Australian's high degree of religious freedom. The package includes a Religious Discrimination Bill, which would make discrimination on the basis of religion unlawful at the federal level, adding to protections against religious discrimination which already exist in most states and territories.

56. Australia:

- Accepts 68, 73, 75, 77, 81, 86, 94, 97, 174.

Criminal justice and counter-terrorism

57. Australia's national security laws seek to protect the inherent right to life and security of all Australians whilst guarding against arbitrary deprivation of liberty and the abrogation of other applicable rights, including the rights to privacy and free expression. These laws include appropriate safeguards and protections, and are regularly reviewed.

58. Australia:

- Accepts 121-122, 125, 138-139, 181, 205-206, 217, 236, 249, 251, 342-343;
- Notes 229, 341, 344;
- Notes and will consider further 135, 207; 242, 247;
- Notes but will not consider further at this time 127.

Economic, social and cultural rights

59. Australia remains concerned by the COVID-19 pandemic's disproportionate effect on vulnerable groups and continues to closely monitor and respond to issues as they arise in a manner that is proportionate to the level of risk and consistent with human rights.

60. Australia:
- Accepts 105, 199, 202-204, 230;
 - Notes 201;
 - Notes but will not consider further at this time 200.

International humanitarian law

61. Australia's comprehensive and effective approach to investigating alleged violations of the laws applicable during armed conflict includes both military and civilian aspects.

62. Aspects of the ADF's approach to addressing such alleged violations are evidenced by the Inspector General Australian Defence Force Afghanistan Inquiry (IGADF report), which inquired into alleged breaches of the Law of Armed Conflict. The Office of the Special Investigator has been established to review the findings of the IGADF report, investigate allegations of criminal offences and refer any briefs of evidence to the Commonwealth Director of Public Prosecutions.

63. The Australian Government has also established the independent Afghanistan Inquiry Implementation Oversight Panel to provide assurance of Defence's response to the Inquiry's recommendations. These steps demonstrate Australia's resolve to thoroughly and independently address the issue and ensure international laws are adhered to and, where applicable, Australian domestic law is enforced.

64. Australia:
- Notes 170-173.

Recommendations out of scope

65. Australia believes that recommendation 53 falls outside the ambit of the UPR.
