

## **Attachment 2 – Recommendations by the Australian Human Rights Commission for Australia’s UPR appearance**

### **2. Background and framework for promotion and protection of human rights**

#### **A. Scope of international obligations**

1. The Commission recommends that the Government:
  - ratify the Optional Protocol to ICESCR;
  - expedite ratification of the Optional Protocol to CAT and the establishment of a National Preventive Mechanism for places of detention;
  - give consideration through the parliamentary committee process to ratifying ILO Convention 169 and the Convention on Migrant Workers.

#### **B. National framework**

2. The Commission recommends that the Australian Government fully incorporate into Australian law its human rights obligations, including through the adoption of a federal Human Rights Act.
3. The Commission further recommends that a National Children’s Commissioner be established to monitor compliance with the CRC.

### **3. Promotion and protection of human rights on the ground**

#### **A. Equality before the law and non-discrimination**

##### **Aboriginal and Torres Strait Islander peoples**

4. The Commission recommends that the Government ensure the full participation of Indigenous peoples in decision making that affects them, including through developing measures to implement the Declaration on the Rights of Indigenous Peoples, and also commit to specific targets and timelines for reducing the disproportionate rates of Indigenous peoples in care and protection, juvenile detention and adult prisons, including through a greater focus on preventative measures (such as justice reinvestment strategies) and on supporting women and their families, and victims of violence and crime.
5. The Commission recommends that:
  - the Government take steps to recognise Aboriginal and Torres Strait Islander peoples in the Australian Constitution;
  - remove the discriminatory section 25 of the Constitution and replace it with a clause guaranteeing equality before the law;
  - reform the *Native Title Act* to address measures that have been found to be racially discriminatory;

- provide reparations to Indigenous communities for harm resulting from past child removal practices; and
- take measures to protect and promote Indigenous cultural and intellectual property, connection to traditional land through homelands and outstations, as well as the use of increasingly threatened languages, including through support for bilingual education programs.

6. The Commission recommends that the Northern Territory Emergency Response (or intervention) be conducted in a manner that is fully consistent with Australia's human rights obligations and be rigorously monitored.

### **Gender equality**

7. The Commission recommends that:

- the Government implement measures to improve the balance between paid work and family and caring responsibilities;
- adopt measures to close the gender gap in pay, and explore options to recognise and reward unpaid caring work within superannuation and pension schemes to protect women's economic security;
- promote and strengthen the representation of women in leadership and management roles; and
- strengthen gender equality laws and monitoring processes, including relevant enforcement and investigation powers.

### **Older persons**

8. The Commission recommends that the ADA be strengthened to better protect older persons from age discrimination, including by narrowing the broad range of exemptions which currently exist and by establishing and funding an Age Discrimination Commissioner at the AHRC.

### **People who are lesbian, gay or bisexual (LGB)**

9. The Commission recommends that sexuality be included as a ground of discrimination federally and that the Government take all possible steps to enable equal recognition of same-sex marriage.

### **People who are inter-sex or sex and/or gender diverse**

10. The Commission recommends that sex or gender diversity be included as grounds of discrimination in federal laws, and that the *Sex Files* report be implemented.

### **People with disability**

11. The Commission recommends that the National Disability Strategy be integrated with the National Action Plan on Human Rights, including with benchmarks, timelines and monitoring processes.

## **B. Migrants, refugees and asylum seekers**

## **Mandatory detention of asylum seekers**

12. The Commission recommends that:
- the Government lift the suspension of processing of Afghani and Sri Lankan asylum seekers;
  - amend the Migration Act so that detention occurs only when necessary, only for a minimal period, and where it is a reasonable and proportionate means of achieving a legitimate aim, and with decisions to detain people being subject to prompt review by a court;
  - implement the outstanding recommendations of *A last resort?*, the report of the National Inquiry into Children in Immigration Detention; and
  - cease holding people in immigration detention on Christmas Island and repeal the provisions of the Migration Act relating to ‘excised offshore places’.

## **People from culturally and linguistically diverse backgrounds**

13. The Commission recommends that the Government renew its commitment to multiculturalism by implementing and funding the recommendations of the AMAC, and continue to support programs to build resilience and social inclusion of vulnerable communities. The Commission further recommends that a full time Race Discrimination Commissioner be funded and appointed to the Commission.

## **C. Right to life, liberty and security of the person**

### **Counter-terrorism laws**

14. The Commission recommends that all counter-terrorism laws be subject to rigorous monitoring and be amended to ensure they are consistent with Australia’s human rights obligations.

### **Violence**

15. The Commission recommends that the Government ensure adequate and sustainable funding and independent monitoring of the national plan to reduce violence against women and children; and that there be increased attention to the prevalence of violence, bullying and harassment in our community, particularly in relation to children, the elderly, people with disability, Indigenous peoples, people from culturally and linguistically diverse communities, and people who are gay, lesbian or bisexual, and people who are intersex and sex and/or gender diverse. The Commission also recommends improved access to legal services for women and further reform of family law to better protect the safety of women and children.

### **Trafficking**

16. The Commission recommends that Australian laws on trafficking and related offences be reviewed and that the Government do more to ensure victims can access effective remedies.

## **D. Right to an adequate standard of living**

## **Housing and homelessness**

17. The Commission recommends that the Government provide comprehensive services to address the causes of homelessness, target strategies to address the growth in youth homelessness, ensure a right of access to crisis accommodation (and sufficient stock to enable this), ensure adequate legal protection from forced, unlawful or arbitrary evictions and ensure that the regulation of public spaces do not violate human rights.

## **People in rural and remote communities**

18. The Commission recommends that governments take action to ensure equitable access to services in rural and remote communities, with a particular focus on health and education.

## **4. Key national priorities, initiatives, and commitments**

19. The Commission recommends that the Government:

- agree to incorporate into the NAP all of the recommendations that it accepts through the Universal Periodic Review process; and
- ensure that the NAP on Human Rights is a forward looking document with clear indicators, benchmarks and timeframes and processes for monitoring.

20. The Commission recommends that the Government adopt a human rights based approach to addressing social exclusion and marginalisation, and explicitly recognises the importance of human rights in the NAP on Social Inclusion.

21. The Commission recommends that:

- human rights be incorporated into the National Curriculum for secondary schools;
- the Government provide a comprehensive package of measures in primary and secondary schools to address the Government's commitments under the first phase of the World Programme for Human Rights Education; and
- the Government commit to a sustained focus on community education about human rights to ensure improved understanding and awareness of human rights across society.

22. The Commission recommends that the Government ensure that its foreign affairs, trade and development assistance policies incorporate and promote human rights based approaches, and that the Government expand its support for the promotion of human rights in the Asia-Pacific region.