

**Universal Periodic Review of Australia:
Issues for Inclusion in the
Australian Government's Report**



human
rights

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centre

The Human Rights Law Resource Centre (**HRLRC**) welcomes the invitation to submit initial views to the Attorney-General's Department on information to be included in the Australian Government's report to the Universal Periodic Review. In preparing these views, the HRLRC has had regard to:

- Australia's international legal obligations;
- the recommendations made by United Nations expert bodies on Australia's compliance with its international human rights treaty obligations, including recent Concluding Observations of the Human Rights Committee (in 2009), the Committee on Economic, Social and Cultural Rights (in 2009) and the Committee against Torture (in 2008);
- the observations and recommendations made by various Special Procedures of the Human Rights Council, including the recent reports of the Special Rapporteur on Indigenous Peoples and the Special Rapporteur on Adequate Housing;
- the report of the National Human Rights Consultation Committee;
- extensive consultation and engagement with Australian NGOs through NGO reporting processes; and
- the HRLRC's own case work, advocacy and community engagement.

In compiling its report, the HRLRC encourages the Australian Government to focus on actual human rights improvements, outcomes and challenges, rather than financial investments and inputs.

Positive Developments

The HRLRC encourages the Australian Government to include the following positive developments:

- conducting the National Human Rights Consultation regarding the legal recognition and protection of human rights in Australia;
- issuing a formal parliamentary 'Apology' to the Indigenous Stolen Generations;
- ratifying the *Convention on the Rights of Persons with Disabilities* and the Optional Protocol to the *Convention on the Elimination of All Forms of Discrimination against Women*, as well as signing the Optional Protocol to the *Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment*;
- endorsing the UN Declaration on the Rights of Indigenous Peoples;
- issuing a standing invitation to the Special Procedures of the UN Human Rights Council;
- undertaking key reforms of the immigration system, including ending the so-called 'Pacific Solution' and removing the system of temporary protection visas for asylum seekers;
- reforming and repealing certain aspects of Australia's industrial relations system known as 'WorkChoices';
- announcing the development of a national paid parental leave scheme;
- developing a National Homelessness White Paper and committing to halve homelessness by 2020;
- amending federal laws relating to equality for same-sex couples, particularly in relation to financial and related benefits;
- committing to 'Close the Gap' in health standards and life expectancy between Indigenous and non-Indigenous Australians by 2030;
- supporting the establishment of a National Congress of Australia's First Peoples; and

- enacting a specific offence of torture as well as a prohibition on the introduction of capital punishment in any Australian jurisdiction.

Areas of Concern and Challenge

In addition to these positive developments, the HRLRC encourages the Australian Government to include a critical discussion of the following human rights concerns:

- the lack of comprehensive legal protection of human rights at the national level, including the legal recognition and protection of economic, social and cultural rights;
- the need for enhanced parliamentary scrutiny to promote human rights;
- the continued policy of mandatory immigration detention, inadequate judicial oversight, and the use of Christmas Island as a remote detention facility, as well as the deleterious impacts of aspects of Australia's immigration law and policy on families and children;
- the incompatibility of aspects of Australian counter-terrorism law, policy and practice with fundamental human rights, in particular certain provisions of the Criminal Code, the Anti-Terrorism Act and ASIO legislation;
- the continued suspension of the *Racial Discrimination Act 1975 (Cth)* in relation to the Northern Territory Intervention, as well as the lack of adequate consultation with Indigenous peoples regarding the Intervention's measures and their conformity with international human rights standards;
- Indigenous participation in decision-making and the critical need to address ongoing disadvantage suffered by Indigenous Australians in areas such as health, education, employment and impacts of the criminal justice system;
- the need to make adequate reparations, through a national compensation scheme, for members of the Stolen Generations;
- the significant under-representation of women in senior positions in both the public and private sectors and in parliament;
- the need to take further steps to address ongoing issues of violence against women;
- concerns about police profiling, targeting and harassment of certain communities, particularly recently arrived migrants;
- the excessive use of force by police without adequate oversight, including the use of Taser guns and lethal force;
- the nature and extent of poverty in Australia and the need for a comprehensive national poverty reduction strategy;
- the current housing crisis and the significant problem of homelessness;
- the crisis in mental health in Australia and the inadequacy of mental health care;
- lack of access to adequate health care, particularly mental health care, in places of detention; and
- the human rights impacts of the extraterritorial operation of Australian-based trans-national corporations, and the lack of adequate regulatory or institutional oversight in this regards.

In this respect, the HRLRC strongly encourages the Australian Government to consider making **voluntary commitments** in relation to these issues with a view to strengthening the protection and promotion of human rights in Australia.

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