Australia

Mid-term Implementation Assessment

Promoting and strengthening the Universal Periodic Review
http://www.upr-info.org

Introduction

1. Purpose of the follow-up programme

> *The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.*
>
> A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 28 November 2013

Follow-up Outcomes

1. Sources and results

All data are available at the following address:

http://followup.upr-info.org/index/country/australia

We invite the reader to consult that webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

14 stakeholders' reports were submitted for the UPR. 35 NGOs were contacted. One UN agency was contacted. The Permanent Mission to the UN was contacted. The National Human Rights Institution (NHRI) was contacted as well.

14 NGOs and coalitions of NGOs responded to our enquiry. The UN agency did not respond. The State under Review provided a 2012 National Human Rights Action Plan in which information on the implementation of the UPR recommendations is included. This information is one year old. The NHRI responded to our enquiry too.

The following stakeholders took part in the report:

1. **State** of Australia
2. **NHRI**: Australian Human Rights Commission (AHRC)
3. **NGOs**: (1) Aboriginal Legal Rights Movement South Australia (ALRMSA) (2) Aboriginal Legal Service of Western Australia (ALSWA) (3) Australian Lawyers for Human Rights (ALHR) (4) Central Australian Aboriginal Legal Aid Service (CAALAS) (5) Edmund Rice International (ERI) (6) Global Human Rights Clinic (GHRC) (7) Global Initiative to End All Corporal Punishment of Children (GIEACPC) (8) Marist International Solidarity Foundation (FMSI) (9) National Aboriginal & Torres Strait Islanders Legal Services + Aboriginal and Torres Strait Islander Legal Service + Victorian Aboriginal Legal Service Co-operative (NATSILS) (10) Joint submission of National Association of Community Legal Centres + Anti Slavery Australia, Australian Women Against Violence Alliance, Castan Centre for Human Rights Law, Deaths In Custody Watch Committee (WA) Inc, Federation of Ethnic Communities' Councils of Australia, Kingsford Legal Centre, Marrickville Legal Centre, National Congress of Australia's First Peoples, NSW Council of Civil Liberties, People with Disability Australia, Refugee Advice & Casework Service, SCALES Community Legal Centre (Southern Communities Advocacy Legal and Education Service Inc.), Women's Legal Services NSW, Women's Legal Services Australia, YWCA

Australia (joint) (11) New South Wales Gay & Lesbian Rights Lobby (NSW-GLRL) (12) Refugee Council of Australia (RCA) (13) Women With Disabilities Australia (WWDA) (14) World Vision Australia (WVA)

IRI: 71 recommendations are not implemented, 63 recommendations are partially implemented, and 28 recommendations are fully implemented. No answer was received for 0 out of 163 recommendations and voluntary pledges.

2. Index

Hereby the issues which the MIA deals with:

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27	Canada	General	not impl.	page 237
33	Canada	Racial discrimination	partially impl.	page 12
89	Canada	National plan of action,Rights of the Child,Women's rights	fully impl.	page 209
162	Chad	General	fully impl.	page 244
78	Colombia	Sexual Orientation and Gender Identity	partially impl.	page 175
118	Colombia	Indigenous peoples	fully impl.	page 90
6	Denmark	Detention conditions,International instruments,Torture and other CID treatment	not impl.	page 117
21	Denmark	International instruments,Racial discrimination,Rights of the Child,Women's rights	not impl.	page 124
47	Denmark	Disabilities,Rights of the Child,Torture and other CID treatment,Treaty bodies,Women's rights	not impl.	page 183
122	Denmark	Indigenous peoples,International instruments	partially impl.	page 94
8	France	Enforced disappearances,International instruments	not impl.	page 120
23	France	International instruments	partially impl.	page 230
42	France	Death penalty,Treaty bodies	fully impl.	page 128
117	France	Indigenous peoples	fully impl.	page 88
130	France	Indigenous peoples	partially impl.	page 101
50	Germany	Disabilities,Rights of the Child,Torture and other CID treatment,Women's rights	not impl.	page 129
40	Ghana	ESC rights - general,Poverty	partially impl.	page 17
120	Ghana	Indigenous peoples,International instruments	partially impl.	page 93
141	Ghana	Asylum-seekers - refugees	not impl.	page 115
144	Ghana	Asylum-seekers - refugees,Detention conditions	not impl.	page 163
123	Guatemala	Indigenous peoples,International instruments	fully impl.	page 95
143	Guatemala	Migrants	not impl.	page 162
18	Hungary	International instruments,Rights of the Child	not impl.	page 123
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60	Iran	Minorities,Racial discrimination,Women's rights	partially impl.	page 190
85	Iran	Rights of the Child,Women's rights	partially impl.	page 203
100	Iran	Human rights violations by state agents	not impl.	page 147
101	Iran	Human rights violations by state agents,Torture and other CID treatment	not impl.	page 149
135	Iran	Development,Indigenous peoples,Right to education,Right to health,Rights of the Child	-	page 106
147	Iran	Asylum-seekers - refugees,Detention conditions,Migrants,Minorities	not impl.	page 166

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64	Israel	Treaty bodies,Women's rights	not impl.	page 196
112	Israel	International instruments,Women's rights	partially impl.	page 224
113	Israel	Freedom of association and peaceful assembly,Labour,Treaty bodies	not impl.	page 10
66	Japan	Women's rights	partially impl.	page 197
70	Japan	Human rights education and training	partially impl.	page 32
24	Jordan	International instruments	partially impl.	page 230
44	Jordan	Indigenous peoples,Special procedures,Treaty bodies	partially impl.	page 50
46	Jordan	Asylum-seekers - refugees,Migrants,Rights of the Child,Special procedures,Treaty bodies	not impl.	page 52
133	Jordan	ESC rights - general,Indigenous peoples	fully impl.	page 105
158	Laos	General	fully impl.	page 243
159	Laos	Development	partially impl.	page 40
74	Malaysia	Racial discrimination	fully impl.	page 36
102	Malaysia	Human rights violations by state agents,Justice	not impl.	page 151
114	Malaysia	Indigenous peoples	fully impl.	page 82
3	Maldives	Detention conditions,International instruments,Torture and other CID treatment	not impl.	page 117
39	Maldives	Environment	not impl.	page 16
5	Mexico	Detention conditions,International instruments,Torture and other CID treatment	not impl.	page 117
92	Mexico	Civil society,Indigenous peoples,Migrants,National plan of action,Rights of the Child,Women's rights	partially impl.	page 214
127	Mexico	Indigenous peoples	not impl.	page 98
1	Moldova	Detention conditions,International instruments,Torture and other CID treatment	not impl.	page 117
52	Moldova	Disabilities	fully impl.	page 57
156	Moldova	International instruments,Counter-terrorism	partially impl.	page 173
58	Morocco	Detention conditions,Disabilities,Rights of the Child	not impl.	page 25
75	Morocco	Other	partially impl.	page 37
136	Morocco	Indigenous peoples,Women's rights	partially impl.	page 107
4	New Zealand	Detention conditions,International instruments,Torture and other CID treatment	not impl.	page 117
36	New Zealand	International instruments,Rights of the Child	fully impl.	page 182
80	New Zealand	Sexual Orientation and Gender Identity	fully impl.	page 177
104	New Zealand	Detention conditions,Justice	not impl.	page 152
17	Norway	Indigenous peoples,International instruments	not impl.	page 122
30	Norway	General	not impl.	page 238
32	Norway	Indigenous peoples,International instruments	partially impl.	page 44
45	Norway	Indigenous peoples,Special procedures	not impl.	page 51
63	Norway	Women's rights	fully impl.	page 194
67	Norway	Women's rights	partially impl.	page 198
82	Norway	Sexual Orientation and Gender Identity	not impl.	page 181
91	Norway	Rights of the Child,Women's rights	not impl.	page 212
139	Norway	Asylum-seekers - refugees,International instruments	not impl.	page 113
41	Pakistan	ESC rights - general,Poverty,Treaty bodies	partially impl.	page 18

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37	Poland	Rights of the Child	fully impl.	page 182
160	Poland	Civil society,UPR process	partially impl.	page 11
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29	Russian Federation	International instruments	not impl.	page 126
77	Russian Federation	Freedom of religion and belief,Migrants,Racial discrimination	partially impl.	page 71
87	Russian Federation	Rights of the Child,Torture and other CID treatment	not impl.	page 207
103	Russian Federation	Detention conditions,Indigenous peoples	partially impl.	page 71
154	Russian Federation	Counter-terrorism	partially impl.	page 171
73	Singapore	General	fully impl.	page 33
131	Singapore	Indigenous peoples	fully impl.	page 102
34	Slovenia	Indigenous peoples,Racial discrimination	partially impl.	page 46
110	Slovenia	Indigenous peoples,Justice	not impl.	page 82
116	Slovenia	Indigenous peoples	partially impl.	page 88
138	Slovenia	Asylum-seekers - refugees,International instruments	not impl.	page 111
140	Slovenia	Asylum-seekers - refugees	not impl.	page 114
20	South Africa	International instruments,Racial discrimination	not impl.	page 124
56	South Africa	Other	not impl.	page 19
65	South Africa	Indigenous peoples,Women's rights	partially impl.	page 66
22	Sweden	General	partially impl.	page 230
72	Sweden	Indigenous peoples,Racial discrimination	partially impl.	page 69
137	Sweden	Asylum-seekers - refugees	not impl.	page 107
79	Switzerland	Sexual Orientation and Gender Identity	fully impl.	page 177
86	Switzerland	Rights of the Child,Women's rights	partially impl.	page 206
90	Switzerland	National plan of action,Rights of the Child,Women's rights	partially impl.	page 212
149	Switzerland	Detention conditions,Migrants	not impl.	page 168
157	Switzerland	International instruments	partially impl.	page 39
7	Thailand	Enforced disappearances,International instruments	not impl.	page 120
69	Thailand	Human rights education and training,Racial discrimination	partially impl.	page 30
95	Thailand	Migrants,Trafficking	fully impl.	page 134
132	Thailand	Indigenous peoples	partially impl.	page 104
151	Thailand	Trafficking	fully impl.	page 168
26	Timor-Leste	Justice	not impl.	page 234
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12	Turkey	International instruments,Labour,Migrants	not impl.	page 122
28	Ukraine	International instruments	not impl.	page 126

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53	United Kingdom	Other	not impl.	page 19
81	United Kingdom	Sexual Orientation and Gender Identity	partially impl.	page 178
115	United Kingdom	Indigenous peoples,Right to land	not impl.	page 87
31	United States	Indigenous peoples	partially impl.	page 42
84	United States	Indigenous peoples,Rights of the Child,Women's rights	partially impl.	page 200
99	United States	Labour,Migrants,Trafficking	partially impl.	page 144
109	United States	Human rights education and training	not impl.	page 160
59	Viet Nam	Minorities,Rights of the Child,Women's rights	partially impl.	page 185
62	Viet Nam	Development,ESC rights - general	partially impl.	page 29
76	Yemen	Minorities	fully impl.	page 70

3. Feedbacks on recommendations

CP Rights

Recommendation nº113: *Remove, in law and in practice, restrictions on the rights of workers to strike, as recommended by the Committee on Economic, Social and Cultural Rights* (Recommended by *Israel*)

IRI: *not implemented*

State of Australia response:
[...]
The Australian Government will continue to implement and monitor the Fair Work Act 2009 (Cth), which achieves the right balance between the interests of Australian employees, employers and their representatives by providing a strong safety of terms and conditions of employment, collective bargaining and protections from discriminatory and unfair treatment in the workplace.

The Australian Government commissioned a review of the Fair Work legislation in early 2012, which found that the legislation is operating largely as intended, and made a series of recommendations aimed at enhancing fairness and productivity in the workplace. The Australian Government is consulting widely in developing its response to the Review.
Performance indicator/timeline
Ongoing

The Australian Government will implement legislation to abolish the Australian Building and Construction Commission and remove a range of industry-specific regulations, including laws that provide broader circumstances under which industrial action attracts penalties.
Performance indicator/timeline
The Fair Work (Building Industry) Act 2012 and the Fair Work Building Industry Inspectorate, known as Fair Work Building and Construction commenced operating on 1 June 2012, achieving the Australian Government's objectives.

Global Human Rights Clinic (GHRC) response:
Not implemented. Legislative restrictions on the right to strike under s 415 of the Fair Work Act 2009 and under s 45D of the Competition and Consumer Act 2010 have remained since Israel's recommendation during the Universal Periodic Review in January 2011. Many union attempts to strike are consistently being refused despite international obligations.

Australian Human Rights Commission (AHRC) response:
No changes have been made

Joint submission of National Association of Community Legal Centres + Anti Slavery Australia, Australian Women Against Violence Alliance, Castan Centre for Human Rights Law, Deaths In Custody Watch Committee (WA) Inc, Federation of Ethnic Communities' Councils of Australia, Kingsford Legal Centre, Marrickville Legal Centre, National Congress of Australia's First Peoples, NSW Council of Civil Liberties, People with Disability Australia, Refugee Advice & Casework Service, SCALES Community Legal Centre (Southern Communities Advocacy Legal and Education Service Inc.), Women's Legal Services NSW, Women's Legal Services Australia, YWCA Australia (joint) response:
PARTIALLY IMPLEMENTED

The right to strike is not protected by Australian law and is denied to workers in many situations. The Fair Work Act 2009 (Cth) only protects industrial action when they are negotiating on a proposed enterprise agreement. Significant penalties can be imposed for industrial action that is not protected industrial action, including fines of up to $10,200 for an individual.

In their response to UPR recommendations Australia committed to abolishing the Australian Building and Construction Commission (ABCC). The ABCC was abolished in 2012, however the new Government has stated that it will re-establish the ABCC to increase industry and to reduce days lost to strikes.

Recommendation nº160: *Continue the consultation with civil society in a follow-up to its universal periodic review* (Recommended by *Poland*)

IRI: *partially implemented*

State of Australia response:
The Australian Government will prioritise human rights education by:

- providing grants to NGOs to develop and deliver community education and engagement programs to promote a greater understanding of human rights
- investing $3.8 million in an education and training package for the Australian Government public sector, including developing guidance materials for public sector policy development and implementation of government programs
- providing $6.6 million over four years to the Australian Human Rights Commission to expand its community education role on human rights and to provide information and support for human rights education programs, and
- enhancing support for human rights education in primary and secondary schools by continuing to work with states and territories and the Australian Curriculum, Assessment and Reporting Authority to include human rights and principles across the Australian curriculum, ensuring that human rights forms a part of student learning.

Performance indicator/timeline
Funding expended by 2013–14.

[....]

The Australian Government has introduced a Bill into the Parliament that amends the Australian Public Service Values to include a new value — Respectful: The APS respects all people, including their rights and heritage.

Performance indicator/timeline

The Public Service Amendment Bill 2012 (Cth) was introduced on 1 March 2012. Progress on the draft Public Service Commissioner Directions on the values is ongoing.

[...]

AHRC response:

Partly implemented. The Government holds an annual NGO forum to brief civil society on measures the Government is taking to promote and protect human rights in Australia, and provide a forum for NGOs to raise issues of concern. The Commission hopes the Government will continue the frank and robust engagement with civil society in the lead up to the second cycle.

Joint response:

NGOs are keen to work together with the Government in following-up Australia's Universal Periodic Review.

ESC Rights

Recommendation nº33: *Consider reinstating, without qualification, the Racial Discrimination Act into the arrangements under the Northern Territory Emergency Response and any subsequent arrangement* (Recommended by *Canada*)

IRI: *partially implemented*

State of Australia response:

The Racial Discrimination Act 1975 (Cth) was fully reinstated in relation to the Northern Territory Emergency Response as of 31 December 2010. The Stronger Futures in the Northern Territory legislation repealed the Northern Territory Emergency Response Act 2007 and includes provisions that make it explicit that the Stronger Futures laws do not affect the operation of the Racial Discrimination Act.

Performance indicator/timeline

All measures are consistent with the Racial Discrimination Act 1975 (Cth).

The Stronger Futures in the Northern Territory legislation complements a 10-year Australian Government commitment to work with Aboriginal people in the Northern Territory to build strong, independent lives, where communities, families and children are safe and healthy. Stronger Futures in the Northern Territory is a $3.4 billion investment and responds directly to what Aboriginal people told the Australian Government was important to them. The Australian Government is working with Aboriginal people in both big and small communities to support more local jobs,

tackle alcohol abuse and encourage kids to go to school, as well as provide basic services, including health, education and police.
Performance indicator/timeline
Ongoing.

The Service Delivery Principles for Indigenous Australians, agreed by the Council of Australian Governments (COAG), provide that all government agencies are required to make provision for Indigenous interpreters in the services and programs they fund and deliver to enable equitable access to services. COAG has agreed that the Commonwealth should develop a national framework, working with the states and the Northern Territory, for the effective supply and use of Indigenous language interpreters. During 2012, the Australian Government is working with the states and territories to develop a National Indigenous Interpreters Framework. Governments will work with the Indigenous interpreting sector and other stakeholders to develop the Framework
Performance indicator/timeline
Ongoing.

Central Australian Aboriginal Legal Aid Service (CAALAS) response:
As the National Aboriginal and Torres Strait Islander Legal Services (NATSILS) states in its UPR report, the Northern Territory Emergency Response (NTER) has been replaced by a package of legislation called 'Stronger Futures' which includes some amendments to the original program, including a reinstatement of the *Racial Discrimination Act 1975* (Cth), but largely reflects a similar approach to that which was taken under the NTER.

Some parts of the Stronger Futures package are still discriminatory. In particular, the Stronger Futures package of legislation continues to place restrictions on the manner and circumstances in which a court can take into consideration Aboriginal or Torres Strait Islander customary law or cultural practice in criminal proceedings involving an Aboriginal or Torres Strait Islander person, except in relation to offences relating to the protection of Aboriginal or Torres Strait Islander heritage (see ss. 15AB(1)(b), 16A(2A) and 16AA(1) of the *Crimes Act 1914* (Cth)).

As the Northern Territory Supreme Court noted in *The Queen v Wunungmurra* [2009] NTSC 24 at [17], prior to the NTER the court "in appropriate cases, took traditional Aboriginal law and cultural practices into account when such laws or cultural practices were relevant in determining the objective seriousness of an offence or the level of moral culpability of an offender and on occasion sentencing courts held that the moral culpability of an offender was lessened because he or she had acted in accordance with traditional Aboriginal law or cultural practices. Such matters were taken into account in accordance with established sentencing principles and the sentencing purposes and guidelines contained in the *Sentencing Act* (NT)". The continued preclusion on taking into account all of the circumstances of offending by an Aboriginal or Torres Strait Islander person effectively treats Aboriginal and Torres Strait Islander people less favourably than non-Aboriginal and Torres Strait Islander people.

National Aboriginal & Torres Strait Islanders Legal Services + Aboriginal and Torres Strait Islander Legal Service + Victorian Aboriginal Legal Service Co-operative (NATSILS) response:
[See above CAALAS response]

AHRC response:
Partly implemented. In June 2012 the Parliament passed the Stronger Futures legislation which sets out a package of measures primarily focused on the Northern Territory for the next decade and replaces the Northern Territory Emergency Response (NTER). The Stronger Futures legislation reinstated the Racial Discrimination Act within the Northern Territory. The Commission raised its concern at the lack of effective engagement and participation with the Northern Territory communities during the drafting process, and is also concerned that some of the measures contained within the Stronger Futures legislation may be invasive and limiting of individual freedoms and human rights, and require rigorous monitoring.

The Commission is of the view that while the suspension of the RDA has been lifted, there are some practical limitations on the reinstatement of the RDA, which has resulted in only partial reinstatement. The Commission further considers that some of the measures contained in the Stronger Futures legislation is not compatible with the UN Declaration on the Rights of Indigenous Peoples.

In July 2013, the Parliamentary Joint Committee on Human Rights (PJCHR) expressed concern about whether the Stronger Futures legislation complies with Australia's human rights obligations. The Committee further noted that "issue of whether some of the measures have had the beneficial effects that were hoped for, is contested and that there is much work to be done in terms of evaluation of the ongoing impact of the measures." (see page 75 of PJCHR Report)

Joint response:
PARTIALLY IMPLEMENTED

While the former Commonwealth government made moves to strengthen Australia's anti-discrimination framework by consolidating all federal anti-discrimination laws into a single act (see Recommendation 53), the purpose of this reform was not overtly to ensure Australia's racial discrimination laws' compatibility with Declaration on the Rights of Indigenous People (DRIP).

Nevertheless, the government has made some progress on the protection of indigenous rights that may promote the object and purpose of DRIP. For example, in 2010 it appointed an Expert Panel on Constitutional Recognition of Indigenous Australians to advise on how best to recognise Aboriginal and Torres Strait Islander peoples in the Constitution, and the new Government has committed to putting forward a draft amendment for constitutional recognition within 12 months of taking office. In a law recognising Aboriginal and Torres Strait Islander peoples was passed as an interim measure.

The Stronger Futures in the Northern Territory Act 2012 reinstated the Racial Discrimination Act 1975 (Cth) in relation to the Northern Territory Emergency Response, and the former Government committed to strengthening native title arrangements by measures (including $82 million in 2011-12) to support the ongoing capacity and operations of native title representative bodies.

Other measures to improve realisation of Indigenous rights include the Closing the Gap Strategy, Jawun's Empowered Communities initiative, the commitment (by the new Government) of up to $45 million for Generation One's demand-driven training model and the establishment of the new Prime Minister's Indigenous Advisory Council.

Recommendation nº35: *Facilitate the provision of sufficient funding and staffing for the Human Rights Commission and different commissioners, including the recently appointed Commissioner against racial discrimination* (Recommended by *Bolivia*)

IRI: *partially implemented*

State of Australia response:
The Australian Government will continue ensuring that the Australian Human Rights Commission is empowered and funded to resolve complaints of discrimination, including ensuring it is accessible and equitable to all
Performance indicator/timeline
Ongoing

[...]

AHRC response:
The Commission has received additional funding for specific measures - such as the appointment of a Race Discrimination Commissioner and National Children's Commissioner. The Commission has indicated that the funding provided is less than what is required to provide a standard level of support to each new Commissioner. Two parliamentary committee inquiries in relation to the Children's Commissioner have note concerns about funding to support that particular role and suggested that the issue be revisited in late 2013.

Additionally, the Commission is subject to a regular price-cost squeeze, a combination of the rising costs of running the organisation (such as salary and rent increases), with no increase in the appropriation base and the application of whole of government 'efficiency dividends' which have had the impact over time of eroding the financial base of the Commission. This is an issue that has been of concern to other similarly sized (i.e. small) federal agencies which are less able to secure additional core funding through the regular federal budget process.

Joint response:
PARTIALLY IMPLEMENTED
In its National Human Rights Action Plan 2012, the former government held that it would 'continue ensuring that the Australian Human Rights Commission was empowered and funded to resolve complaints of discrimination, including ensuring it is accessible and equitable to all.' No comprehensive funding scheme for the

Australian Human Rights Commission has been released, but the Action Plan in 2012 committed funding to the Commission for specific projects, including $6.6 million over four years to expand the Commission's community education role on human rights and provide information and support for human rights education programs, $1.6 million for program management of Australia-Vietnam Human Rights Technical Cooperation Program, $9.4 million over four years for Australia-China Human Rights Technical Cooperation Program. The new Coalition Government's plan in relation to funding and staffing of the Human Rights Commission is unclear.

Recommendation nº39: *Adopt a rights-based approach to climate change policy at home and abroad, including by reducing greenhouse gas emissions to safe levels that are consistent with the full enjoyment of human rights* (Recommended by *Maldives*)

IRI: *not implemented*

State of Australia response:

The Australian Government recognises that climate change presents an additional challenge to the maintenance of human rights. Climate impacts could, inter alia, place additional stress on resources and food security and weaken local and regional stability. The Australian Government is assisting global efforts to mitigate and adapt to climate change by:

- committing to reduce national carbon emissions by 5 to 15 per cent or 25 per cent, depending on international action, below 2000 levels by 2020
- implementing the Clean Energy Future Plan, including a carbon price and financial assistance for those who need help the most, particularly pensioners and low and middle-income households
- implementing the Carbon Farming Initiative, a national offsets scheme that reduces carbon pollution through land management and restoration projects – including the $22 million Indigenous Carbon Farming Fund that encourages Indigenous Australian participation
- working with Australian businesses and communities to prepare for the unavoidable impacts of domestic climate change; while also providing financial assistance overseas to meet the high-priority adaptation needs of vulnerable countries, particularly those in the Asia-Pacific region.

Performance indicator/ timeline

Ongoing fixed carbon price scheme from 1 July 2012 moving to a flexible price from 1 July 2015.
Financial assistance under the Clean Energy Future plan is being delivered since commencing from the middle of 2012.
Ongoing Carbon Farming Initiative from 8 December 2011.
Ongoing climate finance funding is being delivered to developing countries.

Women With Disabilities Australia (WWDA) response:

The newly elected Abbott Liberal Government has abolished the Climate Commission, which had been established to provide public information on the effects of and potential solutions to global warming. The Climate Change Authority will also be abolished. The Liberal Government is also repealing the carbon tax, and the carbon tax repeal legislation is currently being drafted.

Edmund Rice International (ERI) response:
[...] The outgoing government introduced a price on carbon, the infrastructure of which had begun to reduce emissions and indicated to industry the need to alter their ways of doing business so that they were encouraged by market forces to scale down the green house gas emissions they were responsible for. The new government has abolished the price on carbon. They are also in the process of dismantling the Climate change Authority which was created by the previous government to give advice on national emissions-reduction targets and carbon price caps. The new government has also shut down the Climate Commission which the previous government set up 4 years ago with the important role of keeping the government and the community informed about latest developments in climate science. It is trying also to prevent the $10 billion Clean Energy Finance Corporation which was set up by the previous government from giving loans to projects such as wind farms and solar plants. (It can only do this by legislation so the Corporation is actually obliged by current legislation to continue to do what it was set up to do...

The previous Labor government contributed $600 million to the Fast-Start precursor program of the Green Climate Fund and was one of 8 nations to help get the fund going when in contributed $500,000 last year. Help for poorer nations is now uncertain. We do not know what the new government's approach to fulfilling its international climate finance commitments will be. Some think they more inclined to strengthen bi-lateral relationships rather than multilateral efforts.

Joint response:
[...] The former Commonwealth Government announced it would work with Australian businesses and communities to prepare for the unavoidable impacts of climate change and provide overseas financial assistance to help vulnerable countries, particularly those in the Asia-Pacific region. In 2011, it implemented a carbon price and financial assistance for companies and individuals most affected by the price. The package of legislation includes the Clean Energy Act 2011 (Cth), which implements the carbon pricing mechanism for Australia, as well as the Clean Energy Regulator Act 2011 (Cth) and the Climate Change Authority Act 2011 (Cth), which implement key elements of the governance arrangements for the carbon pricing mechanism. Following the introduction of this Plan, in December 2011 to December 2012 there was a carbon emission decline of 0.2 per cent, according to recent statistics of the Australian National Greenhouse Accounts.

The newly elected Commonwealth Government has introduced bills into Parliament to repeal the Carbon Tax and Australia's $10 billion Clean Energy Finance Corporation. The Government will also cut funding to the Australian Renewable Energy Agency by $435 million. Environmental groups are concerned about the impact of these changes on Australia's ability to meet its international obligations.

Recommendation nº40: *Develop a comprehensive poverty reduction and social inclusion strategy, which would integrate economic, social and cultural rights* (Recommended by *Ghana*)

IRI: *partially implemented*

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Recommendation nº41: *In line with the Committee on Economic, Social and Cultural Rights recommendation, develop a comprehensive poverty reduction and social inclusion strategy, which should integrate economic, social and cultural rights* (Recommended by *Pakistan*)

IRI: *partially implemented*

State of Australia response:

Governments will continue to implement policy and programs consistent with the Australian Government's Social Inclusion Agenda which promotes economic, social and cultural rights, including by reducing disadvantage and increasing social, civic and economic participation. In particular, the Social Inclusion Agenda has a specific focus on the following priority areas, which seeks to reduce social and economic disadvantage in Australia:

- targeting jobless families with children to increase work opportunities, improve parenting and build capacity
- improving the life chances of children at greatest risk of long term disadvantage
- reducing the incidence of homelessness
- improving outcomes for people living with disability or mental illness and their carers • closing the gap for Indigenous Australians, and
- breaking the cycle of entrenched and multiple disadvantage in particular neighbourhoods and communities.

Performance indicator/timeline

Ongoing.

The Tasmanian Government's Economic Development Plan includes a priority to create job and training opportunities for young people leaving school in communities with high levels of youth unemployment and inter-generational unemployment. In 2012, the Tasmanian Government will deliver a pilot employment program for disadvantaged young people, with structured support for their parents and family in southern Tasmania.

Performance indicator/timeline

2012

The Tasmanian Government will continue to progress policies and programs to reduce disadvantage and alleviate cost of living pressures, consistent with A Social Inclusion Strategy for Tasmania (2009), the Cost of Living Strategy for Tasmania (2011) and Food for All Tasmanians: A Food Security Strategy (2012). Funding of $7 million has been allocated for 2011–14.

Performance indicator/timeline

Ongoing.

The ACT Government has developed an ACT Targeted Assistance Strategy in response to cost of living pressures on low income households, including the development of an Assistance Website. The website includes information on the wide range of supports and concessions currently available to the ACT community.

Performance indicator/timeline

The Targeted Assistance Strategy and the Assistance website were launched by the Chief Minister on 16 April 2012.

AHRC response:
Partly implemented. Australia had a social inclusion framework under the previous government - this framework included a social inclusion strategy, social inclusion board and mechanism for monitoring and reporting.

On 18 September 2013 the Prime Minister, the Hon Tony Abbott MP, was sworn in by the Governor-General. On this day, the Governor General signed the Administrative Arrangements Order and the Government's Social Inclusion Unit has been disbanded.

Joint response:
PARTIALLY IMPLEMENTED.

The Commonwealth government's response to this recommendation prioritised Indigenous health, housing, work and education, disability and poverty.

Regarding poverty, the Government committed to halving the rate of homelessness by 2020 in 'The Road Home: A National Approach to Reducing Homelessness' and the following year the National Partnership Agreement on Homelessness commenced. However, between 2006 and 2011, the number of homeless people increased by 17 per cent (Australian Government, 'Exposure draft -Homelessness Bill 2012'). Homeless services have reported that they are now turning away 16% of people asking for help. In 2011, the Government committed $3 billion to its 'Building Australia's Future Workforce' package, which included new initiatives targeting jobless families, however unemployment has increased and the Government has been criticised for providing inadequate unemployment and sole parenting social security payments and shifting a number of sole parents to lower payments.

Regarding Indigenous health, housing, work and education, see Recommendations 36 and 37: However, note that since implementation of the closing the gap program, life expectancy and child mortality indicators have improved, but not low birth-weight rates (Oxfam Australia, 'Closing the gap shadow report' (2013)).

Regarding disability, see other recommendations, particularly Recommendation 40. However, note that while the National Disability Insurance Scheme is being touted internationally, there are concerns that the scheme may fail due to large workforce shortages.

Recommendation nº53: *Ensure that its efforts to harmonize and consolidate Commonwealth anti-discrimination laws address all prohibited grounds of discrimination and promote substantive equality* (Recommended by *United Kingdom*)

IRI: *not implemented*

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Recommendation nº56: *Enact comprehensive legislation which prohibits discrimination on all grounds to ensure the full enjoyment of all human rights by every member of society* (Recommended by *South Africa*)

IRI: *not implemented*

State of Australia response:
The Australian Government will prioritise human rights education by:

- providing grants to NGOs to develop and deliver community education and engagement programs to promote a greater understanding of human rights
- investing $3.8 million in an education and training package for the Australian Government public sector, including developing guidance materials for public sector policy development and implementation of government programs
- providing $6.6 million over four years to the Australian Human Rights Commission to expand its community education role on human rights and to provide information and support for human rights education programs, and
- enhancing support for human rights education in primary and secondary schools by continuing to work with states and territories and the Australian Curriculum, Assessment and Reporting Authority to include human rights and principles across the Australian curriculum, ensuring that human rights forms a part of student learning.

Performance indicator/timeline
Funding expended by 2013–14.

The Australian Parliament will continue to play a role in the implementation of the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth) (commenced on 4 January 2012) which:

- establishes a Parliamentary Joint Committee on Human Rights which will provide greater scrutiny of legislation for compliance with Australia's international human rights obligations under the seven core United Nations human rights treaties to which Australia is a party, and
- requires all new Bills and disallowable legislative instruments to be accompanied by a statement assessing its compatibility with the rights in the seven core United Nations human rights treaties to which Australia is a party.

In accordance with the Human Rights (Parliamentary Scrutiny) (Consequential Provisions) Act 2011 (Cth), the President of the Australian Human Rights Commission has been appointed as a permanent member of the Administrative Review Council.
Performance indicator/timeline
The Australian Government will consider the effectiveness of the new Committee's powers, the content and function of Statements of Compatibility and the definition of 'human rights' as part of the 2013–14 review of Australia's Human Rights Framework.
AGD will respond to any relevant Committee recommendations in a timely way.

The Australian Government has introduced a Bill into the Parliament that amends the Australian Public Service Values to include a new value—Respectful: The APS respects all people, including their rights and heritage.
Performance indicator/timeline
The Public Service Amendment Bill 2012 (Cth) was introduced on 1 March 2012.
Progress on the draft Public Service Commissioner Directions on the values is ongoing

The Australian Government over time will review legislation, policies and practices for compliance with the seven core UN human rights treaties to which Australia is a party.
The review of legislation will incorporate a number of key elements, including:

- identification of priority areas within portfolios particularly relevant to human rights for review, and
- ensuring that human rights obligations are considered as part of legislation reviews proposed in other contexts.

Reviews will be designed to suit the particular circumstances. For example, a review at the time of introducing substantial amendments to an Act may be appropriate. In some cases, the Government may ask the new Joint Committee on Human Rights to review particular legislation, while in others, a review team may be established or existing bodies may undertake a review.
Views expressed by UN human rights bodies will be taken into account in identifying areas for review.
Performance indicator/timeline
Ongoing

Australian Lawyers for Human Rights (ALHR) response:
[In March 2013, following a lengthy government inquiry and drafting of a federal equality bill, the Human Rights and Anti-Discrimination Bill 2012, the federal government announced that it was no longer proceeding with its consolidation of its five federal anti-discrimination laws. Instead, the government announced that it would implement amendments to one of its federal anti-discrimination laws, the federal Sex Discrimination Act, to protect gender identity, sexual orientation and intersex status. While these now implemented amendments are commendable, they are no substitute for the broader reforms and greater protections provided by a unified federal equality law. The federal government have not indicated if and when they will proceed with consolidating its federal anti-discrimination laws into a unified equality law. ALHR urges the federal government to resume consolidating its five anti-discrimination laws.]

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Further, all four substantive anti-discrimination laws, which cover age, race, disability and sex, include special provisions that recognise substantive equality. However, each special provision differs under each anti-discrimination law. In its now defunct Human Rights and Anti-Discrimination Bill 2012, the federal government proposed a single special measure provision to apply to all protected attributes with the aim of improving substantive equality in Australia. The federal government have not indicated if and when they will proceed with consolidating its federal anti-discrimination laws into a unified equality law. ALHR urges the federal government to resume consolidating its five anti-discrimination laws.

NATSILS response:
In 2012 and 2013 the Government undertook an extensive consultation process aimed at harmonising and strengthening Australia's anti-discrimination laws. Draft legislation was released for public comment and included many of the amendments proposed by civil society. This process was then put on hold until after the 2013

federal election. The recent election has resulted in a change in Government with the new incoming Government signalling its intention to withdraw some of the increased protections which had been proposed by the previous Government.

Aboriginal Legal Service of Western Australia (ALSWA) response:
In 2012 and 2013 the Government undertook an extensive consultation process aimed at harmonising and strengthening Australia's anti-discrimination laws. Draft legislation was released for public comment and included many of the amendments proposed by civil society. This process was then put on hold until after the 2013 federal election. The recent election has resulted in a change in Government with the new incoming Government signalling its intention to withdraw some of the increased protections which had been proposed by the previous Government.

AHRC response:
Not implemented. A harmonised approach to discrimination law and implementation remains pending. The previous Australian Government committed to the development of a consolidated anti-discrimination law that would address the significant technical, definitional and operational differences between the four existing federal discrimination laws that had been developed over a 30 year period.

A draft exposure bill was released for public comment in late 2012. While offering many significant improvements and simplifications to the existing laws, the bill met with significant public concern relating to issues including the grounds of discrimination covered, changes to the onus of proof, and the reference to behaviour that insults or offends within the definition of discrimination. The bill has not proceeded beyond the draft exposure stage.

Joint response:
NOT IMPLEMENTED

In March 2013 the Government announced that it would delay its consolidation of Australia's anti-discrimination laws. The decision was met with extreme disappointment amongst community organisations and human rights groups.

The consolidation and modernisation of the five laws passed over the course of 4 decades, would simplify legislation schemes, address previous shortcomings and make anti-discrimination laws more effective, accessible and clear.

The draft Human Rights and Anti-Discrimination Bill 2012 was the product of a lengthy consultation process. The Senate Legal and Constitutional Affairs Legislation Committee had recommended that the Bill should be prioritised by the Government for introduction and passage through the parliament.

Although the new Commonwealth Attorney-General, George Brandis, has recognised a need to streamline federal anti-discrimination laws, the new Commonwealth government has not committed to proceeding with the former government's plan to consolidate Australia's anti-discrimination legislation.

WWDA response:
People who experience intersectional discrimination, for example Aboriginal or Torres Strait Islander people with disability, have no legal remedy for the interaction of both instances of discrimination. In 2013, the Government chose not to progress the Human Rights and Anti-Discrimination Bill 2012 through Parliament, which would have assisted in addressing intersectional discrimination.

Recommendation nº54: *Enact comprehensive equality legislation at the federal level* (Recommended by *Pakistan*)

IRI: *not implemented*

ALHR response:
In March 2013, following a lengthy government inquiry and drafting of a federal equality bill, the Human Rights and Anti-Discrimination Bill 2012, the federal government announced that it was no longer proceeding with its consolidation of its five federal anti-discrimination laws. Instead, the government announced that it would implement amendments to one of its federal anti-discrimination laws, the federal Sex Discrimination Act, to protect gender identity, sexual orientation and intersex status. While these now implemented amendments are commendable, they are no substitute for the broader reforms and greater protections provided by a unified federal equality law. The federal government have not indicated if and when they will proceed with consolidating its federal anti-discrimination laws into a unified equality law. ALHR urges the federal government to resume consolidating its five anti-discrimination laws.

AHRC response:
Not implemented. A harmonised approach to discrimination law and implementation remains pending. The previous Australian Government committed to the development of a consolidated anti-discrimination law that would address the significant technical, definitional and operational differences between the four existing federal discrimination laws that had been developed over a 30 year period.

A draft exposure bill was released for public comment in late 2012. While offering many significant improvements and simplifications to the existing laws, the bill met with significant public concern relating to issues including the grounds of discrimination covered, changes to the onus of proof, and the reference to behaviour that insults or offends within the definition of discrimination. The bill has not proceeded beyond the draft exposure stage.

Joint response:
NOT IMPLEMENTED

In March 2013 the Government announced that it would delay its consolidation of Australia's anti-discrimination laws. The decision was met with extreme disappointment amongst community organisations and human rights groups.

The consolidation and modernisation of the five laws passed over the course of 4 decades, would simplify legislation schemes, address previous shortcomings and make anti-discrimination laws more effective, accessible and clear.

The draft Human Rights and Anti-Discrimination Bill 2012 was the product of a lengthy consultation process. The Senate Legal and Constitutional Affairs Legislation Committee had recommended that the Bill should be prioritised by the Government for introduction and passage through the parliament.

Although the new Commonwealth Attorney-General, George Brandis, has recognised a need to streamline federal anti-discrimination laws, the new Commonwealth government has not committed to proceeding with the former government's plan to consolidate Australia's anti-discrimination legislation.

Recommendation nº55: *Grant comprehensive protection to rights of equality and nondiscrimination in its federal law* (Recommended by *India*)

IRI: *not implemented*

State of Australia response:
[See response to recommendation n° 53]

ALHR response:
[See response to recommendation n° 53]

NATSILS response:
While there are a range of anti-discrimination protections at the federal level history has shown that these can be suspended at the Government's will. For example, the Racial Discrimination Act has been suspended several times in order to pass laws affecting Aboriginal and Torres Torres Strait Islander peoples. See No. [53] above in relation to strengthening of anti-discrimination legislation.

AHRC response:
[See response to recommendation n° 53]

Joint response:
[See response to recommendation n° 53]

Recommendation nº57: *Continue its efforts to harmonize and consolidate its domestic legislation against all forms of discrimination on the basis of international standards* (Recommended by *Argentina*)

IRI: *not implemented*

ALHR response:
[See response to recommendation n° 53]

NATSILS response:
[See response to recommendation n° 53]

AHRC response:
[See response to recommendation n° 53]

Joint response:
[See response to recommendation n° 53]

Recommendation nº58: *Strengthen the federal legislation to combat discrimination and ensure an effective implementation with a view to a better protection of the rights of vulnerable persons, in particular children, persons in detention and persons with disabilities* (Recommended by *Morocco*)

IRI: *not implemented*

State of Australia response:

The Australian Government will continue ensuring that the Australian Human Rights Commission is empowered and funded to resolve complaints of discrimination, including ensuring it is accessible and equitable to all.

Performance indicator/timeline

Ongoing

The Australian Government will develop legislation to consolidate Commonwealth antidiscrimination laws to remove unnecessary regulatory overlap, address inconsistencies across laws and make the system more user-friendly. It will also consider the design of the compliance regime and complaints processes.

Performance indicator/timeline

Release exposure draft legislation for consultation in late 2012.

The Victorian Government will amend the Charter of Human Rights and Responsibilities Act 2006 consistently with its response to the Scrutiny of Acts and Regulations Committee's review of the Charter Act.

Performance indicator/timeline

Ongoing

The Department of Justice will monitor the effectiveness of the new Equal Opportunity Act 2010 (Vic), which commenced operation on 1 August 2011.

Performance indicator/timeline

Ongoing

The South Australian Equal Opportunities Commission will accept and conciliate complaints made by disadvantaged and vulnerable groups who experience discrimination in areas of public life.

Performance indicator/timeline

Ongoing

The Tasmanian Government will bring amendments before Parliament in 2012 following a review of its Anti-Discrimination Act 1998 (Tas). The review focused on easier access to complaint processes and earlier resolution of complaints.

Performance indicator/timeline

The Anti-Discrimination Amendment Bill 2012 was tabled in Parliament on 25 September 2012.

The Tasmanian Government will continue to consider and consult its community about the adoption of a charter of human rights and responsibilities.

Performance indicator/timeline

Ongoing

The ACT Government has passed amendments to include the right to education in the Human Rights Act 2004 (ACT).
Performance indicator/timeline
Human Rights Amendment Bill 2012 was passed on 29 August 2012.

The ACT Government has referred the review of the Discrimination Act 1991 (ACT) to the ACT Law Reform Advisory Council.
Performance indicator/timeline
2013–14.

ALHR response:
[In March 2013, following a lengthy government inquiry and drafting of a federal equality bill, the Human Rights and Anti-Discrimination Bill 2012, the federal government announced that it was no longer proceeding with its consolidation of its five federal anti-discrimination laws. Instead, the government announced that it would implement amendments to one of its federal anti-discrimination laws, the federal Sex Discrimination Act, to protect gender identity, sexual orientation and intersex status. While these now implemented amendments are commendable, they are no substitute for the broader reforms and greater protections provided by a unified federal equality law. The federal government have not indicated if and when they will proceed with consolidating its federal anti-discrimination laws into a unified equality law. ALHR urges the federal government to resume consolidating its five anti-discrimination laws.]

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At present, the significant costs of lodging a discrimination complaint in an Australian federal court act as a significant deterrent in litigants, particularly vulnerable persons, proceeding to a court hearing. The federal government's now defunct Human Rights and Anti-Discrimination Bill, significantly improves the protection of the rights of vulnerable persons by making Australian federal courts a no-costs jurisdiction for discrimination complaints. ALHR urges the federal government to resume implementing this provision through the continued consolidation of its five anti-discrimination laws.

NATSILS response:
[See response to recommendation n° 53]

AHRC response:
[See response to recommendation n° 53]

Joint response:
[See response to recommendation n° 53]

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Children: The former Government established a National Children's Commissioner (see Recommendation 86); passed legislation to prioritise the safety of children in family law proceedings; committed to a common screening and risk assessment tool to identify safety risks for clients across the family law system; funded the development of the AVERT family violence training package; trialled a supported

family dispute resolution model for use in cases of family violence; committed to the expansion of mental health service headspace to 90 centres nationally by 2014-15; and continued to fund community legal centres that target young people through the Commonwealth Community Legal Services Program. Further, it is implementing The National Framework for Protecting Australia's Children 2009-2020. Regarding Children, see also Recommendation 74 (ii).

People in detention: A number of recommendations of the Inspector-General of Intelligence and Security relation to the rights of persons in detention were implemented after the alleged torture of Australian citizen Mamdouh Habib (see Recommendation 136). However, the government continues to detain vulnerable asylum seekers - including children and pregnant women - in unsuitably hot, overcrowded and uncomfortable conditions as part of its offshore processing system. Regarding asylum seekers, see also Recommendations 137-150).

Disability rights: the former Commonwealth implemented the 10-year National Disability Strategy (NDS) to guide government activity across six key areas. In 2012, it also implemented the National Disability Insurance Scheme to provide people with disability with access to care and support services they need over the course of their lifetime, including funding of $1 billion for the first stage. Other measures include $3 billion for access to Disability Employment Services; $300,000 over three years to the Australian Human Rights Commission to help representatives of people with disability participate in key international forums on human rights; and increasing the number of people with disability employed in the Australian Public Service. Regarding people with disability

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NOT IMPLEMENTED

This recommendation is in keeping with United Nations Committee on the Elimination of Discrimination Against Women (2010), the Committee on the Rights of the Child (2005, 2012), the Human Rights Council (2011), along with the International Federation of Gynecology and Obstetrics (FIGO) Guidelines on Female Contraceptive Sterilization (2011), and recommendations of the World Medical Association (WMA) (2011) and the International Federation of Health and Human Rights Organisations (IFHHRO) (2011).

Forced/involuntary or coerced sterilisation of people with disability, particularly women and girls with disability is an ongoing practice in Australia. In September 2012 the Senate commenced an Inquiry into the involuntary or coerced sterilisation of people with disability in Australia, and released the Inquiry Report in July 2013. The Report recommends that national uniform legislation be developed to regulate sterilisation of children and adults with disability, rather than to prohibit the practice. The Report recommends that for an adult with disability who has the 'capacity' to consent, sterilisation should be banned unless undertaken with that consent. However, based on Australia's Interpretive Declaration in respect of Article 12 of the UN Convention on the Rights of Persons with Disabilities (CRPD), the Report also recommends that where a person with disability does not have 'capacity' for consent, substitute decision-making laws and procedures may permit the sterilisation of persons with disability. If the Australian Government accepts the recommendations of

the Senate Inquiry, it will mean that the Australian Government remains of the view that it is an acceptable practice to sterilise children and adults with disabilities, provided that they 'lack capacity' and that the procedure is in their 'best interest', as determined by a third party.

The forced sterilisation of women and girls with disabilities is an act of unnecessary and dehumanising violence, a form of social control, and a violation of the right to be free from torture and other cruel, inhuman or degrading treatment. By not abolishing this practice of forced and involuntary sterilisation the Australian Government, is denying women and girls with disabilities their rights of informed consent, their rights of being a mother; and it also sets many women up for long term physiological problems.

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NOT IMPLEMENTED

Australia has failed to incorporate the UN Convention on the Rights of persons with Disabilities (CRPD) into domestic law through comprehensive, judicially enforceable legislation. Existing legislation, such as the Disability Discrimination Act 1992 (DDA) (Cth), falls well short of the obligations under the Convention. Various aspects of current anti-discrimination laws limit the ability of people with disability to complain about discrimination, obtain effective remedies for violations of their rights, and to achieve substantive equality. For example, there are no protections against vilification or hate crimes in current legislation, and the DDA provides a defence to discrimination where the avoidance of discrimination would cause an unjustifiable hardship. Moreover, the process for addressing discrimination claims involves independent conciliation by the Australian Human Rights Commission as a first step, with matters going to court if conciliation cannot be reached. In practice this means that it is possible for resolutions to breaches of human rights to be settled confidentially rather than resolved in open court. Consequently, this reduces the opportunity to address matters of systemic discrimination and create progressive human rights jurisprudence through the legal system. People who experience intersectional discrimination, for example Aboriginal or Torres Strait Islander people with disability, have no legal remedy for the interaction of both instances of discrimination

Recommendation nº61: *Further ensure that everyone is entitled to equal respect and to a fair participation with full enjoyment of equal rights and opportunities in economic, political, social and cultural developments as incorporated in the laws and plans of action* (Recommended by *Cambodia*)

IRI: *partially implemented*

State of Australia response:

[See response to recommendation n° 53]

Joint response:

PARTIALLY IMPLEMENTED

There have been a number of positive developments in ensuring that full enjoyment of equal rights and opportunities for all people in Australia including:

- The development of the National Human Rights Action Plan
- The passing of the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth)

- The appointment of an Independent Reviewer of Adverse Security Assessments to review ASIO adverse security assessments given to the Department of Immigration and Citizenship (DIAC) in relation to people who remain in immigration detention.
- The development of a National Anti-Racism Strategy
- The establishment of a National Disability Insurance Scheme.
- The passing of the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 (Cth)
- The endorsement of the National Plan to Reduce Violence against Women and their Children by Federal, State and Territory Governments.
- The establishment of a National Children's Commissioner

However, this submission also highlights proposed policies which put would vulnerable groups at greater risk for instance, the funding cuts to Aboriginal and Torres Strait Islander Legal Services and the abolition of the Independent Reviewer of Adverse Security Assessments.

Recommendation nº62: *Take appropriate measures to reduce the development gap and social disparities so as to enhance the full enjoyment of all human rights for all Australian people, especially in the areas of economic, cultural and social rights* (Recommended by *Viet Nam*)

IRI: *partially implemented*

State of Australia response:

Governments will continue to implement policy and programs consistent with the Australian Government's Social Inclusion Agenda which promotes economic, social and cultural rights, including by reducing disadvantage and increasing social, civic and economic participation. In particular, the Social Inclusion Agenda has a specific focus on the following priority areas, which seeks to reduce social and economic disadvantage in Australia:

- targeting jobless families with children to increase work opportunities, improve parenting and build capacity
- improving the life chances of children at greatest risk of long term disadvantage
- reducing the incidence of homelessness
- improving outcomes for people living with disability or mental illness and their carers
- closing the gap for Indigenous Australians, and
- breaking the cycle of entrenched and multiple disadvantage in particular neighbourhoods and communities.

Performance indicator/timeline

Ongoing.

The Tasmanian Government's Economic Development Plan includes a priority to create job and training opportunities for young people leaving school in communities with high levels of youth unemployment and inter-generational unemployment. In 2012, the Tasmanian Government will deliver a pilot employment program for

disadvantaged young people, with structured support for their parents and family in southern Tasmania.
Performance indicator/timeline
2012

The Tasmanian Government will continue to progress policies and programs to reduce disadvantage and alleviate cost of living pressures, consistent with A Social Inclusion Strategy for Tasmania (2009), the Cost of Living Strategy for Tasmania (2011) and Food for All Tasmanians: A Food Security Strategy (2012). Funding of $7 million has been allocated for 2011–14.
Performance indicator/timeline
Ongoing.

The ACT Government has developed an ACT Targeted Assistance Strategy in response to cost of living pressures on low income households, including the development of an Assistance Website. The website includes information on the wide range of supports and concessions currently available to the ACT community.
Performance indicator/timeline
The Targeted Assistance Strategy and the Assistance website were launched by the Chief Minister on 16 April 2012.

Joint response:
[See response to recommendation n° 61]

Recommendation nº69: *Further strengthen its efforts to promote equality, non-discrimination and tolerance through the monitoring of racially motivated violence and inclusion of human rights education in school and university curriculum* (Recommended by *Thailand*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 58]

GHRC response:
Not implemented. Despite the Australian Government's recognition of the critical importance of human rights education and the allocation of funding towards human rights education programs for the community, the teaching of human rights in Australian schools in not explicitly mandated in the national curriculum. Further, gaps exist in the training of teachers about human rights education, meaning that human rights education in Australian schools is largely a matter of teacher knowledge and choice.

AHRC response:
[Partly implemented. The Government launched a new national multicultural policy (People of Australia) in February 2011, followed by the National Anti-Racism and Partnership Strategy (NARPS) in August 2012. The Strategy will be implemented between 2012 and 2015. An important component of NARPS is the anti-racism campaign – Racism. It stops with me, which is lead by the Commission.

On 18 March 2013, the Joint Standing Committee on Migration tabled its report in Parliament on the inquiry into Multiculturalism in Australia. The Committee made a number of recommendations to the Government that address issues of racism, religious diversity, social inclusion, settlement, participation, employment to name a few.

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Partly implemented. The Commission has been working closely with the Australian Curriculum, Assessment and Reporting Authority (ACARA) to ensure human rights are reflected in the national school curriculum. Human rights content will now be included in different subjects in the national curriculum and at different schooling levels.]

Joint response:
NOT IMPLEMENTED
For a discussion of human rights education, see Recommendation 70: "PARTIALLY IMPLEMENTED

The Australian Curriculum, Assessment and Reporting Authority and the Australian Human Rights Commission are collaborating to draft a national school curriculum in which more comprehensive human rights content. The Commonwealth Government is also providing $6.6 million over four years to the Australian Human Rights Commission to expand its community education role on human rights and to provide educational information and support education programs and has implemented an education grant program of $2 million over four year to NGOs to develop and provide education and engagement programs to create a better understanding of human rights. The Government is also implementing a $3.8 million education and training package for the Australian Government public sector, to include developing guidance materials for public sector policy development and implementation of government programs. It is not clear that new government will continue these programs."

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In 2011, the Australian Institute of Criminology concluded a comprehensive student victimisation study, and detailed findings were presented in the Crimes Against International Students in Australia: 2005-09 report. The report provided the best available estimation of the extent to which international students have been the victims of crime. However, due to the fact that policing databases do not consistently collect motivation data for all offences reported or investigated, the nature of the available data did not enable specific analysis of racial motivation factors that might affect the prevalence of crimes against overseas born students. The study concluded that determining the motivation for offending would best be achieved by the development and implementation of a large-scale crime victimisation survey of international students and other Australian migrant populations more broadly.

The lack of relevant data was pointed out by the former Human Rights and Equal Opportunity Commission already in 1991 in its Racist Violence: Report into the National Inquiry into Racist Violence in Australia. The report recommended, inter alia, that Federal and State police record incidents and allegations of racist violence, intimidation and harassment on a uniform basis, and that such statistics be collected, collated and analysed nationally by the appropriate Federal agency.

Recommendation nº70: *Step up measures, such as human rights education in schools, so as to promote a more tolerant and inclusive society* (Recommended by *Japan*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 58]

GHRC response:
Not implemented. Despite the Australian Government's recognition of the critical importance of human rights education and the allocation of funding towards human rights education programs for the community, the teaching of human rights in Australian schools in not explicitly mandated in the national curriculum. Further, gaps exist in the training of teachers about human rights education, meaning that human rights education in Australian schools is largely a matter of teacher knowledge and choice.

NATSILS response:
Aboriginal and Torres Strait Islander Legal Services are well-placed to provide community legal education, including in schools, to promote an understanding of legal rights and responsibilities, the human rights system, and the interaction between the legal system and Aboriginal and Torres Strait Islander customary law and custom. However, community legal education is chronically underfunded, particularly in remote areas.

AHRC response:
Partly implemented. The Commission has been working closely with the Australian Curriculum, Assessment and Reporting Authority (ACARA) to ensure human rights are reflected in the national school curriculum. Human rights content will now be included in different subjects in the national curriculum and at different schooling levels.

Joint response:
PARTIALLY IMPLEMENTED
The Australian Curriculum, Assessment and Reporting Authority and the Australian Human Rights Commission are collaborating to draft a national school curriculum in which more comprehensive human rights content. The Commonwealth Government is also providing $6.6 million over four years to the Australian Human Rights Commission to expand its community education role on human rights and to provide educational information and support education programs and has implemented an education grant program of $2 million over four year to NGOs to develop and provide education and engagement programs to create a better understanding of human rights. The Government is also implementing a $3.8 million education and training package for the Australian Government public sector, to include developing guidance materials for public sector policy development and implementation of government programs. It is not clear that new government will continue these programs.

Recommendation nº73: *Continue its efforts to promote multicultural and racial tolerance through initiatives such as the Australian Multicultural Advisory Council and the Diversity and Social Cohesion Programme* (Recommended by *Singapore*)

IRI: *fully implemented*

State of Australia response:

The Race Discrimination Commissioner of the Australian Human Rights Commission (AHRC) leads the development and delivery of a National Anti-Racism Partnership and Strategy, including government and non-government partners (Federation of Ethnic Communities' Councils of Australia and the National Congress of Australia's First Peoples). In 2012, the AHRC undertook extensive national consultations. The resulting national anti-racism campaign, Racism. It stops with me, was launched on 24 August 2012, and will be implemented over three years to 2015.

Performance indicator/timeline

The Strategy was launched on 24 August 2012, with implementation of the strategy rolled out over three years (2012–15).

The Australian Government will continue to engage with and monitor the effectiveness of the independent and non-partisan Australian Multicultural Council (AMC) which was established in 2011. Since September 2012, the AMC has met eight times and provided advice to Government in various forms.

Performance indicator/timeline

Ongoing.

The Australian Government will monitor the effectiveness of the People of Australia Ambassadors program to promote the benefits of multiculturalism. In January 2012, 40 Ambassadors were appointed for a 12 month term, following a national Expression of Interest which generated over 350 applications.

Performance indicator/timeline

The Program itself is ongoing.

The Australian Government conducted an inquiry into the responsiveness of Australian Government services to clients disadvantaged by cultural or linguistic barriers. In June 2012, an independent inquiry panel provided the Government with an assessment of the Australian Government's current approach to Access and Equity, and prioritised recommendations for improving the responsiveness of Australian Government services to a culturally and linguistically diverse population. The Government is developing its response to these recommendations.

Performance indicator/timeline

The Panel delivered its final report and recommendations to the Australian Government in June 2012. DIAC is currently progressing a whole-of government response to the recommendations.

The Australian Government will work with state and territory governments under the Council Of Australian Governments to endeavour to ensure that data collected by government agencies on client services can be disaggregated by markers of cultural diversity.

Performance indicator/timeline

2012–14.

The Australian Government will monitor the effectiveness of the recently established Multicultural Arts and Festivals Grants (MAFG), a subset of the Diversity and Social Cohesion Program (DSCP). MAFG provides funding for multicultural arts and festivals small grants to support community organisations to express their cultural heritages and traditions. This encourages social cohesion and mutual understanding. The Australian Government has committed $500,000 over four years commencing 2011–12 from the DSCP appropriation.
Performance indicator/timeline
Applicants may apply for funding on an ongoing basis. Applications are considered through distinct cycles over the financial year.

Monitor the effectiveness of the recently established Multicultural Youth Sports Partnership Program.
Performance indicator/timeline
Ongoing.

The Australian Government coordinates an annual Harmony Day to celebrate Australia's cultural diversity on March 21 to coincide with the United Nations Day for the Elimination of Racial Discrimination.
Performance indicator/timeline
Annual.

The Australian Government will undertake future work on community grants to promote social cohesion and combat violent extremism e.g. Building Community Resilience Youth Mentoring Grants Program.
Performance indicator/timeline
Funding across four years was provided in the 2010–11 Budget terminating in 2013–14.

The Australian Government will continue to fund the Federation of Ethnic Communities' Councils of Australia (FECCA) to provide advice on the views and needs of culturally and linguistically diverse communities. The Government allocated $432,000 in 2012–13.
Performance indicator/timeline
Annual.

Australian Governments will work together with international students and the international education sector to implement the Council of Australian Governments (COAG) International Students Strategy for Australia 2010–14 to support a high quality experience for international students.
Performance indicator/timeline
Ongoing.

The Victorian Government will continue to support health service providers to better meet the needs of the diverse communities they serve, including people from culturally and linguistically diverse (CALD) backgrounds through a variety of initiatives Examples include:

- Cultural Responsiveness Framework: guidelines for Victorian Health Services, specifying standards for reporting, and
- Victorian Patient Satisfaction Monitor, to survey and collate information about patients' experiences with adult in-patient healthcare in Victorian hospitals.

Performance indicator/timeline
Ongoing. Improved access and responsiveness of health services for people from CALD backgrounds.

The South Australian Government will provide grants to support activities that increase understanding of the culturally diverse community in which we live and improve equality and tolerance in society.
Performance indicator/timeline
Ongoing. Grants provided.

The South Australian Government will support health service providers to better meet the needs of the diverse communities they serve, including people from culturally and linguistically diverse backgrounds through a range of initiatives.
Performance indicator/timeline
Ongoing. Provision of services.

The Tasmanian Government has implemented a process of anonymous reporting of incidents of racial vilification and or violence in the community to allow for monitoring of the incidences of such and to allow for targeting of programs to address incidences. This is in addition to formal complaint mechanisms to allow for a nonthreatening process. The Tasmanian Government has allocated $20,000 per annum to this initiative.
Performance indicator/timeline
Launched 2010.

AHRC response:
Ongoing

Joint response:
IMPLEMENTED
Australian Multicultural Advisory Council was established in 2008. Following its recommendations on cultural diversity policy presented to government in the 2010 statement The People of Australia, The People of Australia – Australia's Multicultural Policy was launched in 2011. Among its key initiatives was the establishment of the Australian Multicultural Council, National Anti-Racism Partnership and Strategy, strengthening Government access and equity framework, Multicultural Arts and Festivals Grants and Multicultural Youth Sports Partnership program.

The Diversity and Social Cohesion Program is an Australian Government initiative that evolved from the 'Living in Harmony' program which was established in 1998. The primary objective of the program is to help not-for-profit community organisations turn plans into reality. The Diversity and Social Cohesion Program grants provide funds of up to AUD$50,000 for community groups and organisations to deliver projects that address local community relations issues.

Commencing in 2011–12, the Diversity and Social Cohesion Program also includes a new small grants program for multicultural arts and festivals. AUD$125,000 per financial year has been allocated to MAFG over the four years to 2014–15.

Recommendation nº74: *Take more effective measures to address discrimination and other problems related to racial and ethnic relations including by developing and implementing appropriate policy and programmes with a view to improving and strengthening relations between races and cultures* (Recommended by *Malaysia*)

IRI: *fully implemented*

State of Australia response:
[See response to recommendation n° 73]

AHRC response:
Partly implemented. The Government launched a new national multicultural policy (People of Australia) in February 2011, followed by the National Anti-Racism and Partnership Strategy (NARPS) in August 2012. The Strategy will be implemented between 2012 and 2015. An important component of NARPS is the anti-racism campaign – Racism. It stops with me, which is lead by the Commission.

On 18 March 2013, the Joint Standing Committee on Migration tabled its report in Parliament on the inquiry into Multiculturalism in Australia. The Committee made a number of recommendations to the Government that address issues of racism, religious diversity, social inclusion, settlement, participation, employment to name a few.

Joint response:
PARTIALLY IMPLEMENTED

Australia's cultural diversity demands a consistent policy framework. With the current The People of Australia – Australia's Multicultural Policy launched in 2011 and the previous policy Multicultural Australia: United in Diversity operating from 2003 to 2006, the Government is yet to implement a dedicated piece of legislation that would underpin the necessary infrastructure that support immigrants in Australia, including access and equity principles, language policy, translating and interpreting services, and cultural awareness in Government agencies and contracted organisations.

In March 2013, the Parliamentary Joint Standing Committee on Migration released its Inquiry into Migration and Multiculturalism in Australia report presenting the argument that one of Australia's major strengths in the immigration context has been that its immigration policies have been founded on a strong evidence base developed largely through the now-defunct Bureau of Immigration, Multicultural and Population Research. However, since this body was dismantled in 1996, there has been a gradual reduction in the amount and breadth of the research. The Committee recommended the establishment of a government funded, independent collaborative institute for excellence in research into multicultural affairs with functions similar to those of the former research body, with an increased emphasis on qualitative data collection.

Recommendation nº75: *Strengthen its measures and continue its efforts in promoting multiculturalism and social inclusion* (Recommended by *Morocco*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 73]

AHRC response:
[See response to recommendation n° 74]

Joint response:
NOT IMPLEMENTED
Following the 7 September 2013 election, the incoming Government has removed multicultural affairs as a core ministerial portfolio, and has instead moved the portfolio to the charge of the newly created Department of Social Services. The Government also disbanded the Australian Social Inclusion Board established in May 2008 to act as the main advisory body to the Australian Government on ways to achieve better outcomes for the most disadvantaged in the community and to identify long-term strategies to end poverty. With 26 per cent of Australia's population made up of first generation immigrants and 20 per cent second generation immigrants, the Government is yet to make clear its position on multiculturalism through a dedicated ministerial portfolio and to adopt a comprehensive social inclusion agenda towards full and equal social participation of culturally and linguistically diverse Australians

Recommendation nº111: *Take regular measures to prevent hate speech, including prompt legal action against those who incite discrimination or violence motivated by racial, ethnic or religious reasons* (Recommended by *Brazil*)

IRI: *partially implemented*

State of Australia response:
The Australian Government will continue ensuring that the Australian Human Rights Commission is empowered and funded to resolve complaints of discrimination, including ensuring it is accessible and equitable to all
Performance indicator/timeline
Ongoing

The Australian Government will develop legislation to consolidate Commonwealth antidiscrimination laws to remove unnecessary regulatory overlap, address inconsistencies across laws and make the system more user-friendly. It will also consider the design of the compliance regime and complaints processes.
Performance indicator/timeline
Release exposure draft legislation for consultation in late 2012.

The Victorian Government will amend the Charter of Human Rights and Responsibilities Act 2006 consistently with its response to the Scrutiny of Acts and Regulations Committee's review of the Charter Act.
Performance indicator/timeline
Ongoing

The Department of Justice will monitor the effectiveness of the new Equal Opportunity Act 2010 (Vic), which commenced operation on 1 August 2011.
Performance indicator/timeline
Ongoing

The South Australian Equal Opportunities Commission will accept and conciliate complaints made by disadvantaged and vulnerable groups who experience discrimination in areas of public life.
Performance indicator/timeline
Ongoing

The Tasmanian Government will bring amendments before Parliament in 2012 following a review of its Anti-Discrimination Act 1998 (Tas). The review focused on easier access to complaint processes and earlier resolution of complaints.
Performance indicator/timeline
The Anti-Discrimination Amendment Bill 2012 was tabled in Parliament on 25 September 2012.

The Tasmanian Government will continue to consider and consult its community about the adoption of a charter of human rights and responsibilities.
Performance indicator/timeline
Ongoing

The ACT Government has passed amendments to include the right to education in the Human Rights Act 2004 (ACT).
Performance indicator/timeline
Human Rights Amendment Bill 2012 was passed on 29 August 2012.

The ACT Government has referred the review of the Discrimination Act 1991 (ACT) to the ACT Law Reform Advisory Council.
Performance indicator/timeline
2013–14.

AHRC response:
Section 18C of the Racial Discrimination Act continues to operate, alongside state and territory level protections. There have been no changes to these schemes since the UPR appearance.

Joint response:
IMPLEMENTED

Laws prohibiting hate speech exist federally (Racial Discrimination Act 1975 (Cth) s18C-18D) and in every state and territory except for the Northern Territory (Racial and Religious Tolerance Act 2001 (Vic) ss7-12,25-25, Anti-Discrimination Act 1977 (NSW) ss 20C-20D, Anti-Discrimination Act 1998 (Tas) s19, Racial Vilification Act 1996 (SA) ss3-6, Criminal Code Act Compilation Act 1913 (WA) ss77-80H, Anti-Discrimination Act 1991 (QLD) ss124A, 131A, Discrimination Act 1991 (ACT) ss66-67).

The Government is considering amendments to section 18C of the Racial Discrimination Act 1975 (Cth). At the time of writing, the proposals for reform have not yet been released

Recommendation nº157: *Ensure, in particular through its Independent National Security Legislation Monitor, that its national legislation is in keeping with its international obligations in the field of human rights* (Recommended by *Switzerland*)

IRI: *partially implemented*

State of Australia response:
The Australian Government will continue to ensure that the Independent National Security Legislation Monitor (INSLM) has the power to review the practical operation, effectiveness and implications of Australia's counterterrorism and national security legislation on an ongoing basis. The INSLM's first annual report was tabled in Parliament on 19 March 2012, in accordance with the Independent National Security Legislation Monitor Act 2010. The Inspector General of Intelligence and Security (IGIS) and the Parliamentary Joint Committee on Intelligence and Security (PJCIS) will also provide additional oversight mechanisms that complement the work of the INSLM.
Performance indicator/ timeline
Ongoing (INSLM).
2013 (COAG Review).

In addition, the Council of Australian Governments (COAG) is undertaking a review of key provisions of Australia's counter-terrorism legislation which were enacted following the 2005 London bombings (this includes both Commonwealth and state and territory legislation). The Review is being conducted by an independent committee, chaired by the Hon Anthony Whealy QC. Full details of the Review are available.

AHRC response:
Partly implemented. On 6 August 2012, the Council of Australian Governments (COAG) commenced its review of counter-terrorism legislation in Australia. The terms of references outlines that the review would evaluate the operation, effectiveness and implications of key Commonwealth, state and territory counter-terrorism laws. The report made 47 recommendations to change counterterrorism laws at the state and federal level to ensure that they are necessary and proportionate, are effective against terrorism by providing law enforcement, intelligence and security agencies with adequate tools to prevent, detect and respond to acts of terrorism, are being exercised in a way that is evidence-based, intelligence-led and proportionate, and contain appropriate safeguards against abuse.

In April 2011, the Governor General appointed the first Independent National Security Legislation Monitor (INSLM) under the Independent National Security Legislation Monitor Act 2010 (the Act). The INSLM's role is to review the operation, effectiveness and implications of Australia's counter-terrorism and national security legislation on an ongoing basis. This includes considering whether the laws contain appropriate safeguards for protecting the rights of individuals, remain proportionate to any threat of terrorism or threat to national security or both, and remain necessary. The

Legislation requires that the INSLM produce an annual report. The first report was tabled in Parliament in March 2012.

Joint response:
PARTIALLY IMPLEMENTED
The Independent National Security Legislation Monitor Act 2010 (Cth) has established the office of the Independent National Security Legislation Monitor (INSLM). The INSLM's duty is to review the operation, effectiveness and implications of Australia's counter-terrorism and national security legislation on an ongoing basis. While reviewing legislation the INSLM is also taking into account Australia's obligations under international law including international human rights law.

The INSLM produces an annual report with recommendation to the government. Further, the Prime Minister may refer national security and counter-terrorism matters to the INSLM, either on his own initiative or at the suggestion of the INSLM. Members of the public are also invited to make submission to the INSLM. With regards to the review of relevant legislation, the INSLM is currently reviewing the National Security Information (Criminal and Civil Proceedings) Act 2004 (Cth) and the terrorism financing legislation as contained in Chapter 5 of the Criminal Code Act 1995 (Cth) and Part 4 of the Charter of the United Nations Act 1945 (Cth). As this review is still ongoing no results or the government's reaction thereto can be reported.

In addition to the INSLM, the Inspector General of Intelligence and Security (ICIS) and the Parliamentary Joint Committee on Intelligence and Security (PJCIS) will, according to the government, also provide additional oversight mechanisms complementing the work of the INSLM. Furthermore, the Council of Australian Governments (COAG) is undertaking a review of key provisions of Commonwealth, state and territory counter-terrorism legislation enacted after 2005. The review is scheduled for completion in 2014.

Recommendation nº159: *Actively continue to implement the best practice and policy for the promotion and protection of the rights and living conditions, and to narrow the gap in living standards in favour of the vulnerable groups in the country* (Recommended by *Laos*)

IRI: *partially implemented*

State of Australia response:
Governments will continue to implement policy and programs consistent with the Australian Government's Social Inclusion Agenda which promotes economic, social and cultural rights, including by reducing disadvantage and increasing social, civic and economic participation. In particular, the Social Inclusion Agenda has a specific focus on the following priority areas, which seeks to reduce social and economic disadvantage in Australia:

- targeting jobless families with children to increase work opportunities, improve parenting and build capacity
- improving the life chances of children at greatest risk of long term disadvantage
- reducing the incidence of homelessness
- improving outcomes for people living with disability or mental illness and their carers

- closing the gap for Indigenous Australians, and
- breaking the cycle of entrenched and multiple disadvantage in particular neighbourhoods and communities.

Performance indicator/timeline
Ongoing.

The Tasmanian Government's Economic Development Plan includes a priority to create job and training opportunities for young people leaving school in communities with high levels of youth unemployment and inter-generational unemployment. In 2012, the Tasmanian Government will deliver a pilot employment program for disadvantaged young people, with structured support for their parents and family in southern Tasmania.
Performance indicator/timeline
2012

The Tasmanian Government will continue to progress policies and programs to reduce disadvantage and alleviate cost of living pressures, consistent with A Social Inclusion Strategy for Tasmania (2009), the Cost of Living Strategy for Tasmania (2011) and Food for All Tasmanians: A Food Security Strategy (2012). Funding of $7 million has been allocated for 2011–14.
Performance indicator/timeline
Ongoing.

The ACT Government has developed an ACT Targeted Assistance Strategy in response to cost of living pressures on low income households, including the development of an Assistance Website. The website includes information on the wide range of supports and concessions currently available to the ACT community.
Performance indicator/timeline
The Targeted Assistance Strategy and the Assistance website were launched by the Chief Minister on 16 April 2012.

Joint response:
PARTIALLY IMPLEMENTED
There have been a number of positive developments in ensuring that full enjoyment of equal rights and opportunities for all people in Australia including:

- The development of the National Human Rights Action Plan
- The passing of the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth)
- The appointment of an Independent Reviewer of Adverse Security Assessments to review ASIO adverse security assessments given to the Department of Immigration and Citizenship (DIAC) in relation to people who remain in immigration detention.
- The development of a National Anti-Racism Strategy
- The establishment of a National Disability Insurance Scheme.
- The passing of the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 (Cth)
- The endorsement of the National Plan to Reduce Violence against Women and their Children by Federal, State and Territory Governments.
- The establishment of a National Children's Commissioner

However, this submission also highlights proposed policies which put would vulnerable groups at greater risk for instance, the funding cuts to Aboriginal and Torres Strait Islander Legal Services and the abolition of the Independent Reviewer of Adverse Security Assessments

Minorities

Recommendation nº31: *Focus on nationwide enforcement of its existing anti-discrimination law, plan adequately for nationwide implementation, especially as it relates to discrimination against indigenous persons* (Recommended by *United States*)

IRI: *partially implemented*

State of Australia response:

The Australian Government will continue ensuring that the Australian Human Rights Commission is empowered and funded to resolve complaints of discrimination, including ensuring it is accessible and equitable to all

Performance indicator/timeline

Ongoing

The Australian Government will develop legislation to consolidate Commonwealth antidiscrimination laws to remove unnecessary regulatory overlap, address inconsistencies across laws and make the system more user-friendly. It will also consider the design of the compliance regime and complaints processes.

Performance indicator/timeline

Release exposure draft legislation for consultation in late 2012.

The Victorian Government will amend the Charter of Human Rights and Responsibilities Act 2006 consistently with its response to the Scrutiny of Acts and Regulations Committee's review of the Charter Act.

Performance indicator/timeline

Ongoing

The Department of Justice will monitor the effectiveness of the new Equal Opportunity Act 2010 (Vic), which commenced operation on 1 August 2011.

Performance indicator/timeline

Ongoing

The South Australian Equal Opportunities Commission will accept and conciliate complaints made by disadvantaged and vulnerable groups who experience discrimination in areas of public life.

Performance indicator/timeline

Ongoing

The Tasmanian Government will bring amendments before Parliament in 2012 following a review of its Anti-Discrimination Act 1998 (Tas). The review focused on easier access to complaint processes and earlier resolution of complaints.
Performance indicator/timeline
The Anti-Discrimination Amendment Bill 2012 was tabled in Parliament on 25 September 2012.

The Tasmanian Government will continue to consider and consult its community about the adoption of a charter of human rights and responsibilities.
Performance indicator/timeline
Ongoing

The ACT Government has passed amendments to include the right to education in the Human Rights Act 2004 (ACT).
Performance indicator/timeline
Human Rights Amendment Bill 2012 was passed on 29 August 2012.

The ACT Government has referred the review of the Discrimination Act 1991 (ACT) to the ACT Law Reform Advisory Council.
Performance indicator/timeline
2013–14.

AHRC response:
Not implemented. A harmonised approach to discrimination law and implementation remains pending. The previous Australian Government committed to the development of a consolidated anti-discrimination law that would address the significant technical, definitional and operational differences between the four existing federal discrimination laws that had been developed over a 30 year period.

A draft exposure bill was released for public comment in late 2012. While offering many significant improvements and simplifications to the existing laws, the bill met with significant public concern relating to issues including the grounds of discrimination covered, changes to the onus of proof, and the reference to behaviour that insults or offends within the definition of discrimination. The bill has not proceeded beyond the draft exposure stage.

Joint response:
PARTIALLY IMPLEMENTED
While the former Commonwealth government made moves to strengthen Australia's anti-discrimination framework by consolidating all federal anti-discrimination laws into a single act (see Recommendation 53), the purpose of this reform was not overtly to ensure Australia’s racial discrimination laws’ compatibility with Declaration on the Rights of Indigenous People (DRIP).

Nevertheless, the government has made some progress on the protection of indigenous rights that may promote the object and purpose of DRIP. For example, in 2010 it appointed an Expert Panel on Constitutional Recognition of Indigenous Australians to advise on how best to recognise Aboriginal and Torres Strait Islander

peoples in the Constitution, and the new Government has committed to putting forward a draft amendment for constitutional recognition within 12 months of taking office. In a law recognising Aboriginal and Torres Strait Islander peoples was passed as an interim measure.

The Stronger Futures in the Northern Territory Act 2012 reinstated the Racial Discrimination Act 1975 (Cth) in relation to the Northern Territory Emergency Response, and the former Government committed to strengthening native title arrangements by measures (including $82 million in 2011-12) to support the ongoing capacity and operations of native title representative bodies.

Other measures to improve realisation of Indigenous rights include the Closing the Gap Strategy, Jawun's Empowered Communities initiative, the commitment (by the new Government) of up to $45 million for GenerationOne's demand-driven training model and the establishment of the new Prime Minister's Indigenous Advisory Council.

Recommendation nº32: *Fully implement the Racial Discrimination Act and the revision of federal laws to be compatible with the United Nations Declaration on the Rights of Indigenous Peoples* (Recommended by *Norway*)

IRI: *partially implemented*

State of Australia response:
The Racial Discrimination Act 1975 (Cth) was fully reinstated in relation to the Northern Territory Emergency Response as of 31 December 2010. The Stronger Futures in the Northern Territory legislation repealed the Northern Territory Emergency Response Act 2007 and includes provisions that make it explicit that the Stronger Futures laws do not affect the operation of the Racial Discrimination Act.
Performance indicator/timeline
All measures are consistent with the Racial Discrimination Act 1975 (Cth).

The Stronger Futures in the Northern Territory legislation complements a 10-year Australian Government commitment to work with Aboriginal people in the Northern Territory to build strong, independent lives, where communities, families and children are safe and healthy. Stronger Futures in the Northern Territory is a $3.4 billion investment and responds directly to what Aboriginal people told the Australian Government was important to them. The Australian Government is working with Aboriginal people in both big and small communities to support more local jobs, tackle alcohol abuse and encourage kids to go to school, as well as provide basic services, including health, education and police.
Performance indicator/timeline
Ongoing.

The Service Delivery Principles for Indigenous Australians, agreed by the Council of Australian Governments (COAG), provide that all government agencies are required to make provision for Indigenous interpreters in the services and programs they fund and deliver to enable equitable access to services. COAG has agreed that the Commonwealth should develop a national framework, working with the states and

the Northern Territory, for the effective supply and use of Indigenous language interpreters. During 2012, the Australian Government is working with the states and territories to develop a National Indigenous Interpreters Framework. Governments will work with the Indigenous interpreting sector and other stakeholders to develop the Framework

Performance indicator/timeline

Ongoing.

NATSILS response:

[As the National Aboriginal and Torres Strait Islander Legal Services (NATSILS) states in its UPR report, the Northern Territory Emergency Response (NTER) has been replaced by a package of legislation called 'Stronger Futures' which includes some amendments to the original program, including a reinstatement of the Racial Discrimination Act 1975 (Cth), but largely reflects a similar approach to that which was taken under the NTER.]

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The Government has made no noticeable effort at incorporating the Declaration on the Rights of Indigenous Peoples into domestic law.

ALSWA response:

No action has been taken by the former or current governments to revise current federal laws, including the Racial Discrimination Act, to be compatible with or incorporate provisions of the UNDRIP.

AHRC response:

Partly implemented. In June 2012 the Parliament passed the Stronger Futures legislation which sets out a package of measures primarily focused on the Northern Territory for the next decade and replaces the Northern Territory Emergency Response (NTER). The Stronger Futures legislation reinstated the Racial Discrimination Act within the Northern Territory. The Commission raised its concern at the lack of effective engagement and participation with the Northern Territory communities during the drafting process, and is also concerned that some of the measures contained within the Stronger Futures legislation may be invasive and limiting of individual freedoms and human rights, and require rigorous monitoring.

The Commission is of the view that while the suspension of the RDA has been lifted, there are some practical limitations on the reinstatement of the RDA, which has resulted in only partial reinstatement. The Commission further considers that some of the measures contained in the Stronger Futures legislation is not compatible with the UN Declaration on the Rights of Indigenous Peoples.

In July 2013, the Parliamentary Joint Committee on Human Rights expressed concern about whether the Stronger Futures legislation complies with Australia's human rights obligations. The Committee further noted that "issue of whether some of the measures have had the beneficial effects that were hoped for, is contested and that there is much work to be done in terms of evaluation of the ongoing impact of the measures." (see page 75 of PJCHR Report)

Joint response:
[See response to recommendation n° 31]

Recommendation nº34: *Consult with Aboriginal and Torres Strait Islander people, and take into consideration the guidelines proposed by the Australian Human Rights Commission before considering suspension of the Racial Discrimination Act for any future intervention affecting the Aboriginal and Torres Strait Islander people* (Recommended by *Slovenia*)

IRI: *partially implemented*

State of Australia response:
The Australian Government is working with the National Congress of Australia's First Peoples to better involve Indigenous Australians in government decisions affecting them. The Australian Government is providing $29.2 million to support the National Congress. In September 2012, Australian Government agencies and the National Congress of Australia's First Peoples finalised a Framework within which the Government agencies and National Congress can effectively engage on matters of importance to Aboriginal and Torres Strait Islander peoples.
Performance indicator/timeline
Ongoing. Funding for the establishment of the National Congress of Australia's First Peoples covers almost a five year period.

Mechanisms as set out in the Funding Agreement between Commonwealth agencies and Congress. The Australian Government will continue to strengthen native title arrangements by:

- considering possible reforms to promote leading practice in native title agreements and the governance of native title payments
- providing ongoing resources (including $82 million in 2011–12) to support the ongoing capacity and operations of native title claimant representative bodies
- establishing a new research scholarship for native title representative bodies to increase the skills and retention of research staff, and
- committing $1.4 million over three years for a native title anthropologist grants program to attract a new generation of junior anthropologists and encourage senior anthropologists to remain.

Performance indicator/timeline
Ongoing. This brings capacity development funding in the native title system to over $3.5 million in 2011-12.

The Australian Government will continue work to embed its Indigenous Engagement Framework within Commonwealth agencies. The Stronger Futures legislation passed by the Australian Government in 2012 was informed by the successive consultations with Aboriginal peoples in remote Northern Territory communities since 2008 and provides for a sustainable, long-term approach to supporting Aboriginal people in the Northern Territory.
Performance indicator/timeline
Ongoing. Stronger Futures in the Northern Territory Act 2012 was passed by the Australian Parliament in June 2012

The Australian Government will continue to support specific initiatives to empower Indigenous women, including the:

- Indigenous Leadership Activity program
- Indigenous Women's Grants program, and
- National Aboriginal and Torres Strait Islander Women's Alliance (NATSIWA). To ensure effective gender representation, the structure of the National Congress of Australia's First Peoples includes two co-chairs, one of which must be female. Women are also provided with equal representation on the National Congress' Ethics Council, which oversees the body's ethical standards and membership appointments.

Performance indicator/timeline
Leadership Programs ongoing.

The Australian Government is working towards recognising Aboriginal and Torres Strait Islander peoples in the Constitution. In December 2010, the Australian Government appointed an Expert Panel on Constitutional Recognition of Indigenous Australians to consider, consult and advise on how best to recognise Aboriginal and Torres Strait Islander peoples in the Constitution. The Australian Government received the Expert Panel's report, Recognising Aboriginal and Torres Strait Islander Peoples in the Australian Constitution, on 19 January 2012, including recommendations for changes to the Constitution.
Performance indicator/timeline
Australian Government funding for the Reconciliation Australia led community awareness initiative covers a two year period, ending 30 June 2014. Bill to be introduced by end 2012.

On 15 February 2012, the Australian Government announced $10 million to help build public awareness and community support for the recognition of the First Australians in our Constitution. This important work is being led by Reconciliation Australia, supported by a reference group of business and community leaders. The funding will support community groups and activities and give Australians the opportunity to learn more about constitutional recognition. On 20 September 2012, the Australian Government announced it will be introducing a Bill into the Parliament by the end of 2012 to recognise Aboriginal and Torres Strait Islander peoples as a step towards a successful referendum.

The Victorian Government will support public participation by Aboriginal and Torres Strait Islanders through the Aboriginal Inclusion Framework, Local Indigenous Networks, the Aboriginal Heritage Council, and the Enabling Choice for Aboriginal People Living with Disability.
Performance indicator/timeline
Ongoing.

The Victorian Government will ensure a whole of government coordinated approach to Aboriginal Affairs across relevant government agencies through the Victorian Indigenous Affairs Framework (VIAF) 2010–13. The South Australian Government will review the Aboriginal Heritage Act 1988 (SA) which is designed to preserve and

protect Aboriginal heritage by means of planning and development and native title integration and recognition.
Performance indicator/timeline
2010-2013.

The South Australian Government will review the Aboriginal Heritage Act 1988 (SA) which is designed to preserve and protect Aboriginal heritage by means of planning and development and native title integration and recognition.
Performance indicator/timeline
Consultation on the draft Bill is anticipated to commence in June 2012. Bill anticipated to be introduced into Parliament in 2012.

The South Australian Government will review the Aboriginal Lands Trust Act 1966 (SA) which is designed to preserve and maintain Aboriginal land ownership.
Performance indicator/timeline
Bill anticipated to be introduced into Parliament in 2012-2013.

The South Australian Government will administer the South Australian Aboriginal Advisory Council which will provide high level confidential advice to the State Government on public policy development.
Performance indicator/timeline
Ongoing.

The South Australian Government will have a Commissioner for Aboriginal Engagement who is responsible for publicly advocating for engagement between the broader community and Aboriginal people, and who advises on systemic barriers for Aboriginal peoples' access and full participation in government, non-government and private services.
Performance indicator/timeline
Commissioner appointed by the Minister for Aboriginal Affairs and Reconciliation. Ongoing.

The ACT Government is strengthening collaborative relationships with the democratically elected representatives of the ACT Aboriginal and Torres Strait Islander community, especially in relation to monitoring progress on Closing the Gap in Indigenous disadvantage.
Performance indicator/timeline
Ongoing.

The ACT Government, together with the ACT Aboriginal and Torres Strait Islander Elected Body, has developed the Aboriginal and Torres Strait Islander Justice Agreement 2010-2013. The Agreement provides a higher level of understanding and mutual commitment to addressing the needs of Aboriginal and Torres Strait Islander

people in the ACT law and justice system, improving their community safety and overcoming social exclusion.

Performance indicator/timeline

2010-13. The fourth objective of the Agreement is to facilitate Aboriginal and Torres Strait Islander people taking a leadership role in addressing their community justice concerns.

NATSILS response:

No such commitment has been made by the Government.

ERI response:

Partially implemented: The outgoing government pledged not to suspend the Racial Discrimination Act (RDA), as was done by its predecessor. The incoming government is committed to expanding interventions affecting Aboriginal and Torres Strait Islander peoples. It has not yet announced its position re the RDA.

AHRC response:

Partly implemented. In June 2012 the Parliament passed the Stronger Futures legislation which sets out a package of measures primarily focused on the Northern Territory for the next decade and replaces the Northern Territory Emergency Response (NTER). The Stronger Futures legislation reinstated the Racial Discrimination Act within the Northern Territory. The Commission raised its concern at the lack of effective engagement and participation with the Northern Territory communities during the drafting process, and is also concerned that some of the measures contained within the Stronger Futures legislation may be invasive and limiting of individual freedoms and human rights, and require rigorous monitoring.

The Commission is of the view that while the suspension of the RDA has been lifted, there are some practical limitations on the reinstatement of the RDA, which has resulted in only partial reinstatement. The Commission further considers that some of the measures contained in the Stronger Futures legislation is not compatible with the UN Declaration on the Rights of Indigenous Peoples.

In July 2013, the Parliamentary Joint Committee on Human Rights expressed concern about whether the Stronger Futures legislation complies with Australia's human rights obligations. The Committee further noted that "issue of whether some of the measures have had the beneficial effects that were hoped for, is contested and that there is much work to be done in terms of evaluation of the ongoing impact of the measures." (see page 75 of PJCHR Report)

Joint response:

NOT IMPLEMENTED

The Australian Human Rights Commission has issued draft guidelines to provide practical assistance to the Australian Parliament and the Government in designing and implementing income management measures that are designed to protect human rights and to ensure consistency with the Racial Discrimination Act 1975 (Cth). At the time of writing, it is unclear as to whether the Australian Government has incorporated these guidelines into their processes.

Recommendation nº44: *Consider implementing the recommendations of human rights treaty bodies and special procedures concerning indigenous people* (Recommended by *Jordan*)

IRI: *partially implemented*

State of Australia response:
[...]
The Australian Government will review its position on International Labor Organization (ILO) Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries.
Performance indicator/timeline
Australian, state and territory governments to commence consideration of Australia's compliance with the convention in 2012, in consultation with Aboriginal and Torres Strait Islander representatives and Australia's ILO social partners.
[...]

NATSILS response:
no action has been taken in regards to the majority of recommendations.

AHRC response:
Partly implemented. UPR recommendations accepted by the Australian Government were included as actions in the national action plan on human rights. Outstanding recommendations of treaty committees were also considered by the government int his process. At the time of review the Government made a voluntary commitment to lodge the concluding observations of treaty bodies and UPR recommendations with Parliament. This has been done for each set of concluding observations since 2011. The tabling of recommendations has not included commitments to implement and implementation of recommendations remains patchy
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Some elements of the SR's recommendations have been implemented, while others have not. In particular: changes have been made to the NT emergency response to bring it into compliance with human rights standards and to apply racial discrimination protections to its application; the National Congress of Australia's First Peoples has been supported by the government and provides a national voice for indigenous peoples in policy processes; formal protocols for engagement have been agreed by the Australian Government and the National Congress; and initiatives to close the gap on socio-economic indicators have been extended and incorporate a human rights based approach into service delivery.

Joint response:
NOT IMPLEMENTED
The Declaration on the Rights of Indigenous Peoples incorporates the substantive rights outlined in the below mentioned seven key treaties to which Australia is a signatory. Although the Declaration has been adopted in Australia, it is not considered a key human rights mechanism against which to measure progress, and efforts by the Australian Government to adequately implement the Declaration have been minimal.
[...]

Recommendation nº45: *Implement the recommendations made by the United Nations Special Rapporteur on the rights of indigenous people after his visit in 2009* (Recommended by *Norway*)

IRI: *not implemented*

State of Australia response:
[...]

The Australian Government will review its position on International Labor Organization (ILO) Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries.
Performance indicator/timeline
Australian, state and territory governments to commence consideration of Australia's compliance with the convention in 2012, in consultation with Aboriginal and Torres Strait Islander representatives and Australia's ILO social partners.

[...]

NATSILS response:
[See response to recommendation n° 44]

AHRC response:
Some elements of the SR's recommendations have been implemented, while others have not. In particular: changes have been made to the NT emergency response to bring it into compliance with human rights standards and to apply racial discrimination protections to its application; the National Congress of Australia's First Peoples has been supported by the government and provides a national voice for indigenous peoples in policy processes; formal protocols for engagement have been agreed by the Australian Government and the National Congress; and initiatives to close the gap on socio-economic indicators have been extended and incorporate a human rights based approach into service delivery.

Joint response:
[...] Other than the acknowledgements already provided by the Special Rapporteur on existing policies, little has been done to address the recommendations made. Developments to date include:

- the release of the National Indigenous Health Plan – 2013-2023 developed in consultation with relevant Indigenous health stakeholders
- the release of the Indigenous Economic Development Strategy 2011-2018
- an independent review of Taxation of Native Title and Traditional Owner Benefits and Governance; and a review of roles and functions of Native Title Organisations

The Commonwealth Government has reinstated the Racial Discrimination Act (1975) in the Northern Territory as part of the Stronger Futures legislation which superseded the Northern Territory Emergency Response Bill (2007). However, while the Stronger Futures legislation is technically non-discriminatory under the RDA, the majority of people living in affected areas in which these regulations and laws will apply are Aboriginal people. Accordingly, concerns remain that there are provisions in the

legislation which will disproportionately affect Aboriginal people and therefore be discriminatory in nature.

Recommendation nº46: *Consider implementing the recommendations of UNHCR, human rights treaty bodies and special procedures with respect to asylum-seekers and irregular immigrants especially children* (Recommended by *Jordan*)

IRI: *not implemented*

State of Australia response:

The Australian Government will review whether any treaty body recommendations which have not been accepted as reflective of Australia's international obligations and acted upon accordingly can be accepted and acted upon in any event, if consistent with the Australian Government's immigration detention policy objectives.

Performance indicator/timeline

Ongoing.

The Australian Government will monitor the operation of recent reforms – and will continue to implement a range of measures which take into account Australia's human rights obligations – to respond more effectively to Irregular Maritime Arrivals (IMAs), including:

- Regional processing, including conditions in regional processing countries;
- The increase to 20,000 places of Australia's refugee program;
- greater use of the temporary Bridging visa program to allow eligible IMA clients to be released from detention to the Australian community once certain mandatory health, security and identity checks have been completed;
- the expanded use of community detention;
- utilising the increasing capacity within the immigration detention network to more flexibly and effectively manage clients;
- significantly increasing case manager and processing capability;
- strengthening the character provisions of the Migration Act 1958 (Cth); and
- detaining IMAs for the shortest practicable time and in the least restrictive form of immigration detention appropriate to the management of risks.

Performance indicator/timeline

Ongoing.

As at 13 November 2012 DIAC has placed 5,532 people in Community Detention (CD) since the government announcement to expand CD on 18 October 2010.

As at 13 November 2012, DIAC has granted approximately 7,760 Bridging visas (since 25 November 2011).

The Australian Government will continue to implement the recommendations made in the Commonwealth Parliament's Joint Select Committee into Australia's Immigration Detention Network (released on 30 March 2012) and the Expert Panel on Asylum Seekers Report (13 August 2012).

Performance indicator/timeline

Ongoing.

The Australian Government will continue to ensure that detention is not indefinite or otherwise arbitrary, and only for the following groups:

- all irregular arrivals for management of health, identity and security risks to the community
- unlawful non-citizens who present unacceptable risks to the community, and
- unlawful non-citizens who repeatedly refuse to comply with their visa conditions. On 13 October 2011, the Australian Government announced it will be making greater use of existing powers to more flexibly manage Irregular Maritime Arrivals (IMAs) to Australia.
- Bridging visas are granted to IMAs who have no adverse security, health, identity or significant behavioural issues that might pose a risk to the community.

Performance indicator/timeline
Ongoing.
Since November 2011 the Minister for Immigration and Citizenship has used his non-compellable intervention powers under s 195A of the Migration Act 1958 (Cth) to allow some IMAs to live in the community on temporary Bridging Visas E (BVEs) while their claims for protection are being considered. As at 18 September 2012, DIAC have granted 4,889 Bridging visas (since 25 November 2011).

The Australian Government will continue to subject length and conditions of detention (including the appropriateness of both the accommodation and the services provided) to regular review.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to use the least restrictive form of immigration detention available whilst health and security checks are undertaken for children.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to move more people in immigration detention into community-based detention arrangements, including, as a priority, all children, (including unaccompanied children) and families following appropriate risk, security and health assessments.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to resource a dedicated Children's Unit to address complex policy issues relating to unaccompanied minors.
Performance indicator/timeline
Ongoing.

The Commonwealth Ombudsman and Australian Human Rights Commission will continue to have general powers that enable it to report on conditions within detention centres.
Performance indicator/timeline
Ongoing.
The Australian Government will continue to ensure that all persons in immigration detention have the right to request and receive consular access at any time without

delay, consistent with Australia's obligations under the Vienna Convention on Consular Relations 1963.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to ensure that all persons in immigration detention have access to appropriate physical and mental health care, commensurate with care available to the broader Australian community.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to provide torture and trauma counselling to people in immigration detention when a history of torture and trauma is indicated.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to provide emergency health services to people in immigration detention.
Performance indicator/timeline
Ongoing.

ALHR response:
The UN Working Group on Arbitrary Detention recommended in 2003 that Australia review the mandatory, automatic and indiscriminate detention of all unauthorised maritime arrivals. The Working Group found there were strong elements of arbitrariness in the policy, including a lack of access to justice and a lack of certainty.

Since the Working Group's 2003 visit there have been several unsuccessful attempts to limit the amount of time a person can be detained under the Migration Act.

The introduction of the No Advantage principle in August 2012 has led to an increased lack of certainty in terms of timing and outcomes in detention. Under the No Advantage principle, certain asylum seekers are mandatorily processed in offshore processing centres. However, there is no way for asylum seekers to know how long they will be detained or under what circumstances (onshore or offshore; in restrictive or community detention). According to the President of the Australian Human Rights Commission, the principle "appears to have no legal content."

In 2009 the Special Rapporteur on the Right to Health visited Australia and noted the negative mental health impacts of arbitrary detention on asylum seekers. The Special Rapporteur recommended that detainees with a history of torture or trauma be moved into the community, however this is not standard practice.

The Immigration Ombudsman has since found the Department of Immigration and Citizenship's data on suicide and self-harm in immigration detention centres is unreliable, yet in 2013 was able to show a causative relationship between time in detention and declining mental health. Australian NGOs remain concerned that up to

68% of asylum seekers in detention have mental health problems caused or exacerbated by their detention.

AHRC response:
Not implemented

Joint response:
NOT IMPLEMENTED
People should not be returned to a county where their life or freedom would be threatened.

- Asylum seekers from Sri Lanka are in danger of being refouled under the "enhanced screening" process. Unaccompanied minors from Sri Lanka have been sent back to the country they fled under this expedited removal process. People have been tortured by Sri Lankan authorities on return.
  Children should only be detained as a measure of last resort, and for the shortest appropriate period of time.
- Children are currently being held in detention all over the Detention Network without prospect of an RSD process. This detention could be considered arbitrary.
  Children who are unaccompanied and/or seeking asylum have a right to special protection and assistance.
- Children and Unaccompanied minors are being sent to Nauru to languish in tents, in 50 degree heat. It is unclear who the legal guardian for the unaccompanied minors is. The facilities are inadequate.
- Unaccompanied minors who come to Australia by boat have NO family reunion options.
- Family Reunion options for refugees who came by boat has been curtailed or stopped completely. Holders of Temporary Protection Visas will never get a permanent protection visa and cannot sponsor family members to come to Australia.
  Asylum seekers should not be penalised for arriving in a country without authorization
- Asylum seekers who come by boat (without authorisation) are now either locked up in detention on Christmas Island or sent to offshore processing countries. They will never be settled in Australia. Asylum seekers who came by boat prior to July 19 2013 will never be granted a permanent protection visa.
  Everyone has the right to work, and to an adequate standard of living
- Asylum seekers who came by boat between August 13 2012 and July 19 2013 do not have the right to work.

Refugee Council of Australia (RCA) response:
See responses [to responses 137 to 151]

Recommendation nº51: *Continue its laudable measures to address the plight of persons with disabilities, in particular through pursuance of the draft National Disability Strategy, and share its experience in this regard* (Recommended by *Botswana*)

IRI: *fully implemented*

State of Australia response:
The Australian Government will continue to work on preparing a national action framework for implementing the National Disability Strategy (NDS). This involves:

- identifying priority areas for action through consultation with state and territory governments, disability advisory bodies and the National People with Disabilities and Carer Council
- measuring progress across the Strategy's 10-year lifespan using national trend indicator data based on the six outcome areas of the NDS, and
- developing more comprehensive performance indicators by improving the reporting of people with disability assisted through mainstream services through the inclusion of disability specific questions in mainstream data collections. The draft indicators will be reviewed in the first year of the Strategy.

Performance indicator/timeline
A first year report will be presented to the Council of Australian Governments (COAG) in late-2012. Every two years, a high level progress report will track achievements under the Strategy and provide a picture of how people with disability are faring. The first biennial report will be presented to COAG in February 2014.

CAALAS response:

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NATSILS response:
All governments, including the Northern Territory Government, have committed to the National Disability Strategy (2010-2020). The aim of the strategy is to implement a uniform policy framework, improve the delivery of mainstream disability services, give visibility to disability issues and provide national leadership on the inclusion of the people with disability. It seeks to protect and promote the human rights of people with disability, as set out in the United Nations Convention on the Rights of Persons with Disabilities.

While we commend all governments for committing to this strategy, at present there are still a number of significant barriers to accessing justice for people with disabilities involved in the criminal justice system. In the Northern Territory, the criminal justice system largely fails to recognise the particular needs of people with disability. Bail can be difficult to obtain, diversion options are extremely limited for people with cognitive impairment, and the regime for dealing with people who are not fit to plead and stand trial can result in the indefinite detention of people with a mental impairment in the normal prison system. Furthermore, people living in remote communities often have no, or very limited, access to culturally appropriate disability support services and programs, which means that even where diversion options are legally available, people with disability living in remote communities may not be able to access them.

GHRC response:
Implemented. In February 2011 Australia launched the National Disability Strategy (2010-2020). The Strategy sets out a ten-year national policy framework for improving the lives of people with disabilities as well as their families and carers. The Strategy included an $11 million package to support people with disabilities and their carers to participate in community life. On 30 April 2012, (then) Prime Minister Gillard

announced that the Australian Government would deliver $1 billion over four years to fund a National Disability Insurance Scheme. On 14 March 2013 the National Disability Insurance Scheme Act 2013 was passed.

WWDA response:
There has been no clear commitment to resource the implementation of the National Disability Strategy. It lacks specific actions, a public reporting mechanism and transparent accountability measures within State and Territory agreements to ensure strategy outcomes are achieved at both the State and Federal level.

AHRC response:
Following the UPR, the National Disability Strategy (NDS) was formally endorsed by the Council of Australian Governments (COAG) on 13 February 2011. The National Disability Strategy Report to the Council of Australian Governments 2012 was endorsed by the Standing Council on Community and Disability Services on 24 December 2012. While the report is welcomed the Commission has expressed concern at the significant delays in operationalising the commitments made in the NDS. The Australian Government has also introduced the National Disability Insurance Scheme and reached agreement with the states and territories about its implementation nationally, including by introducing substantial changes to how disability services are provided nationally.

Joint response:
IMPLEMENTED
The National Disability Strategy (NDS) 2010-2020 sets out a national policy framework for guiding Australian State and Territory Governments to meet their obligations under the UN Convention on the Rights of persons with Disabilities (CRPD). This framework includes goals and objectives under six areas of mainstream and disability-specific public policy: inclusive and accessible communities, rights protection, justice and legislation, economic security, personal and community support, learning and skills, health and well-being and consequently the implementation of the NDS is critical to the disability reform agenda. However, the Australian Government has not made a clear commitment to resource the implementation of the strategy. Moreover, it lacks specific actions, a transparent reporting mechanism, and accountability measures within State and Territory implementation plans to ensure that strategic outcomes are achieved at both the State and Federal level. The NDS relies heavily on data, primarily from the Australian Bureau of Statistics (ABS), for evaluating success and achieving outcomes. The lack of nationally consistent disaggregated data collected about people with disability raises concerns about the ability of Australia to evaluate the implementation of the National Disability Strategy.

Recommendation nº52: *Complete as soon as possible a general framework of measures to ensure equality of chances for people with disabilities* (Recommended by *Moldova*)

IRI: *fully implemented*

State of Australia response:

The Australian Government will continue to work on preparing a national action framework for implementing the National Disability Strategy (NDS). This involves:

- identifying priority areas for action through consultation with state and territory governments, disability advisory bodies and the National People with Disabilities and Carer Council
- measuring progress across the Strategy's 10-year lifespan using national trend indicator data based on the six outcome areas of the NDS, and
- developing more comprehensive performance indicators by improving the reporting of people with disability assisted through mainstream services through the inclusion of disability specific questions in mainstream data collections. The draft indicators will be reviewed in the first year of the Strategy.

Performance indicator/timeline

A first year report will be presented to the Council of Australian Governments (COAG) in late-2012. Every two years, a high level progress report will track achievements under the Strategy and provide a picture of how people with disability are faring. The first biennial report will be presented to COAG in February 2014.

The Australian Government is supporting the NDS with $11 million over four years commencing from 2010–11 for an accessibility package to support people with disability and their carers to participate in community life. The accessibility package includes:

- Accessible Communities – grants of up to $100,000 to local governments who match the funding to make local buildings and public spaces more accessible for people with disability so they can fully participate in the community
- digital playback devices and improved access to digital content in public libraries around the country to increase accessibility of print material for people with print disability
- Leaders for Tomorrow – assistance to up to 200 people with disability to become leaders in the community through mentoring and leadership development
- Ramp Up – a new disability website launched in 2010 to raise awareness of people with disability issues. Since the launch of Ramp Up, the site has established itself as a major centre for discussion and debate on issues to do with disability
- Cinema Access Implementation Plan – a partnership with four major cinema operators and the disability sector which aims to make cinemas more accessible for people who are Deaf or hearing impaired, blind or vision impaired, and
- Livable Housing Design – in mid-2010, the Livable Housing Design Guidelines and Strategic Plan were launched jointly by all levels of government and the disability, aged, community, building and construction sectors. The guidelines involve six core design elements for matters such as the path of travel into dwellings, internal doors and corridors, accessible toilets and bathrooms. In July 2011, Livable Housing Australia was established to develop a national marketing and accreditation process to support the implementation of the guidelines.

Performance indicator/timeline

The majority of Accessible Communities projects have been completed. The remaining projects will be completed during 2012. A total of 1,299 playback devices were distributed to around 170 libraries (and their outlets through inter-library loan)

by the end of November 2011. Number of people with disability participating in the Leaders for Tomorrow program (target 200), the proportion of participants who are satisfied with the program (target 90 per cent), the percentage and number of people with disability from Indigenous and culturally and linguistically diverse backgrounds participating in the program, and the proportion of participants who achieve key delivery requirements (target 80 per cent). Number of visitors to the Ramp Up website, new contributions, positive community feedback and the expansion of articles into mainstream media outlets. A total of 242 accessible cinema screens by the end of 2014. Aspirational targets have been agreed by industry and government stakeholders for all new homes to be of an agreed design standard by 2020.

The Australian Government has strategies in place to enable people with disability to have access to employment options. To ensure people get the support they need, the Australian Government is:

- investing over $3 billion in uncapping access to Disability Employment Services over the next four years
- investing in the Employment Assistance Fund, which provides financial assistance for workplace modifications, special work equipment, Auslan interpreting and Disability Awareness Training, and
- supporting the Job Access Advisory Service, which provides individualised information to employers and individuals about the employment of people with disability.

Performance indicator/timeline

Ongoing.

The Employment Assistance Fund will assist an average of 4,000 people annually. The JobAccess Advisory Service will respond to an average of 2,500 enquiries each month.

The Australian Government has overhauled key elements of the Disability Support Pension (DSP) to ensure it supports people with disability who have some work capacity into employment wherever possible, while continuing to provide essential income support for people unable to fully support themselves, including, from 20 September 2009:

- improving the adequacy of the base pension, especially for singles, including improved indexation that will continue into the future, and from 1 July 2010:— fast tracking claims from applicants with manifest, or severe disability so they get more timely support, and — improving the quality of assessments for DSP by ensuring eligibility is assessed by experienced Senior Job Capacity Assessors using updated guidelines
- from 3 September 2011, introducing a requirement for DSP claimants who do not have a severe disability or illness to provide evidence that they are not able to work, even with appropriate support, and
- from 1 January 2012 revised Impairment Tables have been introduced to bring DSP assessments into line with contemporary medical and rehabilitation practice. This was informed by the World Health Organisation's International

Classification of Functioning, and the Convention on the Rights of Persons with Disabilities.

Performance indicator/timeline

The DSP measures aim to assist people with disability to sustain themselves through work to their capacity. The DSP program is subject to ongoing monitoring. Measures will be evaluated in line with agreed evaluation plans. We anticipate that measures will result in greater numbers of DSP recipients reporting some employment income.

Other measures to support people with disability into work commenced from 1 July 2012:

- new participation requirements for some DSP recipients under the age of 35 with some capacity to work, to help ensure people are accessing the support that is available to them • more generous rules about allowable hours of work to support DSP recipients to enter work or increase their working hours, and
- new wage subsidies to help employers take on people with disability. The 2011–12 Budget measure, Building Australia's Future Workforce, allocated funding of $111.7 million over four years including:
  a) $92.7 million for new participation requirements
  b) $7.6 million to support DSP recipients to enter work or increase their working hours, and
  c) $11.3 million for employer incentives.

Australian Public Service Commission to increase the number of people with disability employed in the Australian Public Service. The As One – APS Disability Employment Strategy is a key tool that will be used to achieve this goal. The aim of this strategy is to strengthen the APS as a progressive and sustainable employer of people with disability. The main themes of the strategy are:

- improving leadership
- increasing agency demand for candidates with disability
- improving recruitment processes to enable more candidates with disability to enter the APS, and
- fostering inclusive cultures that support and encourage employees with a disability. Under these four themes sit 19 initiatives. Two key initiatives to note include the trial of a Guaranteed Interview Scheme and the creation of an employment pathway for people with disability. Further information on the As One strategy can be found [here].

Performance indicator/timeline

The As One – APS Disability Employment Strategy will be implemented between May 2012 and 30 June 2014. The chief performance indicator is the representation of people with disability employed in the APS. Given the strategy's strong focus on achieving behavioural and cultural change, however, other factors such as the reported job satisfaction for employees with disability in the annual State of the Service Report will also be considered.

The Australian Government and state and territory governments have completed the review of the National Disability Agreement (NDA) performance framework (performance indicators and benchmarks). Reviews of the performance frameworks of all Council of Australian Governments (COAG) National Agreements were initiated

by COAG in February 2011 to ensure that progress against National Agreement outcomes is measured and that all jurisdictions are clearly accountable to the public and COAG for their efforts.

Performance indicator/timeline

A report recommending a revised NDA and NDA performance framework will be submitted to COAG by late 2012.

The Australian Government is supporting more frequent and improved content and sample size for the Survey of Disability, Ageing and Carers, investing $9.2 million over three years commencing 2012–15.

Australian Government agencies have agreed to enhance the content, quality and timeliness of the Disability Services National Minimum Dataset (DS NMDS) so that it provides a better evidence base for the administration, planning and management of specialist services for people with disability. The DS NMDS redevelopment will continue to give priority to National Disability Agreement requirements, but will also aim to support the development and implementation of a National Disability Insurance Scheme. Australian Government agencies have provided funding of $504,284 to the Australian Institute of Health and Welfare to undertake the redevelopment.

Performance indicator/timeline

The Australian Government and state and territory governments are working with the Australian Bureau of Statistics to undertake an additional Survey of Disability, Ageing and Carers in 2012. The DS NMDS redevelopment commenced in March 2012 and will conclude in December 2012.

A National Disability Research and Development Agenda was endorsed by Australian, state and territory Disability Ministers in November 2011, which is intended to identify research and development priorities to support the implementation of the National Disability Agreement and the National Disability Strategy.

Performance indicator/timeline

The Agenda was endorsed in November 2011. As one of the first initiatives to be implemented under the Agenda, invitations were issued in May 2012 for research proposals that support the directions of the Agenda, and in June 2012 for an audit of disability research. Results of both tenders should be known shortly.

The Australian Government will monitor the effectiveness of the National Forum on Emergency Warnings to the Community best practice guidelines, which is considering the communication needs of people with disability across the prevention, preparedness, response and recovery phases of emergencies, including emergency warnings. The Attorney-General's Department is currently in the process of finalising the Communicating with People with Disability: National Guidelines for Emergency Managers. Other initiatives include:

- a website update to assist screen readers identify and interpret Triple Zero information: AGD is currently assessing the Triple Zero Website, with a view to updating the appearance, accessibility and utility of the site under the guidance of the Australian Government's Web Accessibility National Transition Strategy

- information on how to use the 106 Text Emergency Relay for people with hearing and speech impairments. This information is on the Triple Zero Emergency Call Service website.
- a Triple Zero Kids Challenge safety computer game available in seven languages and with closed captioning. The Triple Zero Kids Challenge has been developed and updated, and has seven language options and nine scenarios for children to engage with
- Triple Zero posters in 33 languages have been produced
- radio commercials in English as well as nine languages have been developed to reinforce the Triple Zero message:
- updated Recovery Manual to be used by Australian, state and local government recovery workers (including policy and field workers), NGOs and professionals that includes a chapter on 'vulnerable' people, and
- Emergency Alert, which sends voice messages to fixedlines and text messages to mobile telephones.

Performance indicator/timeline
Ongoing.
Release of Communicating with People with Disability: National Guidelines for Emergency Managers in 2012–13.

The Australian Government has established a Schools Disability Advisory Council, which advises the Australian Government on how to better support school students with disability, including in the context of education reforms.
Performance indicator/timeline
2012.

The Australian Government is providing $200 million in additional funding to States and Territories to support their work with students with disability and/or learning difficulties through the More Support for Students with Disabilities initiative. Services are being delivered in the 2012 and 2013 school years.
Performance indicator/timeline
2011–12 to 2013–14
Number of students, teachers and schools provided with additional support.

The Australian Government will work with states and territories to respond to recommendations from the review of the Disability Standards for Education 2005, subordinate legislation under the Disability Discrimination Act 1992. The requirements outlined in the Disability Standards for Education provide a framework to ensure students with disability can access and participate in education on the same basis as other students.
Performance indicator/timeline
2012–15.

The Australian Government will continue to support the inclusion of people with disability at disability focused conferences in Australia through the National Disability Conference Initiative which facilitates improved access and maximises participation

of people with disability at such conferences. Approximately $350,000 is provided annually.
Performance indicator/timeline
Ongoing. Increased attendance and participation of people with disability at disability focused conferences.

Through the National Disability Advocacy Program the Australian Government provides funding for advocacy for people with disability which promotes, protects and ensures their full and equal enjoyment of human rights. In 2012–13, $16.64 million was committed which included funding to 59 advocacy agencies nationally.
Performance indicator/timeline
Ongoing.
Number of people with disability provided with disability advocacy support.

The Remote Hearing and Vision Services for Children Initiative will take advantage of the reach and capacity of the National Broadband Network to provide children with hearing and vision impairment, and their families, with videobased access to information, guidance, support and skills development from allied health and educational professionals where such expertise may otherwise be scarce. The Australian Government will provide $4.9 million over three years commencing 2011–12.
Performance indicator/timeline
2011–14.
Number of children with hearing and vision impairment in regional and remote areas and in Indigenous communities who are able to access allied health and education services.

The Victorian Government will continue to implement a range of community awareness strategies to promote greater inclusion for disadvantaged Victorians.
Performance indicator/timeline
2011–12.

The Victorian Government is developing a State Disability Plan to deliver on its commitments under the National Disability Strategy.
Performance indicator/timeline
Ongoing.

The Victorian Government funds a variety of programs to support students with disability, including allied health professional support services, the Program for Students with Disabilities, the Language Support Program, the Transport Assistance program, the provision of qualified and skilled teaching staff, a comprehensive and adaptable curriculum, adjustment of classroom teaching responsive to the different needs and abilities of individual students and regular professional development opportunities for school staff.
Performance indicator/timeframe
Ongoing.

The South Australian Attorney-General's Department will develop a Disability Justice Plan to improve access to justice for people with disability who come into contact with the criminal justice system.
Performance indicator/timeline
Ongoing. Plan developed and implemented.

The Tasmanian Government will continue to fund a variety of programs to support students with disability to fulfil their educational potential through a range of specifically targeted programs and individual adjustments. This includes:

- provision of specialist staff including school psychologists, social workers, speech pathologists, special education advisors, autism consultants, vision and deaf support teachers
- provision of assistive technologies to support curriculum access
- building the skills and expertise of staff in relation to disability knowledge and implications of the Disability Standards for Education (2005), and
- provision of transition support materials for students with disability and their families.

Performance indicator/timeline
Ongoing.

On 1 January 2012, the Disability Services Act 2011 (Tas) was proclaimed in Tasmania. This replaced the 1992 Act and informs the way that specialist support services are provided to people with disability in Tasmania. The new legislation includes a broader human rights perspective in line with Australia's ratification of the United Nations Convention on the Rights of Persons with Disabilities.

It establishes the requirement that all services provided under this Act will respect the inherent dignity of people with disability, along with their individual autonomy, freedom to make their own choices and their right independence. The Act also requires that care and support provided is person-centred and support the universally-adopted principle of 'nothing about us, without us'.
Performance indicator/timeline
Commenced 2012.

The ACT Government, in partnership with Business Leaders Innovative Thoughts and Solutions (BLITS), has developed the Everyone, Everyday – ACT Disability Awareness Program to promote awareness throughout the Canberra community about people with disability and their capabilities and contributions, and to foster respect for their rights and dignity.
Performance indicator/timeline
Ongoing

The ACT Government continues to work with community providers and the ACT Social Enterprise Hub to increase self-employment opportunities for people with disability.
Performance indicator/timeline
Ongoing.

The ACT Government's initiative, Business Leaders Innovative Thoughts and Solutions (BLITS) has been working toward supporting people with disability in the community. BLITS' core objectives are to:

- identify, support and promote new and innovative partnerships, projects or products that increase the participation of people with disability in the community
- find new and innovative projects and events to showcase business opportunities in the disability sector, and
- improve the perceptions of business operators towards people with disability in the workforce and the community.

Performance indicator/timeline
Ongoing.

The ACT Government has commenced a pilot of consumer-controlled direct funding. This work is intended to provide greater opportunity for choice, control and independence for people with disability.
Performance indicator/timeline
Ongoing.

The ACT Government funded a community organisation, Nican, to develop a toolkit to support people with disabilities to participate in the community. The Know Before You Go toolkit for people with disability and recreation support providers, provides people with disabilities and support providers with ideas and tips about getting involved in social, recreational and cultural activities. It is available.
Performance indicator/timeline
Released October 2011.

The Northern Territory Office of the Commissioner for Public Employment will continue to implement its Equal Employment Opportunity Management Programs, including management of: the Northern Territory Public Sector (NTPS) Willing and Able Strategy which aims to ensure that people with a disability are able to realise their potential through access to employment opportunities in the NTPS, and the Project Employment Scheme, which is the NTPS's pathway employment program for people with a disability who are not able to be competitive in winning a job on the basis of merit.
Performance indicator/timeline
Ongoing.

GHRC response:
Implemented. In February 2011 Australia launched the National Disability Strategy (2010-2020). The Strategy sets out a ten-year national policy framework for improving the lives of people with disabilities as well as their families and carers. The Strategy included an $11 million package to support people with disabilities and their carers to participate in community life. On 30 April 2012, (then) Prime Minister Gillard announced that the Australian Government would deliver $1 billion over four years to fund a National Disability Insurance Scheme. On 14 March 2013 the National Disability Insurance Scheme Act 2013 was passed.

AHRC response:
Following the UPR, the National Disability Strategy (NDS) was formally endorsed by the Council of Australian Governments (COAG) on 13 February 2011. The National Disability Strategy Report to the Council of Australian Governments 2012 was endorsed by the Standing Council on Community and Disability Services on 24 December 2012. While the report is welcomed the Commission has expressed concern at the significant delays in operationalising the commitments made in the NDS. The Australian Government has also introduced the National Disability Insurance Scheme and reached agreement with the states and territories about its implementation nationally, including by introducing substantial changes to how disability services are provided nationally.

Joint response:
NOT IMPLEMENTED
Australia has failed to incorporate the UN Convention on the Rights of persons with Disabilities (CRPD) into domestic law through comprehensive, judicially enforceable legislation. Existing legislation, such as the Disability Discrimination Act 1992 (DDA) (Cth), falls well short of the obligations under the Convention. Various aspects of current anti-discrimination laws limit the ability of people with disability to complain about discrimination, obtain effective remedies for violations of their rights, and to achieve substantive equality. For example, there are no protections against vilification or hate crimes in current legislation, and the DDA provides a defence to discrimination where the avoidance of discrimination would cause an unjustifiable hardship. Moreover, the process for addressing discrimination claims involves independent conciliation by the Australian Human Rights Commission as a first step, with matters going to court if conciliation cannot be reached. In practice this means that it is possible for resolutions to breaches of human rights to be settled confidentially rather than resolved in open court. Consequently, this reduces the opportunity to address matters of systemic discrimination and create progressive human rights jurisprudence through the legal system. People who experience intersectional discrimination, for example Aboriginal or Torres Strait Islander people with disability, have no legal remedy for the interaction of both instances of discrimination.

Recommendation nº65: *Develop and implement policies to ensure gender equality throughout society and strengthen the promotion and protection of the rights of women, especially women from indigenous communities* (Recommended by *South Africa*)

IRI: *partially implemented*

State of Australia response:
The Australian Government has committed to achieving a minimum of 40 per cent representation of both women and men on Australian Government Boards and through the Equal Opportunity for Women in the Workplace Agency, will continue to work with the private sector to achieve gender balance in private sector leadership ranks and forums.
Performance Indicator/timeline
By 2015.

The Australian Government has released its National Action Plan on Women, Peace and Security 2012–18. This National Action Plan consolidates and builds on the broad program of work already underway in Australia to integrate a gender perspective into peace and security efforts, protect women and girls' human rights, particularly in relation to gender-based violence, and promote their participation in conflict prevention, management and resolution. The National Action Plan implements United Nations Security Council Resolution 1325 (UNSCR 1325) and related resolutions under the United Nations Women, Peace and Security agenda. The Australian Government, in partnership with UN Women, launched a documentary Side by Side: Women, Peace and Security. An accompanying educational toolkit was also developed, which together with the documentary will be used as a training and practical awareness raising tool for peacekeepers, civilians and humanitarians working in the women, peace and security space.
Performance Indicator/timeline
2012–18.

The South Australian Government will aim to improve women's participation in leadership positions, particularly as members of State Government boards and committees and as executives in the public sector as outlined in South Australia's Strategic Plan.
Performance Indicator/timeline
Participation rates of women in leadership positions. By end 2014.

Hobart Women's Health Centre is funded by the Tasmanian Government to provide a range of services and programs to support Tasmanian Women to increase their knowledge, skills and action for informed self-determining of their health and wellbeing. The Centre also offers an advocacy voice that provides a feminist perspective on public policy that affects the lives of women across the state.
Performance Indicator/timeline
Ongoing.

The Australian Government will consider the recommendations made by the Senate Legal and Constitutional Affairs Committee in its 2008 inquiry on the effectiveness of the Sex Discrimination Act 1984, as part of the project to consolidate Commonwealth anti-discrimination laws into a single Act.
Performance Indicator/timeline
Exposure draft legislation due in 2012.

AHRC response:
Partly implemented. The Government has undertaken a number of initiatives to combat gender discrimination. In November 2012 the federal Parliament passed the Workplace Gender Equality Act 2012. The Act focuses on gender equality including equal pay between women and men , promotes the elimination of discrimination on the basis of family and caring responsibilities and provides data on the state of gender equality in Australian workplaces 4) changes the name of the Equal Opportunity for Women in the Workplace Agency to the Workplace Gender Equality Agency. The Commission however remains concerned about the significant pay gap between men and women in Australia (17.5%), the significant gap in retirement

savings women when compared with men, and the comparatively lower levels of participation of women in senior and leadership positions in employment.

Other welcomed achievements include the Australian National Action Plan on Women, Peace and Security, a commissioned Review into the Treatment of Women in the Defence Force, a commissioned review into pregnancy discrimination in the workplace, support by the Government for the UN Special Rapporteur on violence against women to undertake a study tour in Australia in April 2012.

Joint response:
PARTIALLY IMPLEMENTED
In May 2011, legislation to strengthen the Sex Discrimination Act 1984 (SDA) (Cth) to improve protections against sexual harassment, and discrimination on the basis of breastfeeding and family responsibilities was passed. Although welcome, further improvements are needed including those recommended in the 2008 Senate Committee Inquiry into the SDA. The previous Australian Government did not proceed with the consolidation and harmonisation of anti-discrimination laws and the balance of the 2008 Inquiry recommendations have not been implemented. The current Government has indicated it will not proceed with the consolidation project and it is unclear what will happen to the 2008 Inquiry recommendations. The SDA continues to provide limited protection against gender discrimination and does not fully implement obligations under CEDAW. In particular, the SDA does not adequately address systemic discrimination or promote substantive equality. See Recommendation 67 in relation to temporary special measures for public and private sector boards. Australia has not introduced temporary special measures to address the under-representation of certain vulnerable groups of women, including indigenous women, women with disabilities, migrant women, women from culturally and linguistically diverse backgrounds and women from remote or rural communities in leadership and decision-making positions in public and political life as well as their equal access to education, employment and health.

Recommendation nº71: *Strengthen further the measures to combat discrimination against minority communities, including Muslim communities in Australia* (Recommended by *Algeria*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 73]

AHRC response:
Partly implemented. The Government launched a new national multicultural policy (People of Australia) in February 2011, followed by the National Anti-Racism and Partnership Strategy (NARPS) in August 2012. The Strategy will be implemented between 2012 and 2015. An important component of NARPS is the anti-racism campaign – Racism. It stops with me, which is lead by the Commission.

On 18 March 2013, the Joint Standing Committee on Migration tabled its report in Parliament on the inquiry into Multiculturalism in Australia. The Committee made a number of recommendations to the Government that address issues of racism,

religious diversity, social inclusion, settlement, participation, employment to name a few.

Joint response:
PARTIALLY IMPLEMENTED
According to the Scanlon Foundation's report Mapping Social Cohesion 2012 which presents findings of national surveys conducted in 2007-2012, by far the highest proportion (31 per cent) who had experienced discrimination, were respondents of Islamic faith. Analysis by country of birth indicated highest experience of discrimination by respondents born in Africa and the Middle East (21 per cent) and Asia (20 per cent).

In its 2011 multicultural policy, The People of Australia, the Australian Government committed to develop and implement a National Anti-Racism Strategy. The Strategy has been developed through the National Anti-Racism Partnership that includes both government and non-government partners (Federation of Ethnic Communities' Councils of Australia, National Congress of Australia's First Peoples, and Australian Multicultural Council) and is led by the Australian Human Rights Commission. The first step in implementing the Strategy is a public awareness campaign, Racism. It stops with me, that was launched on 24 August 2012, and will be implemented over three years to 2015. Over the first year of the campaign, more than 160 organisations – from the business, sports, education, local government and community sectors – have signed on as supporters, and over 900 Australians have pledged their personal support.

Recommendation nº72: *Take measures towards ensuring the equal and the full enjoyment of the basic rights of all its citizens including persons belonging to indigenous communities, and to effectively prevent and, if necessary, combat racial discrimination* (Recommended by *Sweden*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 73]

AHRC response:
[See response to recommendation n° 71]

Joint response:
PARTIALLY IMPLEMENTED
The Australian Human Rights Commission has recently indicated a significant increase of 59 per cent in the number of complaints made by members of the Australian public about racial discrimination in the year 2012-13 compared to 2011-12. In addition, the national report, recently released by Scanlon Foundation, Mapping Social Cohesion 2013, presented findings of national surveys conducted in 2007-2013, indicating, that there was a marked increase in reported experience of discrimination. The 2013 survey found the highest level recorded across the six surveys since 2007 (19 per cent), an increase of 7 per cent over 2012.

In the context of the above, the Government's promise to amend section 18C of the Racial Discrimination Act 1975 (Cth) is particularly concerning. At the time of writing, the proposals for reform have not yet been released.

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In 2011, the Australian Institute of Criminology concluded a comprehensive student victimisation study, and detailed findings were presented in the Crimes Against International Students in Australia: 2005-09 report. The report provided the best available estimation of the extent to which international students have been the victims of crime. However, due to the fact that policing databases do not consistently collect motivation data for all offences reported or investigated, the nature of the available data did not enable specific analysis of racial motivation factors that might affect the prevalence of crimes against overseas born students. The study concluded that determining the motivation for offending would best be achieved by the development and implementation of a large-scale crime victimisation survey of international students and other Australian migrant populations more broadly.

The lack of relevant data was pointed out by the former Human Rights and Equal Opportunity Commission already in 1991 in its Racist Violence: Report into the National Inquiry into Racist Violence in Australia. The report recommended, inter alia, that Federal and State police record incidents and allegations of racist violence, intimidation and harassment on a uniform basis, and that such statistics be collected, collated and analysed nationally by the appropriate Federal agency

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PARTIALLY IMPLEMENTED

According to the Scanlon Foundation's report Mapping Social Cohesion 2012 which presents findings of national surveys conducted in 2007-2012, by far the highest proportion (31 per cent) who had experienced discrimination, were respondents of Islamic faith. Analysis by country of birth indicated highest experience of discrimination by respondents born in Africa and the Middle East (21 per cent) and Asia (20 per cent).

In its 2011 multicultural policy, The People of Australia, the Australian Government committed to develop and implement a National Anti-Racism Strategy. The Strategy has been developed through the National Anti-Racism Partnership that includes both government and non-government partners (Federation of Ethnic Communities' Councils of Australia, National Congress of Australia's First Peoples, and Australian Multicultural Council) and is led by the Australian Human Rights Commission. The first step in implementing the Strategy is a public awareness campaign, Racism. It stops with me, that was launched on 24 August 2012, and will be implemented over three years to 2015. Over the first year of the campaign, more than 160 organisations – from the business, sports, education, local government and community sectors – have signed on as supporters, and over 900 Australians have pledged their personal support.

Recommendation nº76: *Continue their great efforts to put an end to all practices likely to interfere with the peaceful coexistence among the different groups of the multi-ethnic society of Australia* (Recommended by *Yemen*)

IRI: *fully implemented*

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Recommendation nº77: *Implement additional measures to combat discrimination, defamation and violence (including cyber racism) against the Arab population and Australian Muslims, against recently arrived migrants (primarily from Africa) and also foreign students (essentially coming from India)* (Recommended by *Russian Federation*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 73]

AHRC response:
[See response to recommendation n° 71]

Joint response:
PARTIALLY IMPLEMENTED
The Australian Human Rights Commission has recently indicated a significant increase of 59 per cent in the number of complaints made by members of the Australian public about racial discrimination in the year 2012-13 compared to 2011-12. In addition, the national report, recently released by Scanlon Foundation, Mapping Social Cohesion 2013, presented findings of national surveys conducted in 2007-2013, indicating, that there was a marked increase in reported experience of discrimination. The 2013 survey found the highest level recorded across the six surveys since 2007 (19 per cent), an increase of 7 per cent over 2012.

In the context of the above, the Government's promise to amend section 18C of the Racial Discrimination Act 1975 (Cth) is particularly concerning. At the time of writing, the proposals for reform have not yet been released.

Recommendation nº103: *Implement specific steps to combat the high level of deaths of indigenous persons in places of detention* (Recommended by *Russian Federation*)

IRI: *partially implemented*

State of Australia response:
The Australian Government is working with states and territories and Indigenous people to improve community safety and to address the over representation of Indigenous people in the criminal justice system, both as offenders and as victims. The House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs report Doing Time – Time for Doing: Indigenous Youth in the Criminal Justice System, released in June 2011, again raised concern at the level of Indigenous over-representation in the justice system, which is particularly acute amongst Indigenous young people. The Australian Government tabled its response to the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs report Doing Time – Time for Doing: Indigenous Youth in the Criminal Justice System on 24 November 2011, accepting all 40 recommendations in whole, in part or in principle. The Australian Government will work with States and Territories to address the key issues raised. The Australian Government is working closely with states and territories to implement the response.

Performance indicator/Timeline
Ongoing. Recommendations that relate to areas of state and territory responsibility are raised through Ministerial Councils in 2012, including the Standing Council on Law and Justice (raised April 2012) and the Standing Council on Police and Emergency Management. The Australian Government will monitor implementation of responses specifically relating to its responsibility.

Through the Stronger Futures in the Northern Territory package, the Australian Government is providing $619 million over ten years to:

- ensure the Northern Territory Government can continue employing 60 full-time Northern Territory police officers in 18 remote communities
- health – primary health care services, hearing and oral health, workforce supplementation, child abuse trauma counselling, alcohol and other drug support services
- maintain community night patrols across 80 communities
- continue additional funding for legal assistance services
- continue child protection, drug and alcohol policing units
- continue to tackle alcohol abuse
- continue to support the community night patrols in remote Aboriginal communities. These night patrols employ over 300 Aboriginal people in local jobs.

Performance indicator/Timeline
As set out in the Stronger Futures in the Northern Territory National Partnership Agreement with the NT Government.

The Australian Federal Police (AFP) will provide presentations on secure and appropriate social networking targeted to school aged children. Over the last six months, AFP (High Tech Crime Operations-Crime Prevention) has made two trips as part of the Stronger Choices Campaign and delivered the presentation to 2,466 young people. In March 2012, the AFP also provided NT Police with training to enable future delivery and customisation of the program by the NT Police. The Australian Government and other relevant agencies will work on development of community safety plans in identified regional growth towns under the Remote Service Delivery National Partnership Agreement. Under the plans relevant service agencies across three tiers of government will be responsible for implementing actions identified by the community across law and justice, child protection, homelessness, alcohol and other drugs, domestic and family violence, environmental design and health and education. The Australian Crime Commission's National Indigenous Intelligence Task Force (NIITF) is building a national picture of the nature and extent of violence and child abuse in Indigenous communities. The NIITF was announced in July 2006 as part of a whole-of-government response to violence and child abuse in remote, rural and urban Indigenous communities and has recently been extended until mid-2014. The NIITF's extension is part of the Australian Government's Building Stronger Communities in the Northern Territory initiative, and will focus on child abuse and violence across remote Indigenous communities. The NIITF's intelligence holdings and analysis provide Australian governments with valuable information about the nature and extent of violence and child abuse in remote Indigenous communities, and inform policies and programs that improve community safety within

Indigenous communities. The NIITF is also supporting the development of a Cross Border Family Violence Information and Intelligence Unit for the remote communities within the Anangu Pitjantjatjara Yankunytjatjara Lands (APY Lands). The Cross Border Family Violence Information Unit will facilitate and encourage lawful exchange of information between police, agencies and service providers, to enable the timely and appropriate victim and offender management to tackle domestic violence and improve the safety, health and wellbeing of families and children in the APY Lands.

The Australian Government will continue to monitor Indigenous deaths in custody through the Australian Institute of Criminology's Deaths in Custody Monitoring Program.
Performance indicator/Timeline
Ongoing.

The Australian Government will continue to implement the National Indigenous Law and Justice Framework in partnership with state and territory governments.
Performance indicator/Timeline
2009–14.

The Australian Government will continue to provide funding for legal assistance services, including:

- Aboriginal and Torres Strait Islander Legal Services (ATSILS) whose priority clients are those detained or at risk of being detained in custody. This includes funding of $199.1 million over three years commencing in 2011.
- Family Violence Prevention Legal Services (FVPLS) for victims/survivors of family violence with all services being provided in rural and remote locations. This includes funding of $58.4 million over three years commencing in 2010.
- Indigenous women's projects which help meet the legal assistance needs of Indigenous women (through the Commonwealth Community Legal Services Program). This includes funding of $4.5 million over four years commencing in 2010.

Performance indicator/Timeline
Ongoing.

The Australian Government is continuing to provide funding to build the capacity of the Northern Territory Aboriginal Interpreter Service (NT AIS), as part of a 10 year funding commitment under the Stronger Futures in the Northern Territory National Partnership Agreement. The Australian Government is also continuing to provide funding to support free access to interpreters for Northern Territory law and justice and health agencies and AGD funded legal service providers. The Commonwealth and Northern Territory Governments are working together to encourage agencies to increase their use of Indigenous interpreters when needed, as an ongoing service delivery practice, in the rollout of service and programs in the Northern Territory.
Performance indicator/Timeline
Increased number of trained interpreters employed by the NT AIS.

The Australian Government will trial the Sworn Community Engagement Police Officers Program in eight remote Indigenous Communities in the Northern Territory.

Performance indicator/Timeline
An evaluation of the trial will be undertaken. The trial is over two years, finishing on 30 June 2013.

The Australian Government will implement the Indigenous Family Safety Agenda, which aims to reduce Indigenous family violence through four priority action areas: focusing on addressing alcohol abuse, more effective police protection, strengthening social norms against violence and coordinating family violence support services.
Performance indicator/Timeline
Ongoing.

The Aboriginal and Torres Strait Islander Social Justice Commissioner will focus on addressing lateral violence within Aboriginal and Torres Strait Islander communities.
Performance indicator/Timeline
Annual Social Justice Report and Native Title Reports.

The Victorian Government supports the Koori Courts division of the Magistrates Court, which allows greater participation by Aboriginal and Torres Strait Islander people in the court processes.

The Victorian Government supports Wulgunggo Ngalu Learning Place – a residential diversion
program for up to 20 Indigenous adult males who are serving community sentences.
Performance indicator/Timeline
A Stage One evaluation measured completion of orders. A Stage two evaluation is currently being developed.

The Victorian Government will implement the third phase of the Victorian Aboriginal Justice Agreement, which is part of a program encouraging members of the Koori community to participate fully in the design and delivery of Department of Justice programs that have an impact on them.
Performance indicator/Timeline
Anticipated release of third phase is late 2012. An independent evaluation of the second phase has been completed and is informing the development of the third phase.

The Victorian Government will continue implementing the Indigenous Family Violence plan.
Performance indicator/Timeline
2008–18. Progress on objectives under the Family Violence Plan is reported through the Department of Planning and Community Development's Corporate Quarterly Reporting and the annual Victorian Government Indigenous Affairs Report.

The South Australian Government will implement the Cultural Inclusion Strategy: Building Cultural Competency in Youth Justice Practice. The key aim of this strategy is to promote cultural competence and to optimise rehabilitation and reintegration outcomes for Aboriginal children and young people in juvenile justice, in an effort to 'break the cycle' of reoffending.

Performance Indicator/Timeline
Support provided

The South Australian Department for Correctional Services will:
- build cultural competence across the Department
- run Prevention of Aboriginal Deaths in Custody for a
- offer cultural awareness programs to new and existing Correctional staff
- engage the Aboriginal community in programs, and
- aim to increase Aboriginal staffing levels.

Performance Indicator/Timeline
Ongoing. Staff engaged in cultural competence and awareness initiatives.

Under the ACT Aboriginal and Torres Strait Islander Justice Agreement 2010–13 the ACT Government aims to:
- improve community safety and improve access to law and justice services for Aboriginal and Torres Strait Islander people in the ACT, and
- reduce the over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system as both victims and offenders.

Performance Indicator/Timeline
A two year report card on the progress of the Agreement was tabled in the August 2012 assembly sitting period.

The ACT‘s Galambany Circle Sentencing Court is a culturally sensitive and specialist sentencing process for Aboriginal and Torres Strait Islander defendants who have pleaded guilty to an offence.

The Circle Court, best described as a step in the sentencing proceeding rather than a standalone court, was introduced in the ACT in 2004 and attempts to address offending behaviour within a culturally sensitive framework.

Performance Indicator/Timeline
Ongoing.

The Northern Territory Government will implement measures that relate to Aboriginal and Torres Strait Islander communities.

Performance Indicator/Timeline
Ongoing.

The Northern Territory Government will implement measures to increase driver training and licensing to reduce incarceration for traffic related offences.

Performance Indicator/Timeline
Ongoing.

In the Northern Territory the Justice (Corrections) and Other Legislation Amendment Act 2011 will introduce two new sentencing options in the Sentencing Act 1995 (NT), called Community- Based Orders and Community Custody Orders.

Performance Indicator/Timeline
Ongoing.

CAALAS response:

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NATSILS response:

In May [2003], the Australian Institute of Criminology (AIC) released its 20th monitoring report on Deaths in Custody through the National Deaths in Custody Program. The report covered the year to 30 June 2011. The rate of Aboriginal deaths in custody has declined, but in 2009-10 the number of Aboriginal deaths in custody were at a record high. However, the increase in the number of prison deaths in custody "is driven by deaths resulting in natural causes, primarily heart attacks, terminal cancer, cirrhosis of the liver and multiple cause deaths among Indigenous prisoners". Deaths in police custody were more likely to occur in a police pursuit than in a close contact or institutional setting, such as police cells. This is a significant change from the 1990s, when most Aboriginal deaths in police custody occurred in a close contact or institutional setting, indicating that reforms to police practice and systems have been beneficial.

While [CAALAS/NATSILS] notes the improvements that have been made to police and corrections practice and systems over the past two decades to prevent deaths in custody, there are still a number of issues of concern in the Northern Territory context. The death in custody of a 27 year old Aboriginal man Kwementyaye Briscoe in a police cell on 4 January 2012 was tragic evidence of this. Kwementyaye Briscoe died whilst detained in Alice Springs police watch house under s. 128 of the Police Administration Act (NT), which is a 'protective custody' provision conferring power on police to, in certain circumstances, detain a person found intoxicated in a public place. Tragically, another Aboriginal man had died in Alice Springs police custody in very similar circumstance just two years earlier. Had the police changed its practices and procedures following the earlier death, in accordance with the coroner's recommendations, Kwementyaye Briscoe's may have been avoided. The Coroner was very critical of the police, but noted that they had taken swift action to reform watch house practice and procedure following Kwementyaye Briscoe and urged police to remain vigilant in adhering to the improved practices and procedures. These deaths indicate that the treatment of detainees in Central Australia has fallen short of best-practice and international law standards, and highlights the importance of a strong commitment to best practice detention practice at local, Territory and Commonwealth level.

In the Northern Territory context, the deaths in Alice Springs police watch house of the Aboriginal men detained under protective custody powers also highlights the need for government action to reduce alcohol-related harm. In the inquiry into Kwementyaye Briscoe's death, the Coroner cited statistics on the "staggering number" of protective custody admissions in the Alice Springs. In the 12 months ending 30 April 2012, 5,744 people were taken to watch houses in the Alice Springs district under protective custody. Alice Springs only has a population of about 24,000 people.

At a national level, if we are to significantly reduce the number of Aboriginal death in custody, it is imperative, as the Australian Institute of Criminology argues, that governments address the overrepresentation of Aboriginal people at all stages of the criminal justice system. This issue is discussed further at Recommendation no. 106.

We also note the importance of the government's commitment to ratifying and implementing OPCAT. This is discussed further at Recommendation no. 1.

ALSWA response:
The over-representation of Aboriginal and Torres Strait Islanders in custody in Australia, and especially Western Australia, remains a serious issue. There also continues to be a high number of deaths in custody of Aboriginal persons. Many recommendations in the past have been made in relation to reducing the number of Aboriginal deaths in custody, including following the Royal Commission into Aboriginal Deaths in Custody in 1991 (which made 339 recommendations) and a number of Coronial Inquests into the deaths in custody of Aboriginal persons. Despite this, many of the recommendations made in relation to this issue have not been followed and as such, Aboriginal people continue to die in custody at a much higher rate than non-Aboriginal people. More action needs to be taken by the government to combat this.

AHRC response:
Not implemented. Although the number of deaths in custody has declined, these figures remain alarmingly high.

Joint response:
NOT IMPLEMENTED

Prior to the federal election in September 2013, the Australian Government (both state and federal) had committed to the inclusion of Justice Targets within a fully-funded Safe Communities National Partnership Agreement as part of the Closing the Gap strategy. This commitment was to be incorporated into the National Indigenous Reform Agreement and supported by significant improvements to data collection regarding Aboriginal and Torres Strait Islander people within the justice system.

The Australian Government is also moving towards ratification of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

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PARTIALLY IMPLEMENTED
There has been a near total failure by successive State and Commonwealth Governments to ensure that the 339 recommendations of the 1991 Royal Inquiry into Aboriginal Deaths in Custody were implemented.

Additionally, widely reported in the mainstream media, have been actual occurrences of several totally avoidable deaths in custody across Australia (Mr Doomagee, Palm Island, Qld, 2004; Mr Ward, Laverton Region, WA, 2008; Mr Phillips, Kalgoorlie, WA, 2011; and Mr Briscoe, Alice Springs, NT, 2012). These deaths demonstrate the failure of the Australian Government to prevent avoidable deaths in custody.

Combined with deaths in custody that have their origin in extreme police and custodial services violence (the Mr Doomagee case), almost inconceivable

substandard treatment of a human being (the Mr Ward case) and extremes of indifference to a person's medical condition (the Mr Phillips case), there have been several cases of near occurrences of deaths in custody due to the grossly inadequate provision of medical and general welfare services in Australian prisons.

Recommendation nº105: *Increase the provision of legal advice to indigenous peoples with due translation services reaching especially indigenous women of the most remote communities* (Recommended by *Bolivia*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 103]

NATSILS response:
The use of Aboriginal interpreter services in legal service delivery has improved over the last few years in the Northern Territory as a result of a commitment by the Commonwealth and Northern Territory government to build the capacity of the Northern Territory Aboriginal Interpreter Service (NT AIS). The Commonwealth government committed funding to the NT AIS as part of a 10 year funding agreement under the Strong Futures in the Northern Territory National Partnership to improve access to free interpreters in the delivery of health and law and justice services. The Northern Territory government has supported this initiative, and is working in partnership with the Commonwealth government to roll out more services and programs.

CAALAS has benefited from the governments' commitment to the NT AIS, and we have experiences improvements in both the quality of interpreting services, and the accessibility of services. There is still a considerable level of unmet need for Aboriginal interpreter services in the justice system, but we welcome the improvements that have been made thus far.

One area of continuing concern is the under-utilisation of Aboriginal interpreter services in the delivery of government services. The use of Aboriginal interpreter services in the delivery of government services is not yet mainstream, and departments which do use interpreter services often do so inconsistently. It is critical that all Aboriginal people who do not speak English as a first language are given the opportunity to use an interpreter when engaging with government agencies. Aboriginal and Torres Strait Islander Legal Services (ATSILS) remain critically underfunded. A recent increase in funding provided by the Government was widely welcomed but it was not enough to address the ongoing issue of underfunding and the effect this has on access to justice for Aboriginal and Torres Strait Islander peoples. The lack of Aboriginal and Torres Strait Islander interpreter services has been a critical access to justice issue for a long time. In 2009 all Australian governments committed to developing and funding a national framework for the expansion of Aboriginal and Torres Strait Islander interpreter services. The Australian Government has now developed a draft framework in consultation with relevant industry stakeholders and is currently in negotiations with State and Territory governments to secure their agreement to the framework. An ongoing issue however, is disagreement between the Australian Government and State and Territory

governments as to who is ultimately responsible for funding the implementation of the framework. This conflict threatens to derail the progress made to date. The incoming Government's commitment to this process is also unclear, and without strong commitment from the federal level, progress is likely to stall.

ALSWA response:
Aboriginal and Torres Strait Islander Legal Services (ATSILS) remain critically underfunded. To compound this, just prior to the current Government recently taking power, it announced a future funding cut to ATSILS of $42m amounting to almost 15% cut of Indigenous legal aid services for the years 2016-2017. If this cut goes ahead, this will undoubtedly stretch services even further resulting in increased incarceration of Aboriginal people, for longer periods of time, and the diminishment in the protection and promotion of their human rights. The lack of Aboriginal and Torres Strait Islander interpreter services has been a critical access to justice issue for a long time. In 2009 all Australian governments committed to developing and funding a national framework for the expansion of Aboriginal and Torres Strait Islander interpreter services. The former Australian Government developed a draft framework in consultation with relevant industry stakeholders and was in negotiations with State and Territory governments to secure agreement to the framework. The incoming Government's commitment to this process is unclear, and without strong commitment from the federal level, progress is likely to stall.

AHRC response:
The Commission acknowledges the efforts of the Australian Government in funding Aboriginal and Torres Strait Islander Legal Services (ATSIL) and diversion and recidivism programs. However, funding to ATSILS has falls well below funds received by legal aid commissions.

Joint response:
NOT IMPLEMENTED
There is a need to establish a national network of Aboriginal and Torres Strait Islander interpreters that facilitates the right of Aboriginal and Torres Strait Islander people to access legal advice. A joint Aboriginal and Torres Strait Islander Legal Services submission to the Commonwealth Government explains that a national framework is needed to support and expand existing services to cover metropolitan, regional and remote areas. It also emphasises the importance of developments being undertaken in consultation and collaboration with existing services, relevant stakeholders such as the Aboriginal and Torres Strait Islander Legal Services, and Aboriginal and Torres Strait Islander communities.

Recommendation nº106: *Implement measures in order to address the factors leading to an overrepresentation of Aboriginal and Torres Strait Islander communities in the prison population* (Recommended by *Austria*)

IRI: *not implemented*

State of Australia response:
[See response to recommendation n° 103]

CAALAS response:
The over-representation of Aboriginal and Torres Strait Islander people in the prison population continues to be a significant issue in Central Australia. The Northern Territory has the highest imprisonment rate in Australia at five times the national average. Over 80% of the Northern Territory's prison population is Aboriginal or Torres Strait Islander, yet Aboriginal and Torres Strait Islander people only comprise about 30% of the Northern Territory's population. On most nights in Alice Springs, 100% of the youth in detention in the Alice Springs youth detention centre are Aboriginal. Further, since the UN UPR was conducted in Australia in 2011, the number of Aboriginal people in detention in the Northern Territory has increased.

There are a number of factors contributing to the high over-representation of Aboriginal and Torres Strait Islander people in the Northern Territory. From a justice perspective, these include:

- A bail system in need of reform. Currently, many Aboriginal people charged with an offence are refused bail and are remanded in custody because the legislative scheme is restrictive, and because they cannot access the support needed to complete bail successfully in the community;
- Mandatory minimum sentencing legislation which requires the court to impose actual sentences of imprisonment in many case (discussed in more detail at No. 107);
- A focus on a 'law and order' response to complex issues relating to social dysfunction, rather than addressing the underlying factors. For example, the Northern Territory has recently introduced a mandatory alcohol treatment scheme which confers power on a Tribunal to order that a person be compulsorily detained and treated for a period of up to three months if they have been taken into protective custody on three occasions in two month period for public drunkenness. It is a criminal offence, punishable by a fine or imprisonment, for a person to abscond from the mandatory treatment facility three or more times;
- The over-policing of Aboriginal people, particularly Aboriginal people in public spaces;
- Inadequate and insufficient preventative, rehabilitative and post-release services and programs, particularly for those living in remote communities (see also recommendation No. 51 and No. 107); and
- The lack of cultural responsiveness within the criminal justice system, including insufficient engagement with Aboriginal communities and Aboriginal leaders, and insufficient cultural training for key stakeholders in the criminal justice system.

See also Recommendation No. 107.

NATSILS response:
[See CAALAS' response]

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The rate at which Aboriginal and Torres Strait Islander peoples are over-represented in the prison population continues to grow. There is currently no targeted or coordinated effort being undertaken to address this situation. For many years organisations like NATSILS have called on all Australian governments to commit to a

nationally coordinated approach to reduce the over-representation of Aboriginal and Torres Strait Islander peoples in Australian prisons. Specifically, calls have been made to amend the Closing the Gap policy, to which all Australian governments are committed, to include targets related to reducing over-representation. Except for the community safety areas, all other parts of the Closing the Gap policy have targets attached as well as a National Partnership Agreement (NPA) which requires all Australian governments to commit resources, undertake action to reach identified targets and report annually on progress. The safe communities part of the Closing the Gap policy needs to have targets and an NPA as well if progress is going to be made in reducing the over-representation of Aboriginal and Torres Strait Islander peoples in Australian prisons. Furthermore, an NPA should include plans for Australian governments to move towards a 'Justice Reinvestment' approach to the criminal justice system.

ALSWA response:
The incarceration rate of Aboriginal and Torres Strait Islander peoples continues to grow. There are currently no targeted or coordinated efforts being undertaken to address this situation. For many years organisations like NATSILS have called on all Australian and State governments to commit to a nationally coordinated approach to reduce the over-representation of Aboriginal people in prisons. Specifically, calls have been made to amend the Closing the Gap policy, to which all Australian governments are committed, to include targets related to reducing over-representation. Furthermore, ALSWA continues to advocate for the introduction of justice reinvestment policies to divert persons away from prison. Finally, Western Australia has several laws which require mandatory sentencing of an offender. These laws adversely affect Aboriginal people and help to contribute to the over-incarceration of Aboriginal people.

AHRC response:
While there is a commitment to addressing socio-economic disadvantage through the Closing the Gap measures, there have been no specific measures to address this issue. Targets relating to the justice system have also not been finalised within the Closing the Gap strategies.

Joint response:
PARTIALLY IMPLEMENTED
Prior to the federal election in September 2013, the Australian Government had committed to the inclusion of justice targets with in the Closing The Gap framework. However, many States and Territories still have harsh sentencing laws which disproportionately impact on Aboriginal and Torres Strait Islander Peoples.

Whilst the Australian Government has provided some support for initiatives of Justice Reinvestment as well as strategies of prevention, early intervention and diversion of Aboriginal and Torres Strait Islander Peoples in the criminal justice system, such strategies and initiatives are yet to be implemented.

Aboriginal and Torres Strait Islander Legal Services and Family Violence Prevention Legal Services respond to the full range of legal needs experienced by Aboriginal

and Torres Strait Islander Peoples. Prior to being elected in the federal election on the 7th September 2013, the Coalition announced a funding cut of $42m to the Indigenous Policy Reform Program, which provides funding to Aboriginal and Torres Strait Islander Legal Services (ATSILS) across Australia. This loss of funding will directly impact on the service provision to their Aboriginal and Torres Strait Islander clients. Whether the funding is cut will be confirmed when the official budget is released.

Recommendation nº110: *Establish a National Compensation Tribunal, as recommended in the "Bringing Them Home" report, to provide compensation to Aboriginal and Torres Strait Islander people that are negatively affected by the assimilation policy, particularly as it applies to children unfairly removed from their families and the parents of those children* (Recommended by *Slovenia*)

IRI: *not implemented*

Aboriginal Legal Rights Movement South Australia (ALRMSA) response:
ALRM has provided to the UN a detailed Stolen Generations newsletter of August 2013, which sets out that there are in excess of 200 members of the Stolen Generation in South Australia who have not received the benefit of a comprehensive compensation scheme. That is so notwithstanding that they have cases which fall within the precedent of Trevorrow v South Australia no 5 (2007) 98 SASR 136. Rather, individual litigants are forced to sue individually , with few resources and with limited success. A stolen Generations Reparations Bill, still in the South Australian Parliament, has never been passed. The Stolen Generation are getting older and some are dying before reparations or compensation become claimable by them. ALRM considers that the failure to establish such a Tribunal to compensate Aboriginal people for systematic infringements of their human rights also violates their right to an effective remedy as provided for under the Universal Declaration of Human Rights and Article 2(3) of the ICCPR.

ALSWA response:
No national scheme of compensation has been discussed or introduced in Australia to compensate victims of the 'Stolen Generation' and its policies. A scheme was introduced in WA a few years ago however the amount of compensation was capped, there was a very limited time in which one could apply and the application criteria were narrow. This resulted in many Aboriginal people missing out on compensation under this scheme. No further action has been taken by any State government, or the federal government, to compensate and reconciliate with those persons adversely affected by being wrongly removed from their families.

Joint response:
NOT IMPLEMENTED
Although some States and Territories have introduced compensation schemes for Aboriginal and Torres Strait Islander people who were removed from their families and communities, the previous Government stated that it would not establish a National Compensation Tribunal.

Recommendation nº114: *Step up efforts to ensure that people living in the remote and rural areas, in particular the indigenous peoples, receive adequate support*

services relating to accommodation and all aspects of health and education (Recommended by *Malaysia*)

IRI: *fully implemented*

State of Australia response:

Governments will continue to implement the Closing the Gap Strategy, including through the National Indigenous Reform Agreement, relevant mainstream National Agreements and National Partnership Agreements, and the Indigenous specific National Partnership Agreements on Remote Service Delivery, Remote Indigenous Housing, Indigenous Health Outcomes, Stronger Futures in the Northern Territory, Indigenous Economic Participation and Indigenous Early Childhood Development, focused on achieving the following targets:

- close the life expectancy gap within a generation (by 2031)
- halve the gap in mortality rates for Indigenous children under five within a decade (by 2018)
- halve the gap for Indigenous students in reading, writing and numeracy within a decade (by 2018)
- ensure all Indigenous four year olds in remote communities have access to quality early childhood education within five years (by 2013)
- halve the gap for Indigenous 20–24 year olds in Year 12 or equivalent attainment rates by 2020, and
- halve the gap in employment outcomes between Indigenous and non Indigenous Australians within a decade (by 2018).

Performance indicator/Timeline

Ongoing.

The Australian Government will develop the National Aboriginal and Torres Strait Islander Health Plan to progress the work that the Government is undertaking to close the gap in life expectancy and infant mortality. The Plan will be developed with the advice of the National Aboriginal and Torres Strait Islander Health Equality Council and an advisory group co-chaired by the Department of Health and Ageing and the National Congress of Australia's First Peoples.

Performance indicator/Timeline

Ongoing.

The Australian Government will continue to address the significant level of housing needs in remote Indigenous communities through its $5.5 billion investment in the National Partnership on Remote Indigenous Housing. Since the commencement of the National Partnership Agreement on Remote Indigenous Housing on 1 January 2009, 1401 new houses have been completed and 4676 houses have been rebuilt and refurbished nationally (as at 30 June 2012). The Social Housing Initiative provides $5.238 billion for new construction over three and a half years, from 2008–09 to 2011–12. A further $400 million was allocated over two years from 2008–09 to 2009–10 to undertake repair and maintenance work that benefited existing social housing dwellings. Of the over 16,400 dwellings for which tenant data is available (at 30 June 2012), over 2200 (14 per cent) went to Indigenous people. The National Partnership Agreement on Social Housing provided $400 million to build around 1950 new dwellings. The increased supply of housing will contribute to reducing homelessness and improving outcomes for homeless and Indigenous Australians. As

at 30 June 2012, over 1800 dwellings had been completed. Of the over 1800 dwellings for which tenant data is available, over 1200 went to Indigenous people.
Performance indicator/Timeline
Mechanisms set out in the National Partnership Agreement on Remote Indigenous Housing.

Governments will implement the Aboriginal and Torres Strait Islander Education Action Plan 2010–14.
Performance indicator/Timeline
The Aboriginal and Torres Strait Islander Education Action Plan will see activity through to 2014 and will be the foundation for work in this space beyond 2014.

The Australian Government will promote and implement the actions contained in the Indigenous Economic Development Strategy (IEDS) 2011–18.
- Every three years, the Australian Government will update the actions embedded in the IEDS in order to respond to emerging opportunities.
- The Australian Government will work with state and territory governments to identify opportunities to work together, and will encourage state and territory governments to develop their own strategies for Indigenous economic development.

Performance indicator/Timeline
An interagency Indigenous Economic Development Reference Group will monitor and evaluate progress against the actions.

The Victorian Government supports the Koori Youth Alcohol and Drug Healing Service, a rehabilitation service for young people.
Performance indicator/Timeline
Ongoing.

The Victorian Government provides culturally appropriate support and care for Aboriginal and Torres Strait Islander women during pregnancy, birth and in the immediate period after birth through the Koori Maternity Services.
Performance indicator/Timeline
Ongoing.

The Victorian Government supports the Victorian Advisory Council on Koori Health and the Aboriginal Health Expert Advisory Board to bring Aboriginal and non-Aboriginal experts together to advise on government policy.
Performance indicator/Timeline
Ongoing.

The South Australian Government will deliver the Aboriginal Transitional Housing Outreach Service (ATHOS). ATHOS is a homelessness response for transitional Aboriginal people from regional and remote communities presenting in Coober Pedy

and Adelaide who are at risk of rough sleeping or contributing to overcrowding in already existing tenancies.
Performance indicator/Timeline
2011–13. Delivery of programs to Coober Pedy and Adelaide.

The South Australian Government, through the SA Health Aboriginal Health Care Plan, will continue to prioritise the needs of Aboriginal people with particular emphasis on developing culturally appropriate models of care and reducing Aboriginal hospital self-discharge rates.
Performance indicator/Timeline
Ongoing.
Services delivered.

The South Australian Government will continue to deliver Aboriginal Maternal and Infant Care Programs and Services.
Performance indicator/Timeline
Ongoing.
Services delivered.

The South Australian Government will continue to support the delivery of culturally appropriate Aboriginal smoking cessation programs, marketing and health promotion initiatives.
Performance indicator/Timeline
Ongoing.
Services delivered.

The ACT Alcohol and Drug Aboriginal and Torres Strait Islander Liaison Officer continues to provide services to help divert people apprehended for alcohol and other drug use or related alcohol and other drug offences from the judicial system into the health system. A weekly clinic is run at the Alexander Maconochie Centre.
Performance indicator/Timeline
Ongoing.

The ACT Mental Health Aboriginal and Torres Strait Islander Liaison Officer provides consultation and liaison to mental health teams, youth and adult medical services and other stakeholders, to assist in the delivery of services.
Performance indicator/Timeline
Ongoing.

The ACT funds the Winnunga Nimmityjah Aboriginal Health Service Dual Diagnosis Program that provides a dual diagnosis outreach worker to work with Aboriginal and Torres Strait Islander peoples who are experiencing issues relating to drug, alcohol, emotional, or social wellbeing including mental health and suicide. The Outreach worker also coordinates the provision of integrated mainstream services and Aboriginal community controlled services for clients and their families.
Performance indicator/Timeline
Ongoing.

The ACT Government is developing the Ngunnawal Bush Healing Farm which involves the establishment of an Aboriginal and Torres Strait Islander residential rehabilitation service implementing culturally appropriate prevention and education programs. The service model is that of a therapeutic community in which people voluntarily choose to enter a residential community for personal growth and rehabilitation.

Performance indicator/Timeline

Second half of 2013.

CAALAS response:

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NATSILS response:

According to 2011 census data compiled by the Australian Bureau of Statistics, the Northern Territory has the highest rate of homelessness per head of population in Australia, and just over 90% of homeless people were Aboriginal or Torres Strait Islander. There have been some positive government initiatives to address this issue, but significant problems remain in Central Australia.

Notably, the Commonwealth Government committed $5.5 billion over ten years to 2018 under a national partnership agreement with the states and the Northern Territory to address significant overcrowding, homelessness, poor housing conditions and the severe housing shortage in remote Aboriginal and Torres Strait Islander communities. While this partnership between the Commonwealth and the state and territory governments has already yielded some results, CAALAS is still deeply concerned by the continued lack access to affordable housing and public housing, poor quality housing, overcrowding and lack of security of tenure many Aboriginal people in the Northern Territory experience. In our experience, poor housing or lack of access to housing, impacts significantly on our clients' wellbeing.

Of concern, we have recently noticed a shift in the policy and practices of the Department of Housing in the Northern Territory, which manages the tenancies of most Aboriginal people living in public housing. The Department of Housing is increasingly placing people on periodic tenancies (rather than long fixed term leases) which gives the Department of Housing significantly more power to terminate tenancies with little notice. The Department of Housing has also adopted a stricter approach to tenancy management, often with little regard to cultural factors and other issues impacting on clients' ability to manage a tenancy in accordance with the Department of Housing's policies. This has led to an increase in the number of eviction notices issued, and has placed pressure on many vulnerable tenants to relinquish their tenancy.

Given the critical shortage of affordable accommodation in the Northern Territory, and the extremely long waiting list for public housing in Central Australia, we are concerned that the approach adopted by the Department of Housing will increase the already high number of homeless Aboriginal people in Central Australia, and across the Northern Territory.

AHRC response:
Commitments to improve socio-economic conditions in rural and remote communities are included in the Closing the Gap targets and through the Stronger Futures legislation. Unable to ascertain whether progress has been made to date.

Joint response:
PARTIALLY IMPLEMENTED
In October 2013, the Australian Council of Social Service and the National Rural Health Alliance released their joint report, A Snapshot of Poverty in Rural and Regional Australia, presenting findings that people living in rural and regional Australia, including a significant proportion of Aboriginal and Torres Strait Islander people, face particular social and economic challenges, such as generally lower incomes, reduced access education services and declining employment opportunities, distance, isolation and inadequate transportation services. The report provided evidence of lower access to health services and pharmaceuticals, including lower prevalence of nearly all types of health practitioners (in 2013, there were 242 medical practitioners employed in remote areas per 100,000 population, compared with 375 medical practitioners employed in major cities per 100,000 population). A working paper by the Productivity Commission, Deep and Persistent Disadvantage in Australia, released in July 2013, provides evidence that residents of rural areas reported the highest rates of service exclusion, particularly in relation to medical and dental services, child care and financial services. In addition, with 20 per cent of humanitarian entrants been settled in regional areas over the past several years, there is a growing culturally and linguistically diverse population that requires adequate and inclusive infrastructure, as well as job opportunities.

Recommendation nº115: *Reform the Native Title Act 1993, amending strict requirements which can prevent the Aboriginal and Torres Strait Islander peoples from exercising the right to access and control their traditional lands and take part in cultural life* (Recommended by *United Kingdom*)

IRI: *not implemented*

AHRC response:
The Australian Human Rights Commission has made recommendations to this effect which remain unimplemented to date. Most recently, the Australian law Reform Commission has been empowered to conduct an inquiry into the legislation, which will consider this issue.

Joint response:
NOT IMPLEMENTED

Whilst the Government has taken some action to improve the operation of the native title system, including through efforts to improve agreement making, increase flexibility and promote claim resolution and sustainable outcomes, the burden of proof under the Native Title Act 1993 (Cth) continues to be upon Aboriginal and Torres Strait Islander peoples. The Act further promotes security for non-Indigenous interests, rather than providing appropriate redress for historical dispossession.

As per his Country Report on Australia, Situation of indigenous people in Australia, the UN Special Rapporteur on the Rights of Indigenous Peoples, made various findings that the Native Title law in Australia is racially discriminatory and in breach of its obligations under international law.

Efforts to review the operation of the Native Title Act 1993 (Cth) have been at best 'tinkering at the edges'. There has been little if any meaningful reform that addresses the key flaws inherent in the legislation that impedes the realisation of Aboriginal and Torres Strait Islander people's rights to their lands, territories and resources.

Recommendation nº116: *Institute a formal reconciliation process leading to an agreement with Aboriginal and Torres Strait Islander people* (Recommended by *Slovenia*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 34]

NATSILS response:
no progress

ERI response:
Partially implemented: There is a need to re-commit to the formal reconciliation process. The funding level for 'Reconciliation Australia' is inadequate. On the other hand the incoming government has pledged to recognize Aboriginal and Torres Strait islander people in the constitution. The new PM has stated the aim is 'not to change the constitution but to complete it'

AHRC response:
The Government has begun the process of establishing formal recognition of Australian and Aboriginal Torres Strait Islanders in the Australian Constitution, this should be an ongoing national priority .

Joint response:
NOT IMPLEMENTED
The negotiation of a Treaty between Aboriginal and Torres Strait Islander peoples has been strongly advocated for many years including by the National Aboriginal Conference during the 1980s, and the former Aboriginal and Torres Strait Islander Commission. Agreement-making, based upon the free and informed consent of the First Peoples will be a major part in achieving good relations between the Government and the Australia's First Peoples.

As of late 2013, negotiations for a treaty between Aboriginal and Torres Strait Islander peoples the Australian Government are non-existent.

Recommendation nº117: *Continue in particular the process of constitutional reform in order to better recognize the rights of indigenous peoples* (Recommended by *France*)

IRI: *fully implemented*

State of Australia response:
[See response to recommendation n° 34]

GHRC response:
Implemented. The Australian Constitution still does not positively recognise Australia's Aboriginal and Torres Strait Islander peoples. The movement to rectify this with a referendum has enjoyed the bipartisan support of both major political parties since 2007, however the Labor government commitment to hold a referendum with the upcoming 2013 federal election was abandoned in September 2012 because of concerns about low levels of public awareness.

The Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012 (Cth) ("the Bill") was introduced in November 2012. The establishment of the Joint Select Committee on Bipartisanship Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples on 28th November 2012 reinforced bipartisan co-operation. The Aboriginal and Torres Strait Islander Peoples Recognition Act 2013 (Cth) ("The Act") came into force on March 27 2013.

The Act recognises Aboriginal and Torres Strait Islanders as the first peoples of Australia, acknowledges the continuing relationship of Indigenous Australians to their traditional lands and waters, and declares respect for continuing cultures, languages and heritage of Aboriginal and Torres Strait Islander Peoples. Under the Act, the relevant Minister must commence a review of support for the referendum within 12 months of the 27th March 2013. The Act will lapse after 2 years, giving effect to the legislative intention that it be a step towards constitutional recognition while public support is building and not a substitute. The Federal Government is investing $10 million dollars to support community groups to build public awareness for the constitutional recognition of Aboriginal and Torres Strait Islander Peoples.

CAALAS response:

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NATSILS response:
Some progress has occurred. The Commonwealth Government enacted the Aboriginal and Torres Strait Islander Recognition Act 2013. The Act contains statements of recognition, and also establishes a legislative process for continued work towards constitutional reform.

An expert panel on the recognition of Aboriginal and Torres Strait Islander people in the Australian Constitution was established and, in January 2012, reported to the Prime Minister of Australia on the recommended process for constitutional reform. The expert panel recommended a single referendum at a time supported by all major political parties in each jurisdiction, following a period of widespread public education.

A referendum has not yet been held or scheduled. The new government has, however, announced that it will develop a proposal for constitutional reform within 12 months of taking office.

World Vision Australia (WVA) response:
World Vision Australia is encouraged that the new Australian Government policy commitments include to put forward, by September 2014, a draft amendment for constitutional recognition and establish a bipartisan process to assess its chances of success.

ALSWA response:
This process is continuing in Australia but no amendment of the constitution has yet been made.

AHRC response:
The Government has begun the process of establishing formal recognition of Australian and Aboriginal Torres Strait Islanders in the Australian Constitution, this should be an ongoing national priority .

Joint response:
PARTIALLY IMPLEMENTED
In November 2010, the Australian Prime Minister Julia Gillard announced the establishment of an Expert Panel to consult on a constitutional amendment on the recognition of Aboriginal and Torres Strait Islander Peoples, to be put to a referendum.

In January 2012 the Expert Panel made a number of recommendations for constitutional amendment. The Expert Panel recommendations include:
- recognising Aboriginal and Torres Strait Islander Peoples, culture and heritage
- removing the States power to ban voters based on race
- making good laws for Aboriginal and Torres Strait Islander Peoples and ruling out the power to make bad laws
- ruling out racism by governments
- respecting and protecting Aboriginal and Torres Strait Islander Peoples languages.

While federal elections in September 2013 resulted in a change of Government, the recently appointed Attorney General has publically confirmed that a proposed model for constitutional reform will be released by July 2014. The newly elected Australian Government has not yet stated whether it will support the full recommendations of the Expert Panel.

Recommendation nº118: *Continue to implement its efforts to attain the constitutional recognition of indigenous peoples* (Recommended by *Colombia*)

IRI: *fully implemented*

State of Australia response:
[See response to recommendation n° 34]

CAALAS response:

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NATSILS response:
[See response to recommendation n° 117]

GHRC response:
[See response to recommendation n° 117]

ALSWA response:
This process is continuing in Australia but no amendment of the constitution has yet been made.

AHRC response:
The Government has begun the process of establishing formal recognition of Australian and Aboriginal Torres Strait Islanders in the Australian Constitution, this should be an ongoing national priority .

Joint response:
PARTIALLY IMPLEMENTED
The Australian Government has taken a number of steps to attain constitutional reform that recognises Aboriginal and Torres Strait Islander Peoples including:

- November 2010 - the Australian Prime Minister Julia Gillard established an Expert Panel to conduct national consultations on the recognition of Aboriginal and Torres Strait Islander Peoples in the Australian Constitution. The Expert Panel provided their report and recommendations to the Government in January 2012.
- Federal funding was provided to Reconciliation Australia to conduct a national campaign on the recognition of Aboriginal and Torres Strait Islander peoples in the Australian Constitution.
- November 2012 - a Joint Select Committee on Constitutional Recognition was created by the Parliament to inquire into and report on steps required to progress a successful referendum on Constitutional recognition, and particularly to build community engagement and support. The Committee was tasked with considering the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012 which had final carriage through Parliament in March 2013.
- September 2013 - federal elections resulted in a change of Government. The Attorney General has publically stated that a proposed model for constitutional reform will be released by July 2014.

Recommendation nº119: *Revise its Constitution, legislation, public policies and programmes for the full implementation of the United Nations Declaration of the Rights of Indigenous Peoples* (Recommended by *Bolivia*)

IRI: *not implemented*

State of Australia response:
[See response to recommendation n° 34]

GHRC response:
Partially implemented. The Australian Constitution still does not positively recognise Australia's Aboriginal and Torres Strait Islander peoples. The movement to rectify this with a referendum has enjoyed the bipartisan support of both major political parties since 2007, however the Labor government commitment to hold a referendum with the upcoming 2013 federal election was abandoned in September 2012 because of concerns about low levels of public awareness. The Aboriginal and Torres Strait

Islander Peoples Recognition Bill 2012 (Cth) ("the Bill") was introduced in November 2012.

The establishment of the Joint Select Committee on Bipartisanship Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples on 28th November 2012 reinforced bipartisan co-operation. The Aboriginal and Torres Strait Islander Peoples Recognition Act 2013 (Cth) ("The Act") came into force on March 27 2013. The Act recognises Aboriginal and Torres Strait Islanders as the first peoples of Australia, acknowledges the continuing relationship of Indigenous Australians to their traditional lands and waters, and declares respect for continuing cultures, languages and heritage of Aboriginal and Torres Strait Islander Peoples. Under the Act, the relevant Minister must commence a review of support for the referendum within 12 months of the 27th March 2013.

The Act will lapse after 2 years, giving effect to the legislative intention that it be a step towards constitutional recognition while public support is building and not a substitute. The Federal Government is investing $10 million dollars to support community groups to build public awareness for the constitutional recognition of Aboriginal and Torres Strait Islander Peoples.

NATSILS response:
[As the National Aboriginal and Torres Strait Islander Legal Services (NATSILS) states in its UPR report, the Northern Territory Emergency Response (NTER) has been replaced by a package of legislation called 'Stronger Futures' which includes some amendments to the original program, including a reinstatement of the Racial Discrimination Act 1975 (Cth), but largely reflects a similar approach to that which was taken under the NTER.

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The Government has made no noticeable effort at incorporating the Declaration on the Rights of Indigenous Peoples into domestic law.]

ALSWA response:
No action has been taken in this regard.

AHRC response:
Progress in implementing the Declaration into domestic legislation, policy and programmes has been slow. Congress has secured funding for four years and is currently working in partnership with government on a dialogue process relating to the implementation of the Declaration.

Joint response:
NOT IMPLEMENTED
In 2009 the Australian Government formally endorsed the Declaration on the Rights of Indigenous Peoples (the Declaration). Since 2009, there has been limited incorporation of the Declaration of the Rights of Indigenous Peoples into public policy or legislation targeted towards Aboriginal and Torres Strait Islander peoples. The Australian Government considers the Declaration to be "a statement of support for

the rights of Indigenous Peoples and an aspirational rather than a legally binding document".

With regards to legislation, the Parliamentary Joint Committee on Human Rights (established in March 2012) is only required to consider rights recognised or declared in the seven core human rights treaties to which Australia is a party.

While the current Constitutional reforms proposed by the Expert Panel have no specific reference to the United Nations Declaration on the Rights of Indigenous Peoples, the Expert Panel's recommendations are consistent with the Declaration. The newly elected Australian Government has not yet stated whether it will support the full recommendations of the Expert Panel.

Recommendation nº120: *Ensure effective implementation of the Declaration on the Rights of Indigenous People, including in the Northern Territory, and provide adequate support to the National Congress of Australia's First Peoples to enable it to address the needs of indigenous people* (Recommended by *Ghana*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 34]

NATSILS response:
[As the National Aboriginal and Torres Strait Islander Legal Services (NATSILS) states in its UPR report, the Northern Territory Emergency Response (NTER) has been replaced by a package of legislation called 'Stronger Futures' which includes some amendments to the original program, including a reinstatement of the Racial Discrimination Act 1975 (Cth), but largely reflects a similar approach to that which was taken under the NTER.

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The Government has made no noticeable effort at incorporating the Declaration on the Rights of Indigenous Peoples into domestic law.]

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The National Congress has been provided with adequate resources by the Government but its effectiveness in its role as an advisory body depends on to what degree the Government listens to it.

ERI response:
Partially implemented: The National Congress is new, is truly representative and has an important role to play. The incoming government has selected and appointed indigenous leaders as key advisors. A question remains as to whether or not they will overrule the role of the National Congress.

AHRC response:
Partially implemented - The Congress has secured funding for four years and is currently working in partnership with government on a dialogue process relating to the implementation of the Declaration.

Joint response:
PARTIALLY IMPLEMENTED
In 2009 the Australian Government formally endorsed the Declaration on the Rights of Indigenous Peoples (the Declaration). Since 2009, there has been limited incorporation of the Declaration of the Rights of Indigenous Peoples into Australian government policy or legislation targeted towards Aboriginal and Torres Strait Islander peoples. The Australian Government considers the Declaration to be "a statement of support for the rights of Indigenous Peoples and an aspirational rather than a legally binding document".

In mid-2013, the Australian Government entered into preliminary discussions with the Australian Human Rights Commission and the National Congress of Australia's First Peoples in relation to the Declaration on the Rights of Indigenous Peoples. It is intended that these discussions will lead to the development of common understandings of the key themes within the Declaration as well as a national implementation strategy for the Declaration. The implementation of a national strategy will ensure the rights of Indigenous peoples are promoted and protected.

See [the following website].

Recommendation nº121: *Develop a detailed framework to implement and raise awareness about the Declaration in consultation with indigenous peoples* (Recommended by *Hungary*)

IRI: *partially implemented*

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Recommendation nº122: *Take further steps to ensure the implementation of the Declaration on the Rights of Indigenous Peoples* (Recommended by *Denmark*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 34]

NATSILS response:
[As the National Aboriginal and Torres Strait Islander Legal Services (NATSILS) states in its UPR report, the Northern Territory Emergency Response (NTER) has been replaced by a package of legislation called 'Stronger Futures' which includes some amendments to the original program, including a reinstatement of the Racial Discrimination Act 1975 (Cth), but largely reflects a similar approach to that which was taken under the NTER.

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The Government has made no noticeable effort at incorporating the Declaration on the Rights of Indigenous Peoples into domestic law.]

AHRC response:
Progress in implementing the Declaration into domestic legislation, policy and programmes has been slow. Congress has secured funding for four years and is currently working in partnership with government on a dialogue process relating to the implementation of the Declaration.

Joint response:
PARTIALLY IMPLEMENTED
In 2009 the Australian Government formally endorsed the Declaration on the Rights of Indigenous Peoples (the Declaration). The Australian Government considers the Declaration to be "a statement of support for the rights of Indigenous Peoples and an aspirational rather than a legally binding document".

In mid-2013, the Australian Government entered into preliminary discussions with the Australian Human Rights Commission and the National Congress of Australia's First Peoples in relation to the Declaration on the Rights of Indigenous Peoples. It is intended that these discussions will lead to the development of common understandings of the key themes within the Declaration as well as a national implementation strategy for the Declaration. The implementation of a national strategy will ensure the rights of Indigenous peoples are promoted and protected.

As of late 2013, the newly elected Australian Government has not formally committed to the development of a national implementation strategy for the Declaration on the Rights of Indigenous Peoples.

See [the following website].

ALSWA response:
No action has been taken in this regard.

Recommendation nº123: *Launch a constitutional reform process to better recognize and protect the rights of the Aboriginals and Torres Strait Islanders which would include a framework covering the principles and objectives of the United Nations Declaration on the Rights of Indigenous Peoples and would take into account the opinions and contributions of indigenous peoples* (Recommended by *Guatemala*)

IRI: *fully implemented*

State of Australia response:
[See response to recommendation n° 34]

CAALAS response:
[See response to recommendation n° 117]

GHRC response:
[See response to recommendation n° 117]

NATSILS response:
See [recommendation n° 117] in relation to the progress of constitutional recognition.

The options presented for constitutional reform did not cover the breadth of principles and objectives contained within the Declaration.

AHRC response:
The Government has begun the process of establishing formal recognition of Australian and Aboriginal Torres Strait Islanders in the Australian Constitution, this should be an ongoing national priority.

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Progress in implementing the Declaration into domestic legislation, policy and programmes has been slow. Congress has secured funding for four years and is currently working in partnership with government on a dialogue process relating to the implementation of the Declaration.

Joint response:
[See response to recommendation n° 121]

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While the current Constitutional reforms proposed by the Expert Panel has no specific reference to the United Nations Declaration on the Rights of Indigenous Peoples, the Expert Panel's recommendations are consistent with the Declaration. The newly elected Australian Government has not yet stated whether it will support the full recommendations of the Expert Panel.

Recommendation nº124: *Include in its national norms recognition and adequate protection of the culture, values and spiritual and religious practices of indigenous peoples* (Recommended by *Bolivia*)

IRI: *not implemented*

State of Australia response:
[See response to recommendation n° 34]

AHRC response:
The Government has begun the process of establishing formal recognition of Australian and Aboriginal Torres Strait Islanders in the Australian Constitution, this should be an ongoing national priority

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Progress in implementing the Declaration into domestic legislation, policy and programmes has been slow. Congress has secured funding for four years and is currently working in partnership with government on a dialogue process relating to the implementation of the Declaration.

Joint response:
NOT IMPLEMENTED
The property rights of Indigenous Peoples within Australia are not adequately protected. The Australian Government has not reversed the onus of proof for native title claimants and cultural heritage laws across each State and Territory remain inconsistent. Such laws adversely impact the culture, values and spiritual and religious practices of Indigenous peoples.

Whilst Australia is a signatory to the Nagoya Protocol, the Protocol has not yet been ratified. Further, the Australian Government has not ratified the International Labour Organisation Convention No. 169 on Indigenous and Tribal Peoples (ILO 169). In

2011, the Australian Government committed to 'formally considering' the ratification of ILO 169.

Recommendation nº125: *Promote the inclusion and participation of indigenous peoples and Torres Strait Islanders in any process or decision-making that may affect their interests* (Recommended by *Bolivia*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 34]

CAALAS response:

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NATSILS response:
Unfortunately, Territory and Commonwealth government consultation and engagement with Aboriginal and Torres Strait Islander people in policy development and decision-making is still often disregarded or is carried out in a perfunctory manner.

However, there have been some positive developments. In the Northern Territory, we have noticed an increased willingness by Commonwealth government departments to engage with Aboriginal organisations during policy development. Significantly, the Commonwealth government has committed over $2 million to the development of a Centre for Aboriginal Governance and Management in the Northern Territory, which will assist Aboriginal organisations to strengthen governance structures, build capacity and continue to grow. This will assist in strengthening the voice of Aboriginal communities in government decision-making.

AHRC response:
Not implemented. The Government must include Aboriginal and Torres Strait Islanders, both men and women, in all levels of decision making including the development and review of legislation and policy related to Indigenous lands, territories, resources and culture.

Joint response:
PARTIALLY IMPLEMENTED
Aboriginal people must be engaged in determining and developing programs for their own communities that ensure that social, cultural and economic needs are being met. Positive interaction with government is often an integral force for bolstering self-determination principles and driving change in Aboriginal communities.

With little progress in levels of political representation for Aboriginal Australians at a national level, Australia continues to be out of step with other nations, including New Zealand. The previous Federal Government funded the establishment of the National Congress of Australia's First Peoples in 2010. However their capacity to influence change may be limited by resources.

There have been many recent examples of funding for Aboriginal programs being provided to mainstream organisations, rather than local Aboriginal community-

controlled organisations. The incoming Coalition government has also proposed funding cuts to successful Aboriginal community controlled, culturally safe services, including a $42 million cut to Aboriginal legal services.

Funding mainstream organisations instead of Aboriginal community controlled organisations disrupts continuity of service provision, erodes cultural safety, disregards self-determination principles and creates obstructive tensions between Aboriginal communities and funded organisations. Instead, efforts should be spent building the strength and capacity of Aboriginal community controlled organisations nation-wide.

Recommendation nº126: *Strengthen efforts and take effective measures with the aim of ensuring enjoyment of all rights for indigenous people, including participation in decision-making bodies at all levels* (Recommended by *Bosnia & Herzegovina*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 34]

NATSILS response:

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CAALAS response:
[See response to recommendation n° 125]

AHRC response:
[See response to recommendation n° 125]

Joint response:
PARTIALLY IMPLEMENTED
The Australian Government provided funding for the establishment of the National Congress of Australia's First Peoples. The newly elected Australian Government has also established a National Indigenous Council that will provide advice to the government.

Local governance however is consistently challenged by over-regulation and policies that are not based on or promote self-determination.

The Australian Government has not ratified the International Labour Organisation Convention No. 169 on Indigenous and Tribal Peoples (ILO 169). This Convention is based on the respect for Indigenous cultures and ways of life, rights to lands and resources and the right to self-development. Consultation and participation are fundamental to ILO 169. In 2011, the Australian Government committed to 'formally considering' the ratification of ILO 169

Recommendation nº127: *Ensure that its legislation allows for processes of consultations in all actions affecting indigenous peoples* (Recommended by *Mexico*)

IRI: *not implemented*

State of Australia response:
[See response to recommendation n° 34]

NATSILS response:

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CAALAS response:
[See response to recommendation n° 125]

AHRC response:
[See response to recommendation n° 125]

Joint response:
NOT IMPLEMENTED
Whilst the provision of funding for the establishment of the National Congress of Australia's First Peoples was a positive measure by the Australian Government to increase the participation of Aboriginal and Torres Strait Islander peoples in decision that affect them, there is no consistent level of engagement and/ or consultation processes across all levels of Government. Additionally, the newly elected Government is yet to affirm its approach to Indigenous engagement in practical terms.

The Special Rapporteur on the Rights of Indigenous Peoples recommended that all legislation and policy in Australia be reviewed for consistency with the Declaration on the Rights of Indigenous Peoples. This recommendation has not been actioned.

The Australian Government has not ratified the International Labour Organisation Convention No. 169 on Indigenous and Tribal Peoples (ILO 169). Consultation and participation are fundamental to ILO 169. In 2011, the Australian Government committed to 'formally considering' the ratification of ILO 169.

Recommendation nº128: *Continue to engage with the Aboriginal population and Torres Strait Islanders and ensure the equal protection of their fundamental rights* (Recommended by *Indonesia*)

IRI: *partially implemented*

State of Australia response:
The Racial Discrimination Act 1975 (Cth) was fully reinstated in relation to the Northern Territory Emergency Response as of 31 December 2010. The Stronger Futures in the Northern Territory legislation repealed the Northern Territory Emergency Response Act 2007 and includes provisions that make it explicit that the Stronger Futures laws do not affect the operation of the Racial Discrimination Act.
Performance indicator/timeline
All measures are consistent with the Racial Discrimination Act 1975 (Cth).

The Stronger Futures in the Northern Territory legislation complements a 10-year Australian Government commitment to work with Aboriginal people in the Northern Territory to build strong, independent lives, where communities, families and children are safe and healthy. Stronger Futures in the Northern Territory is a $3.4 billion investment and responds directly to what Aboriginal people told the Australian Government was important to them. The Australian Government is working with Aboriginal people in both big and small communities to support more local jobs,

tackle alcohol abuse and encourage kids to go to school, as well as provide basic services, including health, education and police.
Performance indicator/timeline
Ongoing.

The Service Delivery Principles for Indigenous Australians, agreed by the Council of Australian Governments (COAG), provide that all government agencies are required to make provision for Indigenous interpreters in the services and programs they fund and deliver to enable equitable access to services. COAG has agreed that the Commonwealth should develop a national framework, working with the states and the Northern Territory, for the effective supply and use of Indigenous language interpreters. During 2012, the Australian Government is working with the states and territories to develop a National Indigenous Interpreters Framework. Governments will work with the Indigenous interpreting sector and other stakeholders to develop the Framework
Performance indicator/timeline
Ongoing.

NATSILS response:
[See response to recommendation n° 125]

AHRC response:
The Government has begun the process of establishing formal recognition of Australian and Aboriginal Torres Strait Islanders in the Australian Constitution, this should be an ongoing national priority

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Not implemented

Joint response:
PARTIALLY IMPLEMENTED
There are examples of positive engagement between Aboriginal and Torres Strait Islander Peoples, their representative organisations and Government. The National Aboriginal and Torres Strait Islander Health Plan involved a community consultation process, and has been developed in partnership with leading health peak bodies with direct reference to the UN Declaration on the Rights of Indigenous Peoples. An Indigenous Working Group was also established to advise the Government on disability targets under the Closing the Gap Framework. However, this degree of engagement is not consistent across all levels of Government and the newly elected Government is yet to affirm its approach to Indigenous engagement in practical terms.

In October 2013, a set of principles aimed at empowering Aboriginal organisations was launched by an alliance of Aboriginal organisations and non-Aboriginal NGOs and communities in the NT to take control of their futures. It is expected that governments will respect, promote and act in accordance with these principles.

Recommendation nº129: *Increase the participation of the Aboriginal and Torres Strait Islander communities in the process of closing the gap in opportunities and life outcomes* (Recommended by *Austria*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 34]

NATSILS response:
[See response to recommendation n° 125]

AHRC response:
Partly implemented. A major focus of the Government activities in this area has been the Close the Gap Campaign for Indigenous Health Equality which has made substantial progress since its launch. The establishment of the National Health Leadership Forum (NHLF) as the national representative body for Aboriginal and Torres Strait Islander health peak bodies is particularly welcomed as it provides a framework for the Government to engage with Aboriginal and Torres Strait Islanders in relation to health matters. In July 2013 the Government released the National Aboriginal and Torres Strait Islander Health Plan (the Health Plan) with the goal of achieving health equity by 2031

Joint response:
PARTIALLY IMPLEMENTED
There are examples of positive engagement between Aboriginal and Torres Strait Islander Peoples, their representative organisations and Government. The National Aboriginal and Torres Strait Islander Health Plan involved a community consultation process, and has been developed in partnership with leading health peak bodies with direct reference to the UN Declaration on the Rights of Indigenous Peoples. An Indigenous Working Group was also established to advise the Government on disability targets under the Closing the Gap Framework. However, this degree of engagement is not consistent across all levels of Government and the newly elected Government is yet to affirm its approach to Indigenous engagement in practical terms.

In October 2013, a set of principles aimed at empowering Aboriginal organisations was launched by an alliance of Aboriginal organisations and non-Aboriginal NGOs and communities in the NT to take control of their futures. It is expected that governments will respect, promote and act in accordance with these principles.

Recommendation nº130: *Continue the implementation of policies aimed at improving the living standards of indigenous peoples and take all the necessary measures to eradicate discrimination against them* (Recommended by *France*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 114]

AHRC response:
Partly implemented. A major focus of the Government activities in this area has been the Close the Gap Campaign for Indigenous Health Equality which has made substantial progress since its launch. The establishment of the National Health Leadership Forum (NHLF) as the national representative body for Aboriginal and Torres Strait Islander health peak bodies is particularly welcomed as it provides a framework for the Government to engage with Aboriginal and Torres Strait Islanders in relation to health matters. In July 2013 the Government released the National Aboriginal and Torres Strait Islander Health Plan (the Health Plan) with the goal of achieving health equity by 2031

Joint response:
PARTIALLY IMPLEMENTED
Various studies have shown that Aboriginal and Torres Strait Islander People experience an intolerable incidence of racism (see for example: Lowitja Institute, Mental Health Impacts of Racial Discrimination in Victorian Aboriginal Communities, National Congress Submission on the National Aboriginal and Torres Strait Islander Health Plan).

The National Anti-racism Partnership Strategy (NARPS) includes strategies to address the vilification of Indigenous people on the basis of race. The National Aboriginal and Torres Strait Islander Health Plan acknowledged the impact of racism on the health and wellbeing of Indigenous people. Other sectors, such as justice and education, are yet to acknowledge the impact of racism on the quality of life experienced by Aboriginal and Torres Strait Islander Peoples.

The previous government submitted a Bill to Parliament to consolidate federal anti-discrimination legislation which it later withdrew. It is unclear how the current government will act on this. The newly elected Government is yet to affirm continued support for the eradication of racism.

Recommendation nº131: *Continue its efforts to narrow the gap in opportunities and life outcomes between indigenous and non-indigenous Australians* (Recommended by *Singapore*)

IRI: *fully implemented*

State of Australia response:
[See response to recommendation n° 114]

GHRC response:
Implemented. Central to the Australian Government's plans to reduce the disadvantage faced by indigenous Australians is the Closing the Gap in Indigenous Disadvantage strategy which aims to reduce the gap between indigenous and non-indigenous Australians in regards to life expectancy, child mortality rates, education, and employment outcomes. In June 2011, the Australian Government launched the Aboriginal and Torres Strait Islander Education Action Plan. In September 2011, a full-time Race Discrimination Commissioner in the Australian Human Rights Commission (AHRC) was established in accordance to the voluntary commitment announced by the Australian Government following its first universal periodic review.

In August 2012, the Australian Government invested $3.4 billion over 10 years to improve the lives of indigenous Australians in the Northern Territory through the Stronger Futures in the Northern Territory ('Stronger Futures') commitment. In September 2012, the Australian Government implemented the National Plan for School Improvement for national school funding. In April 2013, the Australian Government pledged $777 million towards the National Partnership Agreement on Closing the Gap in Indigenous Health Outcomes for a further three years. In July 2013, the Australian Government began the Remote Jobs and Communities Program (RJCP) which was first announced in April 2012. In July 2013, the Australian Government released the National Aboriginal and Torres Strait Islander Health Plan which replaces the National Strategic Framework for Aboriginal and Torres Strait Islander Health that expires in 2013.

NATSILS response:
The Government's Close the Gap policy still fails to address a central issue affecting the opportunities and life outcomes of Aboriginal and Torres Strait Islander peoples. The part of the policy aimed at increasing community safety and reducing the number of Aboriginal and Torres Strait Islander peoples in contact with the criminal justice system, is the only part without an identified target and without a dedicated inter-governmental agreement (National Partnership Agreement) which commits funding, resources and action and which would also require annual reporting on progress. Without action in this area it is unlikely that targets in other areas will be reached.

AHRC response:
Partly implemented. A major focus of the Government activities in this area has been the Close the Gap Campaign for Indigenous Health Equality which has made substantial progress since its launch. The establishment of the National Health Leadership Forum (NHLF) as the national representative body for Aboriginal and Torres Strait Islander health peak bodies is particularly welcomed as it provides a framework for the Government to engage with Aboriginal and Torres Strait Islanders in relation to health matters. In July 2013 the Government released the National Aboriginal and Torres Strait Islander Health Plan (the Health Plan) with the goal of achieving health equity by 2031

Joint response:
PARTIALLY IMPLEMENTED
The Federal Government has set an over-arching target for 'Closing the Gap' in life expectancy within a generation. Funding for programs under the strategy is under-pinned by a National Partnership Agreement between Federal and State Governments. The newly elected Government is yet to affirm the extent it will commit to ongoing funding.

Of great concern is the escalating rate of suicide, particularly amongst young people, that is devastating Aboriginal and Torres Strait Islander families and communities.

Justice and its impact on opportunities and life outcomes has yet to be addressed by this framework or the previous government despite unacceptable incarceration rates. (See [here])

Recommendation nº132: *Intensify its on-going efforts to close the gap in opportunities and life outcomes between Indigenous and non-Indigenous peoples, especially in the areas of housing, land title, health care, education and employment* (Recommended by *Thailand*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 114]

CAALAS response:

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NATSILS response:
According to 2011 census data compiled by the Australian Bureau of Statistics, the Northern Territory has the highest rate of homelessness per head of population in Australia, and just over 90% of homeless people were Aboriginal or Torres Strait Islander. There have been some positive government initiatives to address this issue, but significant problems remain in Central Australia.

Notably, the Commonwealth Government committed $5.5 billion over ten years to 2018 under a national partnership agreement with the states and the Northern Territory to address significant overcrowding, homelessness, poor housing conditions and the severe housing shortage in remote Aboriginal and Torres Strait Islander communities. While this partnership between the Commonwealth and the state and territory governments has already yielded some results, CAALAS is still deeply concerned by the continued lack access to affordable housing and public housing, poor quality housing, overcrowding and lack of security of tenure many Aboriginal people in the Northern Territory experience. In our experience, poor housing or lack of access to housing, impacts significantly on our clients' wellbeing.

Of concern, we have recently noticed a shift in the policy and practices of the Department of Housing in the Northern Territory, which manages the tenancies of most Aboriginal people living in public housing. The Department of Housing is increasingly placing people on periodic tenancies (rather than long fixed term leases) which gives the Department of Housing significantly more power to terminate tenancies with little notice. The Department of Housing has also adopted a stricter approach to tenancy management, often with little regard to cultural factors and other issues impacting on clients' ability to manage a tenancy in accordance with the Department of Housing's policies. This has led to an increase in the number of eviction notices issued, and has placed pressure on many vulnerable tenants to relinquish their tenancy.

Given the critical shortage of affordable accommodation in the Northern Territory, and the extremely long waiting list for public housing in Central Australia, we are concerned that the approach adopted by the Department of Housing will increase the already high number of homeless Aboriginal people in Central Australia, and across the Northern Territory.

AHRC response:
Commitments to improve socio-economic conditions in rural and remote communities are included in the Closing the Gap targets and through the Stronger Futures legislation. Unable to ascertain whether progress has been made to date.

Joint response:
PARTIALLY IMPLEMENTED
The Federal Government has set an over-arching target for 'Closing the Gap' in life expectancy within a generation. Funding for programs under the strategy is under-pinned by a National Partnership Agreement between Federal and State Governments. The newly elected Government is yet to affirm the extent it will commit to ongoing funding.

There have been gains in closing the gap in:
- access to early childhood education, achieved principally through investment in infrastructure program
- child mortality rates
- high school completion rates.

There has been either no progress or a widening of the gap in:
- employment outcomes
- literacy and numeracy rates
- overall death rates
- education.

(See: COAG Reform Council (2013) Indigenous Reform 2011-12: Comparing performance across Australia.)

Recommendation nº133: *Continue addressing effectively the socio-economic inequalities faced by indigenous people* (Recommended by *Jordan*)

IRI: *fully implemented*

State of Australia response:
[See response to recommendation n° 114]

AHRC response:
Commitments to improve socio-economic conditions in rural and remote communities are included in the Closing the Gap targets and through the Stronger Futures legislation. Unable to ascertain whether progress has been made to date.

Joint response:
[See response to recommendation n° 132]

Recommendation nº134: *Carry out, in consultation with the communities concerned, a comprehensive assessment of the effectiveness of actions and strategies aimed at improving socio-economic conditions of indigenous peoples and if necessary correct these actions* (Recommended by *Belgium*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 114]

CAALAS response:

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NATSILS response:
The manner in which the government provides funding grants to service-providers operates as a significant barrier to the effective delivery of basic services to Aboriginal people in Central Australia, including legal services. Funding is often only provided for 1-3 years, and service-providers must prove that the program they have delivered during that 1-3 year funding cycle has been effective to obtain further funding. Given the complex nature of the health, education, legal and social issues in Central Australia, a 1-3 year period is rarely an adequate time to develop and implement effective programs. Further, funding for the evaluation of programs delivered by service-providers is rarely built into funding agreements, which means that smaller organisations may struggle to provide evidence of effectiveness because they do not have the resources to carry out a comprehensive evaluation.

AHRC response:
Commitments to improve socio-economic conditions in rural and remote communities are included in the Closing the Gap targets and through the Stronger Futures legislation. Unable to ascertain whether progress has been made to date.

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Partly implemented. A major focus of the Government activities in this area has been the Close the Gap Campaign for Indigenous Health Equality which has made substantial progress since its launch. The establishment of the National Health Leadership Forum (NHLF) as the national representative body for Aboriginal and Torres Strait Islander health peak bodies is particularly welcomed as it provides a framework for the Government to engage with Aboriginal and Torres Strait Islanders in relation to health matters. In July 2013 the Government released the National Aboriginal and Torres Strait Islander Health Plan (the Health Plan) with the goal of achieving health equity by 2031

Joint response:
[See response to recommendation n° 132]

Recommendation nº135: *Take immediate legal measures to remove restrictions against access of indigenous women and children to appropriate health and education services and employment opportunities* (Recommended by *Iran*)

IRI: -

State of Australia response:
[See response to recommendation n° 114]

Joint response:
This recommendation is unclear.

Recommendation nº136: *Continue efforts to increase the representation of indigenous women in decision-making posts* (Recommended by *Morocco*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 134]

AHRC response:
Not implemented

Joint response:
PARTIALLY IMPLEMENTED
Aboriginal and Torres Strait Islander women face double discrimination and increased disadvantage as a result of racial and gender discrimination. The Government has supported a number of initiatives geared at increasing the representation of Aboriginal and Torres Strait Islander women in decision-making posts, including the Indigenous Leadership Activity program, Indigenous Women's Grants program, and the National Aboriginal and Torres Strait Islander Women's Alliance. Meaningful opportunities and committed funding to empower Aboriginal and Torres Strait Islander women and girls as leaders remains an important need and should be delivered through consultation with Aboriginal women's organisations and relevant stakeholders from the community.

Recommendation nº137: *Safeguard the rights of refugees and asylum-seeker* (Recommended by *Sweden*)

IRI: *not implemented*

RCA response:
Not implemented. The former government did not introduce additional safeguards to protect the rights of refugees and asylum seekers; on the contrary, it introduced legislation to remove existing safeguards for asylum seekers subject to offshore processing, and has implemented a range of policies which violate the rights of refugees and asylum seekers. The incoming government has pledged to introduce additional policies which will violate the rights of refugees and asylum seekers [...].

State of Australia response:
The Australian Government will review whether any treaty body recommendations which have not been accepted as reflective of Australia's international obligations and acted upon accordingly can be accepted and acted upon in any event, if consistent with the Australian Government's immigration detention policy objectives.
Performance indicator/timeline
Ongoing.

The Australian Government will monitor the operation of recent reforms – and will continue to implement a range of measures which take into account Australia's human rights obligations – to respond more effectively to Irregular Maritime Arrivals (IMAs), including:

- Regional processing, including conditions in regional processing countries;
- The increase to 20,000 places of Australia's refugee program;

- greater use of the temporary Bridging visa program to allow eligible IMA clients to be released from detention to the Australian community once certain mandatory health, security and identity checks have been completed;
- the expanded use of community detention;
- utilising the increasing capacity within the immigration detention network to more flexibly and effectively manage clients;
- significantly increasing case manager and processing capability;
- strengthening the character provisions of the Migration Act 1958 (Cth); and
- detaining IMAs for the shortest practicable time and in the least restrictive form of immigration detention appropriate to the management of risks.

Performance indicator/timeline
Ongoing.
As at 13 November 2012 DIAC has placed 5,532 people in Community Detention (CD) since the government announcement to expand CD on 18 October 2010.
As at 13 November 2012, DIAC has granted approximately 7,760 Bridging visas (since 25 November 2011).

The Australian Government will continue to implement the recommendations made in the Commonwealth Parliament's Joint Select Committee into Australia's Immigration Detention Network (released on 30 March 2012) and the Expert Panel on Asylum Seekers Report (13 August 2012).
Performance indicator/timeline
Ongoing.

The Australian Government will continue to ensure that detention is not indefinite or otherwise arbitrary, and only for the following groups:

- all irregular arrivals for management of health, identity and security risks to the community
- unlawful non-citizens who present unacceptable risks to the community, and
- unlawful non-citizens who repeatedly refuse to comply with their visa conditions. On 13 October 2011, the Australian Government announced it will be making greater use of existing powers to more flexibly manage Irregular Maritime Arrivals (IMAs) to Australia.
- Bridging visas are granted to IMAs who have no adverse security, health, identity or significant behavioural issues that might pose a risk to the community.

Performance indicator/timeline
Ongoing.
Since November 2011 the Minister for Immigration and Citizenship has used his non-compellable intervention powers under s 195A of the Migration Act 1958 (Cth) to allow some IMAs to live in the community on temporary Bridging Visas E (BVEs) while their claims for protection are being considered. As at 18 September 2012, DIAC have granted 4,889 Bridging visas (since 25 November 2011).

The Australian Government will continue to subject length and conditions of detention (including the appropriateness of both the accommodation and the services provided) to regular review.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to use the least restrictive form of immigration detention available whilst health and security checks are undertaken for children.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to move more people in immigration detention into community-based detention arrangements, including, as a priority, all children, (including unaccompanied children) and families following appropriate risk, security and health assessments.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to resource a dedicated Children's Unit to address complex policy issues relating to unaccompanied minors.
Performance indicator/timeline
Ongoing.

The Commonwealth Ombudsman and Australian Human Rights Commission will continue to have general powers that enable it to report on conditions within detention centres.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to ensure that all persons in immigration detention have the right to request and receive consular access at any time without delay, consistent with Australia's obligations under the Vienna Convention on Consular Relations 1963.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to ensure that all persons in immigration detention have access to appropriate physical and mental health care, commensurate with care available to the broader Australian community.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to provide torture and trauma counselling to people in immigration detention when a history of torture and trauma is indicated.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to provide emergency health services to people in immigration detention.
Performance indicator/timeline
Ongoing.

AHRC response:
A legal and policy framework providing for mandatory and indefinite immigration detention prevails in Australia.

While the increased use of community arrangements for refugees and asylum seekers is welcomed as of 31 May there were 8,521 people in immigration detention facilities which include 1,731 children (Department of Immigration and Citizenship. Immigration Detention Statistics (viewed 17 August)). The Commission has expressed ongoing concern about the impacts of prolonged or indefinite detention on mental health and wellbeing.

The detention of children is of particular concern in that children should only be detained as a measure of last resort and for the shortest appropriate period of time.

The Commission also has serious concerns about the situation for people who have been found to be refugees, but who have received adverse security assessments from the Australian Security and Intelligence Organisation (ASIO). The transfer of asylum seekers who have arrived by boat to third countries for processing of their claims presents a number of challenges and creates a significant risk that Australia may breach its human rights obligations.

On 19 July 2013 the Australian Government announced a Regional Settlement Arrangement (RSA) with the Government of PNG. Under the RSA asylum seekers arriving unauthorised by boat after 19 July 2013 will be transferred to PNG for processing and resettlement (if found to be refugees). If found not to be refugees they will be returned to their country of origin or a country where they had a right of residence.

Joint response:
NOT IMPLEMENTED
The rights of asylum seekers have been severely curtailed in the past 18 months. Policies discriminate between mode of arrival for asylum seekers, with plane arrivals allowed to live and work in the community whilst their refugee status is assessed and boat arrivals being either placed on bridging visas with no work rights or shipped to a remote offshore detention centre to wait for their claims to be assessed.

Asylum seekers are seeking asylum in Australia not Nauru or PNG. Their claims to asylum should be assessed in Australia.

Sri Lankan asylum seekers are being returned to a country they fear without a full assessment of their protection claims. There is no due process in the enhanced screening process.

Punitive policies have been introduced that focus on asylum seekers who came by boat. They are retrospective. They affect all asylum seekers onshore who have not been granted a visa, regardless of their date of arrival or when their application was lodged.

- Independent, free legal advice is under threat for asylum seekers who came by boat. Without this advice and assistance, vulnerable often illiterate asylum seekers will be left to navigate the complicated protection application process by themselves.
- Temporary Protection Visas will be granted to this cohort. These visas will not act as a deterrent for future asylum seekers as the Government's intention for future asylum seekers is to ship them to offshore processing countries Rather, the TPVs are punishment for those who came to Australia prior to July 19 2013 to claim asylum as they, if found to be refugees, will be granted a TPV and holders of a TPV will never be able to apply for permanent protection, leave the country or apply for family reunion. In addition, every 3 years they will have to prove they are a refugee. There is little chance of refugees settling well into a country if they have a temporary visa. The TPV is not a durable solution. UNHCR underlines the importance of durable solutions for refugees.

ERI response:
not implemented

Recommendation nº138: *Honour all obligations under articles 31 and 33 of the Convention relating to the Status of Refugees and ensure that the rights of all refugees and asylum-seekers are respected, providing them access to Australian refugee law* (Recommended by *Slovenia*)

IRI: *not implemented*

RCA response:
Not implemented. In relation to Article 31, asylum seekers who arrive by boat without authorisation are treated far less favourably than those who arrive by plane with valid visas. Following changes introduced in August 2012, asylum seekers who arrive by boat may be subject to offshore processing in Nauru and Manus Island and, if found to be refugees, face an indefinite "waiting period" for permanent residency. Those who are allowed to live in the Australian community while their applications are processed are not permitted to work and receive minimal financial assistance, with many facing destitution and marginalisation as a result. In July 2013, the then government announced that no asylum seeker who arrives in Australia by boat will be settled in Australia; instead, they will be sent to Papua New Guinea for processing and, if found to be refugees, permanently settled there. The incoming government has pledged to deny access to permanent residency to any refugee who arrives in Australia by boat and introduce a presumption against refugee status for asylum seekers deemed to have deliberately discarded their identity documentation.

In relation to Article 33, the former government introduced several policies which place asylum seekers at risk of refoulement: an "enhanced screening" process for Sri Lankan asylum seekers who arrive by boat, whereby they may be rapidly repatriated without having the opportunity to lodge a formal protection claim if they fail to raise concerns that "engage Australia's international obligations" during a preliminary interview with government officials; and offshore processing of asylum seekers in countries (Nauru and Papua New Guinea) in which protections against refoulement are insufficient. The incoming government has pledged to introduce additional policies which place asylum seekers at risk of refoulement, including abolishing

independent statutory review of asylum claims and withdrawing government-funded legal advice services for asylum seekers.

State of Australia response:
[See response to recommendation n° 137]

ERI response:
Not implemented: the incoming government has initiated a 48 turnaround for boat arrivals, plans to tow back boast heading for Australia and re-locating all asylum seekers arriving by boat to Nauru or Papua New Guinea

AHRC response:
[See response to recommendation n° 137]

Joint response:
NOT IMPLEMENTED
Article 31 concerns the rights of refugees unlawfully in the country of refuge.

Since the draft report was released on 3 February 2011, there have been significant changes in the Australian Government's policies towards asylum seekers and refugees. The country's obsession with asylum seekers arriving by boat has continued, whilst asylum seekers arriving by plane are rarely mentioned by politicians or the media.

In March 2012, the Labor Government introduced complementary protection legislation and removed the separate refugee status determination (RSD) process for asylum seekers coming to Australia by boat. Later that year, RSD for the cohort of boat arrivals was moved from detention centres to the community, ending lengthy periods of detention for most asylum seekers.

However, a vocal Opposition and hostile media, resulted in the Government adopting an increasingly [hardliner] approach to asylum seekers arriving by boat. In August 2012, the "no advantage' principle was introduced. Whilst no one was very sure about the real meaning of this principle, in practice it resulted in a re-instatement of the "Pacific Solution", with asylum seekers being prevented from lodging a protection visa application in Australia, and instead being sent to the regional processing countries Nauru and Manus Island for their claims to be considered there. With limited space and minimal resettlement options on these remote islands, most asylum seekers remained in Australia, either in detention or in the community on Bridging Visas, with no rights to work, subsisting on a token living allowance. Some of these people have been allowed to apply for a protection visa but no actual processing of their claims has taken place.

There are real concerns regarding the process of "enhanced screening" which involves a person arriving by boat being initially interviewed by one or two officers of the Department of Immigration.

The concerns in relation to enhanced screening include that enhanced screening is being used to determine substantive claims for protection without legal advice and ultimately without making any formal application. Concerns exist about the procedural fairness of the enhanced screening process, and whether as a result of enhanced screening, people to whom Australia owes protection obligations are being returned to their home country.

July 19 2013, the Government announced that all asylum seekers coming by boat to Australia would never be resettled in Australia but would be assessed in PNG or Nauru.

The position of National Children's Commissioner was established in 2013. Megan Mitchell is the new Commissioner and she has made some preliminary visits to detention centres that house children. This was a role recommended by the Delegation and is welcomed by the NGO sector in Australia. (Recommendation 28)

The Coalition of the Liberal and National parties came to power on September 7 having promised to introduce "Operation Sovereign Borders" – turning back asylum seeker boats, offshore processing and temporary rather than permanent protection visas.

Since the UPR's report, the rights of refugees and asylum seekers in Australia have been under attack. Asylum seekers and refugees have become a military issue, with the Navy and a 3 star commander enlisted to protect our borders.

Article 33 concerns the prohibition of expulsion or return. Regarding refoulement, see Recommendation 140-141.

Recommendation nº139: *Ensure the processing of asylum-seekers' claims in accordance with the United Nations Refugee Convention and that they are detained only when strictly necessary* (Recommended by *Norway*)

IRI: *not implemented*

RCA response:

Not implemented. Processing of claims made by asylum seekers who arrived by boat was effectively suspended between August 2012 and June 2013. Processing resumed in early July 2013, by which time the backlog stood at over 20,000. The incoming government had pledged to abolish independent statutory review of asylum claims, withdraw government-funded legal advice services for asylum seekers and introduce a presumption against refugee status for asylum seekers deemed to have deliberately discarded their identity documentation.

Detention continues to be mandatory under Australian law and is used as a measure of first rather than last resort, although the former government did considerably expand community alternatives in detention and the average time spent in detention by asylum seekers has reduced (from an average of 277 days in November 2011 to 74 days in May 2013). However, a small group of refugees continue to be detained on an indefinite basis as a result of having failed security assessments. Some have now been detained for over four years.

State of Australia response:
[See response to recommendation n° 137]

AHRC response:
[See response to recommendation n° 137]

Joint response:
NOT IMPLEMENTED

Up until August 13 2012, all asylum seekers who arrived by boat were detained for health and security checks and then most were released into the community on Bridging Visas. Since August 13 2012, large numbers of asylum seekers have been sent to Manus Island detention centre in PNG, Nauru detention centre and several hundred are being detained in onshore detention centres.

Since the Coalition came to power, the weekly briefings have not shed any light on who is being held in which detention centres and why.

There are asylum seekers in Curtin who have been transferred from Nauru, where they had their refugee claims assessed but have had o decision made on their status. Their future is unknown.

Many asylum seekers in detention are under threat of removal and only the fortunate few who make contact with lawyers have their removal prevented. The danger of refoulement is ever present.

Recommendation nº140: *Cease the practice of refoulement of refugees and asylum-seekers, which puts at risk their lives and their families' lives* (Recommended by *Slovenia*)

IRI: *not implemented*

RCA response:
The former government improved Australia's compliance with its non-refoulement obligations under ICCPR and CAT by introducing complementary protection legislation to protect non-refugees at risk from persecution and torture. However, it also introduced several policies which place asylum seekers at risk of refoulement: an “enhanced screening” process for Sri Lankan asylum seekers who arrive by boat, whereby they may be rapidly repatriated without having the opportunity to lodge a formal protection claim if they fail to raise concerns that "engage Australia's international obligations" during a preliminary interview with government officials; and offshore processing of asylum seekers in countries (Nauru and Papua New Guinea) in which protections against refoulement are insufficient. The incoming government has pledged to introduce additional policies which place asylum seekers at risk of refoulement, including abolishing independent statutory review of asylum claims and withdrawing government-funded legal advice services for asylum seekers.

State of Australia response:
[See response to recommendation n° 137]

ALHR response:
Australia's policies continue to risk refoulement of refugees. The recent decision to send asylum seekers to Papua New Guinea is an example particularly in relation to asylum seekers with particular sexual, political and cultural origins. Whilst the government has pledged significant funds and resources towards settling refugees in PNG, at the community-level resettlement is an ongoing concern and may lead to persecution of refugees in PNG. PNG does not seem to have any or any adequate refugee status determination procedure and is not a party to the Convention Against Torture increasing the possibility of refoulement.

GHRC response:
Not implemented. Despite changes to the Migration Act 1958 which broaden the basis on which the grant of a protection visa may occur, the refoulement of persons by Australia continues to occur. In October 2012 the Department of immigration and Citizenship began using an "enhanced screening process" for asylum claims, removing the procedural protections afforded in the refugee status assessment procedure. Those subject to the enhanced screening process are not informed of their right to seek asylum or their right to legal advice, or other procedural aspects such as the right to respond to adverse information or the reasons for the decision to be screened out. There is evidence that persons returned from Australia to Sri Lanka have been subject to toture.

ERI response:
Not implemented: Australia continues to return asylum seekers whose claims are rejected to Sri Lanka, Iraq etc. Refoulement is a reality despite the denials of the Australian government.

AHRC response:
Not implemented. The Commission is concerned that the third country processing arrangements may be inconsistent with the principle of non-refoulement, and may not protect asylum seekers from being removed to a country where they face a real risk of significant harm

Joint response:
NOT IMPLEMENTED
Enhanced screening, removal of access to legal services, and abridging the current process for refugee status determination all increase the risk of Australia refouling refugees to places where they have a well founded fear of serious harm based on a convention reason.

Recommendation nº141: *Ensure in its domestic law that the principle of non-refoulement is respected when proceeding with the return of asylum-seekers to countries* (Recommended by *Ghana*)

IRI: *not implemented*

RCA response:
[See response to recommendation n° 140]

State of Australia response:
[See response to recommendation n° 137]

ERI response:
Not implemented: Refoulment is a reality despite the denials of the Australian government

AHRC response:
Not implemented. The Commission is concerned that the third country processing arrangements may be inconsistent with the principle of non-refoulement, and may not protect asylum seekers from being removed to a country where they face a real risk of significant harm

Joint response:
NOT IMPLEMENTED
There does not seem to be safeguards in place to ensure that when people are returned under the enhanced screening process that they are not being refouled. We have anecdotal evidence of people being tortured on return to Sri Lanka.

PNG has laws forbidding homosexuality. Some asylum seekers sent to Manus Island are homosexual.

Recommendation nº150: *Ensure all irregular migrants have equal access to and protection under Australian law* (Recommended by *Timor-Leste*)

IRI: *not implemented*

RCA response:
Not implemented. Asylum seekers who arrive by boat without authorisation are treated far less favourably than those who arrive by plane with valid visas and do not have access to equal protection under Australian law. Any asylum seeker who has arrived by boat after 19 July 2013 has been excluded from access to the Australian legal system and removed to Papua New Guinea or Nauru.

ALHR response:
The Australian government does not provide irregular migrants with equal access and protection under Australian law. Australia's political climate remains hostile towards refugees. The new government's policy is to remove review rights for refugees and remove the provision of legal advice.

ALHR response:
The Australian government does not provide irregular migrants with equal access and protection under Australian law. Australia's political climate remains hostile towards refugees. The new government's policy is to remove review rights for refugees and remove the provision of legal advice.

Joint response:
NOT IMPLEMENTED

Access to justice is now restricted due to the non-referral of clients to the legal aid providers. People seeking asylum in Australia are now being shipped to PNG and Nauru and will have their claims assess under the laws of PNG and Nauru.

International Instruments

Recommendation nº1: *Ratify as soon as possible the Optional Protocol to the Convention against Torture or other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT)* (Recommended by *Moldova*)

IRI: *not implemented*

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Recommendation nº2: *Speed up the process of the ratification of the OP-CAT* (Recommended by *Azerbaijan*)

IRI: *not implemented*

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Recommendation nº3: *Ratify OP-CAT and designate a National Preventive Mechanism for places of detention* (Recommended by *Maldives*)

IRI: *not implemented*

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Recommendation nº4: *As a high priority, ratify OP-CAT and establish a National Preventative Mechanism* (Recommended by *New Zealand*)

IRI: *not implemented*

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Recommendation nº5: *Ensure the establishment of an independent supervision mechanism which would have access to all detention centres with a view to facilitating the prompt ratification of OP-CAT* (Recommended by *Mexico*)

IRI: *not implemented*

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Recommendation nº6: *Ratify OP-CAT without further delay* (Recommended by *Denmark*)

IRI: *not implemented*

State of Australia response:

The Australian Government will continue to work with states and territories to move towards ratifying the Optional Protocol to the Convention Against Torture (OPCAT). A National Interest Analysis proposing ratification was tabled in Parliament on 28 February 2012. The OPCAT was considered by the Parliamentary Joint Standing Committee on Treaties and reported in June 2012 and recommended that binding treaty action be taken. The next step will be introduction and passage of model legislation in each jurisdiction to provide for international monitoring. Following passage of legislation for international monitoring, Australia anticipates lodging an instrument of ratification with the United Nations, together with its proposed declaration under Article 24 of the OPCAT, to delay commencement of domestic monitoring obligations for up to three years.

Performance indicator/ timeline
Introduction and passage of model legislation in each jurisdiction to provide for international monitoring 2012–13. Ratification of the OPCAT by 2013.

CAALAS response:

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NATSILS response:
CAALAS is pleased to report that the Commonwealth Government accepted recommendations 1-6 in relation to the ratification of the Optional Protocol to the Convention against Torture or other Cruel, Inhumane or Degrading Treatment or Punishment ("OPCAT") on 8 June 2011. In accordance with the recommendations of the Australian Joint Standing Committee on Treaties, the Commonwealth Government worked with state and territory government to develop model legislation for the ratification of OPCAT in each state and territory.

The Northern Territory government was one of the first governments to release draft legislation supporting visits to places of detention by the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. At present, no draft legislation has been prepared relating to the establishment of a National Protective Mechanism. CAALAS made a submission to the Northern Territory government supporting the ratification and implementation of the OPCAT, and urged the government to commit to the development of a compliant National Protective Mechanism to support the proposed legislative scheme, and to ensure full compliance with OPCAT.

As we submitted to the Northern Territory government, and as is highlighted in the discussion on deaths in custody in the Northern Territory at Recommendation No. 103, the treatment of detainees in Central Australia, frequently falls short of the standards set out in OPCAT. Cases of ill-treatment often result from system issues such as poor practices, inadequate training of police and corrections staff, failures of coordination between agencies, and gaps in existing monitoring mechanisms. The resulting harm disproportionately affects Aboriginal people, who make up most of the prison population in the Northern Territory and the vast majority of those who die in custody each year. Accordingly, we view the ratification and implementation of the OPCAT as an opportunity to redress these issues, and will continue to consult with the government in relation to the development a compliant National Protective Mechanism.

See also Recommendation No. 103.

GHRC response:
Not implemented. Australia has made very little headway since its commitment to ratify OPCAT in 2011. Australia has raised concerns that the phrase "places of detention" is too broad given the diversity of places in which people can be deprived of their liberty. This phrase would encompass very remote places of detention such as police stations in regional areas and could make the cost of managing a National Preventative Mechanism (NPM) high. In addition, as the management of places of detention (that are not places of immigration detention) has been a state power since

federation, the creation of a NPM that would monitor and enforce standards and practices throughout the nation could be viewed as an incursion by the federal government into areas of state responsibility.

WVA response:
World Vision notes that Australia has signed but not yet ratified the OP-CAT and welcomes the Government's commitment to do so.

WWDA response:
Australia is a signatory to OP-CAT but is not yet a party to OP-CAT (see [OHCHR's website])

AHRC response:
Not implemented. The Australian Government has outlined its commitment to continue to work with states and territories to move towards ratifying the Optional Protocol to the Convention Against Torture (OPCAT). A National Interest Analysis proposing ratification was tabled in Parliament on 28 February 2012. The OPCAT was considered by the Parliamentary Joint Standing Committee on Treaties and reported in June 2012 and recommended that binding treaty action be taken. Model legislation is being considered by the states and territories. As of end of May 2013, the ACT had introduced legislation and Tasmania had indicated its intention to do so. Federal legislation is on the list, but was not acted upon prior to the 2013 federal election.

Joint response:
NOT IMPLEMENTED

Regarding ratification of OP-CAT: NOT IMPLEMENTED

The Australian Government expressed a commitment to ratify the Optional Protocol to the Convention against Torture or other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT) by 2013.

On 28 February 2012, OPCAT was tabled in the Commonwealth Parliament. The treaty was referred to the Joint Standing Committee on Treaties for consideration. On 21 June, the Committee tabled its report which supported OPCAT.

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Regarding a National Preventive Mechanism, which is mandated by OP-CAT, the Joint Standing Committee on Treaties held in February 2012 that existing inspections systems in place in Australia do not fulfil the requirements of a National Preventive Mechanism under the OP-CAT. The Australian government therefore announced the establishment of a National Preventive Mechanism to be deferred for three years after ratification in order for the Commonwealth and State and Territories to cooperate to establish an appropriate system. The Attorney General's Department announced that as of September 2012, all Australian governments are negotiating model legislation that will provide for a National Preventative Mechanism. The Australian Capital Territory is leading the way by releasing a Monitoring of Places of

Detention (Optional Protocol to the Convention Against Torture) Bill 13 on 21 March 2013. As of late 2013, the bill has not progressed further.

Recommendation nº7: *Encouraged to accede to the remaining core human rights instruments to which it is yet to become a party, especially CED* (Recommended by *Thailand*)

IRI: *not implemented*

State of Australia response:
The Australian Government will formally consider its position on the International Convention for the Protection of All Persons from Enforced Disappearances
Performance indicator/ timeline
Completion by end of 2013.

AHRC response:
Not implemented. No information available on consideration of ratification of CED including any information on public consultation. The National Human Rights Action plan commits to complete consideration by end 2013.

Joint response:
NOT IMPLEMENTED
In its response to the UPR recommendations the Australian government stated that it could not commit to becoming party to the International Convention for the protection of All Persons from Enforced Disappearance (CED), but that it would will formally consider becoming a party to the treaty. No progress has been made towards ratifying the CED prior to the election.

Despite calls made by NGOs for the Government to ratify OP-ICESCR, to date it has declined to ratify or sign the Convention.

Regarding the ICRMW see Recommendation 10: NOT IMPLEMENTED

The Australian Government is not a party to the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The Government has stated that it considers existing domestic protections for migrant workers as adequate. NGOs, the Australian Human Rights Commission and a number of countries have urged Australia to consider ratification of the Migrant Workers Convention.

Recommendation nº8: *Sign and ratify CED* (Recommended by *France*)

IRI: *not implemented*

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Recommendation nº9: *Study the possibility of signing and ratifying CED* (Recommended by *Argentina*)

IRI: *not implemented*

State of Australia response:
The Australian Government will formally consider its position on the International Convention for the Protection of All Persons from Enforced Disappearances

Performance indicator/ timeline
Completion by end of 2013.

WWDA response:
In its response to [this r]ecommendation [...], the then Australian Government committed to consider its position with regard to the International Convention for the Protection of All Persons from Enforced Disappearance (CED). There is no evidence that this occurred and it remains unclear whether the newly elected Commonwealth Liberal Government will commit to this recommendation.

AHRC response:
Not implemented. No information available on consideration of ratification of CED including any information on public consultation. The National Human Rights Action plan commits to complete consideration by end 2013.

Joint response:
NOT IMPLEMENTED
In its response to the UPR recommendations the Australian government stated that it could not commit to becoming party to the International Convention for the protection of All Persons from Enforced Disappearance (CED), but that it would will formally consider becoming a party to the treaty. No progress has been made towards ratifying the CED prior to the election.

Despite calls made by NGOs for the Government to ratify OP-ICESCR, to date it has declined to ratify or sign the Convention.

Recommendation nº10: *Study the possibility of signing and ratifying ICRMW* (Recommended by *Argentina*)

IRI: *not implemented*

WVA response:
In responding to this recommendation, Australia stated that it views existing protections in place for migrant workers as adequate and does not intend to become a party to the ICRMW. In its recent submission to the House of Representatives Joint Standing Committee on Foreign Affairs, Defence and Trade, Human Rights Sub-Committee Inquiry into Slavery, Slavery-Like Conditions and People Trafficking, World Vision Australia fully endorsed all recommendations detailed in the Report of the Special Rapporteur on trafficking in persons, especially women and children, on her mission to Australia (2011). One of these recommendations was that Australia consider ratifying ICRMW.

Joint response:
NOT IMPLEMENTED
The Australian Government is not a party to the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The Government has stated that it considers existing domestic protections for migrant workers as adequate. NGOs, the Australian Human Rights Commission and a number of countries have urged Australia to consider ratification of the Migrant Workers Convention.

Recommendation nº11: *Ratify ICRMW* (Recommended by *Bolivia*)

IRI: *not implemented*

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Recommendation nº12: *Complete the ratification process of ICRMW* (Recommended by *Turkey*)

IRI: *not implemented*

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Recommendation nº13: *Engage in consultations with civil society with a view to possible accession to ICRMW* (Recommended by *Philippines*)

IRI: *not implemented*

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Recommendation nº14: *Ratify ICRMW* (Recommended by *Bosnia & Herzegovina*)

IRI: *not implemented*

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Recommendation nº15: *Consider acceding to ICRMW* (Recommended by *Algeria*)

IRI: *not implemented*

Joint response:
NOT IMPLEMENTED
The Australian Government is not a party to the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The Government has stated that it considers existing domestic protections for migrant workers as adequate. NGOs, the Australian Human Rights Commission and a number of countries have urged Australia to consider ratification of the Migrant Workers Convention.

Recommendation nº16: *Ratify ILO Convention No. 169 and incorporate it into its national norms* (Recommended by *Bolivia*)

IRI: *not implemented*

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Recommendation nº17: *Consider ratifying ILO Convention No. 169* (Recommended by *Norway*)

IRI: *not implemented*

State of Australia response:
The Australian Government will review its position on International Labor Organization (ILO) Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries
Performance indicator/ timeline
Australian, state and territory governments to commence consideration of Australia's compliance with the convention in 2012, in consultation with Aboriginal and Torres Strait Islander representatives and Australia's ILO social partners.

NATSILS response:
no progress

AHRC response:
Not implemented. No information available on consideration of ratification of ILO 169 including any information on public consultation. NHRAP committee to commence

consideration of Australia's compliance with the convention in 2012, in consultation with Aboriginal and Torres Strait Islander representatives and Australia's ILO social partners .

Joint response:
NOT IMPLEMENTED
In its official response to the UPR recommendations on 8 June 2011 the Australian government has announced that 'Australia cannot commit to becoming party to the ILO No.169, but will formally consider becoming a party to this treaty.' In the National Human Rights Action plan published 2012, the government reinforced its intention to review its position and to work in consultation with Aboriginal and Torres Strait Islander representatives and Australia's ILO social partners.

Since then there has been no progress and the new Federal Government's official policies do not include any reference to the Convention. To our knowledge, party spokespeople have not made any recent pronouncements on the issue.

Recommendation nº18: *Withdraw its reservations to CRC* (Recommended by *Hungary*)

IRI: *not implemented*

State of Australia response:
The Australian Government will review its reservations under the following international human rights instruments:

- International Covenant on Civil and Political Rights (ICCPR): Articles 10.2, 10.3, 14.6 & 20,
- Convention on the Elimination of Discrimination Against Women (CEDAW): Articles 11.1 & 11.2,
- Convention on the Elimination of All Forms of Racial Discrimination (CERD): Article 4,
- Convention on the Rights of the Child (CRC): Article 37(c) The Australian Government will place this review on the agenda of the Standing Council of Treaties for consultation with state and territory governments.

Performance indicator/ timeline
Consult with states and territories, relevant Australian Government agencies and civil society and finalise review by the end of 2012.

NATSILS response:
no progress

WVA response:
World Vision Australia notes that in its response to the 2012 concluding observations of the Committee on the Rights of the Child, the Australian Government confirmed that it was reviewing the reservation to article 37(c) in consultation with the State and Territory governments but was unable to provide a timeframe for a decision on whether the reservation would be withdrawn. As a child-focused organisation, World Vision Australia supports the recommendation that Australia withdraw its reservation to the CRC.

AHRC response:
Not implemented. No information available on consideration of withdrawal of reservations including any information on public consultation. NHRAP committed to consulting with states and territories, relevant Australian Government agencies and civil society and finalise review by the end of 2013.

Joint response:
NOT IMPLEMENTED
Australia continues to have a reservation to Article37(c) of the Convention on the Rights of the Child. Children continue to be detained with adults both in the criminal justice system and in immigration detention. In the government's National Human Rights Action Plan 2012 and in its response to the list of issued raised by the UN Committee on the Rights of the Child in late 2012 the government emphasised that a review of the reservation is being made in consultation with the State and Territory governments, it stated that a timeline for a decision could not be provided at that stage and that an update would be included in its next report to the Committee in 2018

Recommendation nº19: *Consider withdrawing its reservations to article 4 (a) of ICERD* (Recommended by *Republic of Korea*)

IRI: *not implemented*

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Recommendation nº20: *Withdraw its reservation on article 4 (a) of ICERD, as this reservation undermines one of the key objectives of this Convention* (Recommended by *South Africa*)

IRI: *not implemented*

State of Australia response:
[See response to recommendation n° 18]

NATSILS response:
no progress

AHRC response:
Not implemented. No information available on consideration of withdrawal of reservations including any information on public consultation. NHRAP committed to consulting with states and territories, relevant Australian Government agencies and civil society and finalise review by the end of 2013.

Joint response:
NOT IMPLEMENTED

In the government's National Human Rights Action plan 2012 it expressed its intention to review its reservation to Art.4 (a) of the CERD in consultation with state and territory government. This review, the government held, would be finalised by the end of 2012. At the time of writing, the reservation to Art.4 (a) was still in place

Recommendation nº21: *Lift its reservations to the following international conventions: ICERD, the Convention on the Elimination of All Forms of Discrimination against*

Women (CEDAW), the International Covenant on Civil and Political Rights and CRC (Recommended by *Denmark*)

IRI: *not implemented*

State of Australia response:
[See response to recommendation n° 18]

NATSILS response:
No progress

AHRC response:
Not implemented. No information available on consideration of withdrawal of reservations including any information on public consultation. NHRAP committed to consulting with states and territories, relevant Australian Government agencies and civil society and finalise review by the end of 2013.

Joint response:
NOT IMPLEMENTED
Regarding ICERD see Recommendations 19-20. Regarding CRC: NOT IMPLEMENTED

Australia continues to have a reservation to Article37(c) of the Convention on the Rights of the Child. Children continue to be detained with adults both in the criminal justice system and in immigration detention. In the government's National Human Rights Action Plan 2012 and in its response to the list of issued raised by the UN Committee on the Rights of the Child in late 2012 the government emphasised that a review of the reservation is being made in consultation with the State and Territory governments, it stated that a timeline for a decision could not be provided at that stage and that an update would be included in its next report to the Committee in 2018.

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The Government continues to maintain the reservations that Australia has made in relation to the ICCPR, including in relation to Articles 10(2)(a) and (b), 10(3) (second sentence), 14(6) and 20. Australia continues to detain those on remand with those convicted of offences across all jurisdictions. Compensation for miscarriage of justice continues to be by administrative provisions in many Australian jurisdictions. See Recommendation 111 for discussion of racial and religious vilification.

In 1983 Australia made two reservations to CEDAW that are no longer relevant. Article 11(2) concerns the provision of paid maternity leave. Maternity leave was introduced by the Australian Government in 2011. The scheme is set to be expanded, by the Coalition Government to take effect in 2015. It would therefore be possible to lift the reservation Australia currently has on this issue, however there has been no announcement of an intention to do so. Similarly the reservation made by Australia women's participation in direct, armed combat is no longer relevant. The ban on women in combat roles in the military was lifted in January 2013.

Recommendation nº163: *The delegation took the opportunity to announce a number of new commitments from the Australian Government, including funding for the Office*

for the High Commissioner for Human Rights and the Asia Pacific Forum, the establishment of a fulltime Race Discrimination Commissioner at the Australian Human Rights Commission, a commitment to tabling in Parliament concluding observations from treaty bodies and the universal periodic review recommendations, and instituting a systematic process for review of Australia's reservations to human rights treaties. (Recommended by *Australia*)

IRI: *partially implemented*

AHRC response:
Funding for the Office for the High Commissioner for Human Rights and the Asia Pacific Forum - **implemented**

The establishment of a fulltime Race Discrimination Commissioner at the Australian Human Rights Commission - **implemented**

Commitment to tabling in Parliament concluding observations from treaty bodies and the universal periodic review recommendations - **implemented**

Institute a systematic process for review of Australia's reservations to human rights treaties - **underway but not completed as yet**

Justice

Recommendation nº28: *Incorporate its international human rights obligations into domestic law by elaborating a comprehensive, judicially enforceable Human Rights Act to ensure legislative protection of human rights* (Recommended by *Ukraine*)

IRI: *not implemented*

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Recommendation nº29: *Fully incorporate its international human rights obligations in domestic law through the adoption of a comprehensive justiciable law on human rights* (Recommended by *Russian Federation*)

IRI: *not implemented*

NATSILS response:
No progress

ALRMSA response:
ALRM submits that the denial of basic human rights to Aboriginal people needs to be remedied by a comprehensive Human Rights Act which binds both Commonwealth and State and Territory policies in the Australian Commonwealth. Examples include lack of interpreters for prisoners for whom English is a second language, lack of recompense to the Stolen Generation and the roll back of the Racial Discrimination Act by the Commonwealth Parliament on numerous occasions. In addition ALRM asserts that the practice of the State Government of South Australia, in requiring it, as a legal aid organisation to pay for court transcripts and court filing fees for its indigent Aboriginal clients is in breach of the spirit and intent of the CERD convention See article 2.2. Other state funded legal aids organisations, particularly the Legal

Services Commission of SA is not charged for these essential services by the Courts Administration Authority of SA.

Joint response:
NOT IMPLEMENTED
Australia has failed to incorporate its international human rights obligations into domestic law by enacting a judicially enforceable Human Rights Act. Australia has ratified many international human rights instruments, but it has failed to adopt the rights in those treaties into domestic law to provide a comprehensive justiciable law on human rights.

Under Article 2 the International Covenant on Civil and Political Rights (ICCPR) Australia is required to implement the necessary legislative measures to give domestic effect to the treaty. Under Article 2 individuals should have the right to enforceable remedies and the right to seek these remedies in a competent judicial administrative legislative authority. However, in many cases there is no protection under Australian law for the human rights enshrined in the Covenant. Only non-justiciable avenues without enforceable remedies, such as complaints to the Australian Human Rights Commission or the UN Human Rights Committee (UNHRC) under the First Optional Protocol, are available.

Since Australia ratified the ICCPR 33 years ago, there have been over fifty complaints made to the UNHRC. Of those complaints, the Australian federal government has been found to be in violation of its obligations under the ICCPR at least seventeen times. For example, in the case of Bakhtiyari v Australia (2003) Australia was found to be in breach of Articles 9(1) and 9(4) of the ICCPR for the arbitrary detention of asylum seekers. These articles require no person to be subject to arbitrary arrest or detention and in the event of that happening, the person is entitled to take proceedings before a court. The Bakhtitari family was held in detention for 3 years before the High Court overturned the Family Court decision and deported the family back to Pakistan. The Constitution, however, does not provide for protections regarding arbitrary detention, therefore the High Court of Australia lacks the jurisdiction to rule on these matters without legislation to comprehensively protect human rights. The federal government has still chosen to ignore most of the findings of the Human Rights Committee (see Young v Australia (2003) and Baban v Australia (2003)) and even deported some of the complainants (see Bakhtiyari v Australia (2003)).

Although Australia has not incorporated a comprehensive, judicially enforceable Human Rights Act, it has enacted positive legislative protections such as the Race Discrimination Act 1975 (Cth) and the Sex Discrimination Act 1984 (Cth) in line with its obligations under the ICCPR. However, not all the rights in the ICCPR or the other human rights instruments Australia has ratified are protected by existing legislation. Furthermore, It is important to note that the Australian government has previously suspended the Race Discrimination Act in order to allow for the implementation of the Northern Territory Intervention. Currently, Australia has very few constitutional human rights protections and individuals and groups within Australia's jurisdiction

with human rights complaints do not have access to a judicially enforceable Human Rights Act.

In September 2009 the federal government's consultative committee recommended that Australia consider a comprehensive Human Rights Act. In 2010, in response to the report, the federal government launched a Human Rights Framework, which did not include a Human Rights Act. The Australian government indicated in its response to the UPR, that it will not be introducing a Human Rights Act because the Australian Government considers that existing mechanisms are sufficient.

As required by its treaty obligations Australia should implement a comprehensive Human Rights Act, which provides enforceable remedies for violations of human rights.

Recommendation nº42: *Implement the observations of the Human Rights Committee by adopting the necessary legislation to ensure that no one is extradited to a State where they would be in danger of the death penalty* (Recommended by *France*)

IRI: *fully implemented*

State of Australia response:
[...]

AHRC response:
Implemented. In March 2012, Parliament passed the Extradition Act and Mutual Assistance in Criminal Matters Amendment Bill 2011. The Bill amends the Crimes Act 1914, the Extradition Act 1988 , the Mutual Assistance in Criminal Matters Act 1987, the Migration Act 1958 , the Proceeds of Crime Act 2002 , the Surveillance Devices Act 2004 and the Telecommunications (Interception and Access) Act 1979.

The legislation provides that if the Attorney-General is satisfied that there is a real risk that the death penalty will be carried out, the Attorney-General will not be surrender the person.

Joint response:
PARTIALLY IMPLEMENTED
According to section 22 of the Extradition Act 1988 (Cth), a person must not be extradited if the death penalty will be imposed.

However, the Mutual Assistance in Criminal Matters Act 1987 (Cth) does not expressly prohibit Australia from providing mutual assistance to another country where there is a real risk of the death penalty being imposed.

Recommendation nº48: *Enact national legislation prohibiting the use of non-therapeutic sterilization of children, regardless of whether they have a disability, and of adults with disability without their informed and free consent* (Recommended by *United Kingdom*)

IRI: *not implemented*

+

Recommendation nº49: *Repeal all legal provisions allowing sterilization of persons with disabilities without their consent and for non-therapeutic reasons* (Recommended by *Belgium*)

IRI: *not implemented*

+

Recommendation nº50: *Abolish non-therapeutic sterilization of women and girls with disabilities* (Recommended by *Germany*)

IRI: *not implemented*

State of Australia response:
The Australian Government will work with states and territories to clarify and improve laws and practices governing the sterilisation of women and girls with disability.
Performance indicator/timeline
Ongoing.

The Australian Government will work with states and territories to clarify and improve laws and practices governing the sterilisation of women and girls with disability.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to fund community legal centres that have a primary focus of providing legal information and help in relation to the Disability Discrimination Act 1992 (Cth). The Australian Government will provide $4.34 million over four years commencing 2010.
Performance indicator/timeline
Ongoing.

The Victorian Government will consider recent reviews of Victoria's guardianship and powers of attorney laws by the Victorian Law Reform Commission and the Victorian Parliament Law Reform Committee. The recommendations of these reviews focus on people with impaired decision making ability.
Performance indicator/timeline
To be determined.

The ACT Intensive Treatment and Support (ITAS) Service, which is coordinated with Mental Health ACT, is designed to meet the needs of people over the age of 17 who have a dual disability with high and complex needs, and who are at risk of criminally offending or re-offending.
Performance indicator/timeline
Ongoing.

The ACT participates in the national disability working group which is considering the experience of people with cognitive disability who engage with the criminal justice system.
Performance indicator/timeline
Ongoing.

WWDA response:
In September 2012 the Australian Senate commenced an Inquiry into the involuntary or coerced sterilisation of people with disability in Australia, and released the Inquiry Report in July 2013. The Senate Inquiry Report recommends that national uniform legislation be developed to regulate sterilisation of children and adults with disability, rather than to prohibit the practice. The Report recommends that for an adult with disability who has the 'capacity' to consent, sterilisation should be banned unless undertaken with that consent.

However, based on Australia's Interpretative Declaration in respect of Article 12 of the CRPD, the Report also recommends that where a person with disability does not have 'capacity' for consent, substitute decision-making laws and procedures may permit the sterilisation of persons with disability, including children. If the Australian Government accepts the recommendations of the Senate Inquiry, it will mean that the Australian Government remains of the view that it is an acceptable practice to sterilise children and adults with disabilities, provided that they 'lack capacity' and that the procedure is in their 'best interest', as determined by a third party.

AHRC response:
Not implemented, however the Australian Government has undertaken measures to review the current legal framework. On 20 September 2012 the Senate referred the matter of involuntary or coerced sterilisation of people with disabilities in Australia to the Senate Community Affairs Committee for inquiry and report. The report was released in July 2013. The Committee ultimately rejected the AHRC's recommendation that "National legislation be enacted to criminalise, except where there is a serious threat to life or health, (i) the sterilisation of children (regardless of whether they have a disability), and (ii) the sterilisation of adults with disability in the absence of their fully informed and free consent." The Committee recommended that the law should continue to regulate, rather than prohibit, this practice, and that the law must provide stricter safeguards.

Joint response:
NOT IMPLEMENTED
This recommendation is in keeping with United Nations Committee on the Elimination of Discrimination Against Women (2010), the Committee on the Rights of the Child (2005, 2012), the Human Rights Council (2011), along with the International Federation of Gynecology and Obstetrics (FIGO) Guidelines on Female Contraceptive Sterilization (2011), and recommendations of the World Medical Association (WMA) (2011) and the International Federation of Health and Human Rights Organisations (IFHHRO) (2011).

Forced/involuntary or coerced sterilisation of people with disability, particularly women and girls with disability is an ongoing practice in Australia. In September 2012 the Senate commenced an Inquiry into the involuntary or coerced sterilisation of people with disability in Australia, and released the Inquiry Report in July 2013. The Report recommends that national uniform legislation be developed to regulate sterilisation of children and adults with disability, rather than to prohibit the practice. The Report recommends that for an adult with disability who has the 'capacity' to

consent, sterilisation should be banned unless undertaken with that consent. However, based on Australia's Interpretive Declaration in respect of Article 12 of the UN Convention on the Rights of Persons with Disabilities (CRPD), the Report also recommends that where a person with disability does not have 'capacity' for consent, substitute decision-making laws and procedures may permit the sterilisation of persons with disability. If the Australian Government accepts the recommendations of the Senate Inquiry, it will mean that the Australian Government remains of the view that it is an acceptable practice to sterilise children and adults with disabilities, provided that they 'lack capacity' and that the procedure is in their 'best interest', as determined by a third party.

The forced sterilisation of women and girls with disabilities is an act of unnecessary and dehumanising violence, a form of social control, and a violation of the right to be free from torture and other cruel, inhuman or degrading treatment. By not abolishing this practice of forced and involuntary sterilisation the Australian Government, is denying women and girls with disabilities their rights of informed consent, their rights of being a mother; and it also sets many women up for long term physiological problems.

Recommendation nº83: *Enact legislation to ensure the humane treatment of prisoners* (Recommended by *Hungary*)

IRI: *partially implemented*

State of Australia response:
Governments will complete peer review of the Australian Standard Guidelines for Corrections (including proposed changes).
Performance indicator/Timeline
Ongoing.

States and territories will continue to deliver corrective services in accordance with standard guidelines that comply with the United Nations Standard Minimum Rules for the Treatment of Prisoners.
Performance indicator/Timeline
Ongoing.

State and territory coroners courts will continue to independently investigate all deaths in custody.
Performance indicator/Timeline
Ongoing.

The Australian Government will continue the National Deaths in Custody Monitoring Programs.
Performance indicator/Timeline
Ongoing.

The Australian Government will consider the findings of research undertaken by the Castan Centre into rates of imprisonment, focusing on vulnerable groups including

Indigenous Australians, youth and those with a cognitive disability, and current analysis of utilisation of alternative sentencing options.
Performance indicator/Timeline
Ongoing

The Victorian Government funds the independent Office of Correctional Services Review, which provides independent oversight and advice on the operations, conduct and performance of Victoria's adult corrections system comprising prisons and Community Correctional Services as well as prisoner transport services.
Performance indicator/Timeline
Ongoing.

The South Australian Department for Correctional Services will deliver targeted reintegration programs and improved educational delivery with a key focus on prisoners assessed as low level numeracy and literacy skills.
Performance indicator/Timeline
Ongoing. Provision of services.

The ACT Government will continue to implement a through-care model of post-release support aimed at reducing reoffending.
Performance indicator/Timeline
Ongoing.

The ACT is piloting the SHINE for Kids in-visits program looking at feasibility and effectiveness. This program is designed to break the intergenerational cycle of offending by providing support to children, young people and families affected by parental involvement in the criminal justice system.
Performance indicator/Timeline
Pilot program until 31
December 2012

GHRC response:
Partially implemented. The release of video footage exposing a violent attack from three corrections officers in Sydney 2012 prompted legal reform in New South Wales. The state government introduced legislation requiring an independent prison inspector with full access to prison premises, records, staff and inmates. Modelled upon the successful equivalent statute in Western Australia, the implementation is underway, but the cultural changes are likely to take place in the long-term as opposed to immediately.

Additionally, April 2011 saw the publication of the Royal Australian College of General Practitioners' 'Standards for Health Services in Australian Prisons' to assist the relevant state department in accommodating the circumstances and challenges within prison healthcare systems.

However, remaining concerns endure for the humane treatment of prisoners. For example, the revocation of the right to vote whilst in custody beyond three years has been criticised by the United Nations Human Rights Committee as well as the

Australian Human Rights Commission as a violation of human rights and therefore potentially inhumane.

NATSILS response:
See No. 1 and No. 103.

AHRC response:
In its response to the UPR recommendations the Government explained that the States and Territories are responsible for managing and operating prisons and consider that existing legislation ensures the humane treatment of prisoners

Joint response:
PARTIALLY IMPLEMENTED
In response to this recommendation the Government said that they consider the existing legislation and policies of States and Territories sufficient to ensure the humane treatment of prisoners. However prisoners, their families and communities continue to experience conditions that infringe their human rights pre and post release, for instance:

- Many people in prison experience solitary confinement, which can cause severe, lasting psychiatric harm. People with a mental illness or cognitive impairment are the most likely to be placed in solitary confinement are also at greatest risk of harm.
- For prisoners housed in Supermax prisons and Maximum Security Units, restrictions on environmental stimulation together with social isolation may result in prolonged psychiatric disability.
- Prisoners are precluded from accessing Australia's publicly funded health care system. This can lead to differences in care, including limiting access to Aboriginal Health checks, it can also hinder the exchange of information between prison and community health providers, which compounds the lack of continuity in both pre and post release support services.
- Women in prison are discriminated against on the basis of sex through the practice of strip searching and in poor access to low security beds, conditional and community release, education and training programs, work and health services, inadequate translation/interpretation services and a failure to meet religious needs for culturally and linguistically diverse women.
- Protocols and policies for arresting and incarcerating parents with dependent children are minimal and, where they do exist, are inconsistent and inadequate.
- Much more needs to be done to address the issue of young people in detention. For instance, 17 year olds continue to be treated as adults in the Queensland Criminal Justice System and a recent report into Western Australia's youth corrections system has identified systemic failures and regular mistreatment of young people in detention.
- There has been a continued failure to implement the Human Rights Committee decisions in Tillman v Australia and Fardon v Australia which held that post-sentence detention of two men convicted of sexual offences was incompatible with the prohibition against arbitrary detention under art 9(1) of the International Covenant on Civil and Political Rights.

Greater legislative protection is needed to guarantee humane conditions in Australian prisons

Recommendation nº95: *Continue to work and coordinate with countries in the region to strengthen the regional framework to deal with irregular migration and human trafficking in a comprehensive and sustainable manner, bearing in mind international human rights and humanitarian principles* (Recommended by *Thailand*)

IRI: *fully implemented*

State of Australia response:

[...]

The Australian Government will fund the Australian Red Cross to develop and deliver a training package to assist community service providers to better understand the complex needs of victims of people trafficking and how best to support them. The Australian Red Cross were provided with a one-off payment of $126,690 in 2011.

Performance indicator/ timeline

2011-13.

The Australian Government will monitor Australia's strategy to combat people trafficking to ensure it is in line with international best practice, including the Office of the High Commissioner for Human Rights (OHCHR) Principles and Guidelines.

Performance indicator/ timeline

Ongoing.

The Australian Government will continue to investigate and criminally prosecute trafficking offenders. The AFP has established specialised Human Trafficking Teams (HTTs), which have responsibility for investigating people trafficking related offences. The HTT National Coordinator is based in Canberra, with dedicated HTTs in Sydney and Melbourne. AFP members who are specially trained in people trafficking matters are also located in Brisbane, Canberra, Darwin and Perth. For trafficking matters in other locations, the HTTs can draw upon additional support from the AFP's broader crime operations function which has members located in each capital city.

Performance indicator/ timeline

Ongoing.

The Australian Government will have access to intelligence related to human trafficking through a centralised intelligence network maintained by the Australian Crime Commission. Such intelligence will inform investigative strategies and build a better understanding of the activities, and methodologies of people trafficking networks.

Performance indicator/ timeline

Ongoing.

[...]

The Australian Government will continue to strengthen the criminal justice sector in the ASEAN (Association of South East Asian Nations) region with a focus on prosecution, judicial and law enforcement responses to people trafficking. A new program with a focus on the criminal justice sector is being designed to build on the

successes of the Asia Regional Trafficking in Persons Program. The resources commitment is $50 million over five years commencing in 2013.
Performance indicator/ timeline
Ongoing.

The Australian Government will work with the International Labour Organisation to protect migrants from labour exploitation in the South-East Asian region. Funding of $10.5 million has been allocated over four years commencing in 2010.
Performance indicator/ timeline
2010–14.
[...]

The Australian Government will continue its commitment to the Bali Process as the preeminent forum on people smuggling, trafficking in persons and transnational crime in the region. It will work with other members to:

- address and enhance the region's response to irregular migration, including trafficking in persons, under the auspices of the Regional Cooperation Framework, and
- implement the Bali Process Ministerial directives to build the capacity of regional States to combat people trafficking through technical experts meetings, seminars, workshops and/or specific research programs.

Performance indicator/ timeline
Ongoing.

The Australian Government provided $5.2 million over four years (2011–12 to 2014–15) to fund the establishment and ongoing operation of the Bali Process Regional Support Office (RSO). The RSO will facilitate the implementation of the Regional Cooperation Framework and promote greater information sharing and practical cooperation, including on trafficking issues.

The Australian Government will continue to work with countries in our region to encourage ratification and implementation of the key international legal instruments used in the fight against people trafficking and people smuggling, particularly the United Nations Convention Against Transnational Organized Crime and its supplementary protocols on people trafficking and people smuggling. The Australian Government will also continue to engage in relevant regional mechanisms and international bodies, including the United Nations, to encourage ratification and implementation of these legal instruments.
Performance indicator/ timeline
Ongoing.

The Australian Government will continue to work with ASEAN (Association of South East Asian Nations) and the ILO (International Labour Organisation) to strengthen regional cooperation and standard setting to combat people trafficking and labour exploitation of migrants, and produce regional public goods to help implement these standards.
Performance indicator/ timeline
Ongoing.

The Australian Government will continue to support the United Nations Office on Drugs and Crime's undertaking – a Transnational Organised Crime Threat Assessment for East Asia and the Pacific – in order to determine the size and nature of transnational organised crime threats in the region, including people trafficking and people smuggling, and to better inform national and regional responses.
Performance indicator/ timeline
2011–12.

The Australian Government will continue to provide technical assistance to countries in the region with law enforcement, immigration and legal frameworks to improve capacity to combat people trafficking. DIAC has committed $1.3 million for 2011–12 for technical skills training to border and immigration officials in 25 countries. Within the AFP, Human Trafficking Teams work closely with the AFP's International Network to deliver regional and joint operational outcomes. Human Trafficking Team personnel also provide training. For example, in July 2012, the AFP partnered with the US-funded International Law Enforcement Academy (ILEA) in Bangkok to deliver a two week International Human Trafficking Program to 48 police investigators and prosecutors from 10 Asian countries. AGD works with law and justice agencies in partner countries to strengthen legal and operational frameworks and capacity to address people trafficking and related transnational crime.
Performance indicator/ timeline
Ongoing.

AHRC response:
Partly implemented. The Government has undertaken a number of positive measures including developing a National Action Plan to Combat Human Trafficking and Slavery 2014-18, enacted the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2012, which amends the Crimes Act 1914 to include a number of new offences, strengthens the provisions and improve the availability of reparations to victims.

The Joint Standing Committee released its report Trading Lives: Modern Day Human Trafficking in June 2013. Some of the Committee's recommendations included that the Australian Government:

- continue to use international mechanisms to combat people trafficking
- investigate establishing a federal compensation scheme for victims of slavery and people trafficking and review the current rates of compensation
- renegotiate funding contracts for non-governmental organisations one year before their conclusion
- provide an initial automatic reflection period of 45 days, with relevant agencies given the capability to grant two further extensions of 45 days if required.
- consider a range of tools to combat trafficking crimes including increasing community awareness.

Joint response:
PARTIALLY IMPLEMENTED
In the period between 2011 and 2012 the Australian Government provided through AusAID over $11million to address people trafficking, labour exploitation, and sexual

exploitation of children in tourism, in East Asia. From 2003 to 2006 AusAID funded the Asia Regional Cooperation to Prevent People Trafficking (ARCPPT) which was followed from 2006 to 2011 by the Asia Regional Trafficking in Persons Project (ARTIP), and extended to 2013 during transition. The new project, the Australia-Asia Program to Combat Trafficking in Persons (AAPTIP) is expected to run for 5 years from 2013.

The new AAPTIP Project has established 7 outcome objectives. Three of these objectives will operate at a regional level, and replicated at national levels, and four will operate on a national level. The objectives flow toward maintaining the ongoing regional goal of reducing the incentives and opportunities for trafficking of persons in the ASEAN region.

Recommendation nº96: *Strengthen further its commitment to the Bali process as the principal mechanism in the region which deals with people smuggling and trafficking* (Recommended by *Indonesia*)

IRI: *fully implemented*

State of Australia response:
[...]
The Australian Government will continue its commitment to the Bali Process as the preeminent forum on people smuggling, trafficking in persons and transnational crime in the region. It will work with other members to:

- address and enhance the region's response to irregular migration, including trafficking in persons, under the auspices of the Regional Cooperation Framework, and
- implement the Bali Process Ministerial directives to build the capacity of regional States to combat people trafficking through technical experts meetings, seminars, workshops and/or specific research programs.

Performance indicator/ timeline
Ongoing.

The Australian Government provided $5.2 million over four years (2011–12 to 2014–15) to fund the establishment and ongoing operation of the Bali Process Regional Support Office (RSO). The RSO will facilitate the implementation of the Regional Cooperation Framework and promote greater information sharing and practical cooperation, including on trafficking issues.

The Australian Government will continue to work with countries in our region to encourage ratification and implementation of the key international legal instruments used in the fight against people trafficking and people smuggling, particularly the United Nations Convention Against Transnational Organized Crime and its supplementary protocols on people trafficking and people smuggling. The Australian Government will also continue to engage in relevant regional mechanisms and international bodies, including the United Nations, to encourage ratification and implementation of these legal instruments.
Performance indicator/ timeline
Ongoing.

The Australian Government will continue to work with ASEAN (Association of South East Asian Nations) and the ILO (International Labour Organisation) to strengthen regional cooperation and standard setting to combat people trafficking and labour exploitation of migrants, and produce regional public goods to help implement these standards.
Performance indicator/ timeline
Ongoing.

The Australian Government will continue to support the United Nations Office on Drugs and Crime's undertaking – a Transnational Organised Crime Threat Assessment for East Asia and the Pacific – in order to determine the size and nature of transnational organised crime threats in the region, including people trafficking and people smuggling, and to better inform national and regional responses.
Performance indicator/ timeline
2011–12. [...]

AHRC response:
Ongoing. The Government continues to co-chair the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. Australia hosted the Seventh Meeting of the Ad Hoc Group Senior Officials in Sydney in March 2013, and attended the fifth Regional Ministerial Conference in Indonesia, in 2 April 2013.

Joint response:
IMPLEMENTED
The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime includes 45 members, including the UNHCR, IOM, UNODC, as well as observer countries and international agencies. The Australian Government maintained its commitment to the Bali Process, co-chairing with counterpart Indonesian Government officials and departments the Senior Officials Meeting, Ad Hoc Group, and themed Workshops in 2011, 2012 and 2013.

A key outcome of the Bali Process in 2012 was the establishment of a Regional Support Office (RSO) to respond to trafficking in persons across the region and facilitate the Regional Cooperation Framework. The RSO was opened on 10 September 2012, and aims to support and strengthen practical cooperation on refugee protection and international migration, including human trafficking and smuggling in the region. The RSO arose out of the Bali Process Workshop on Trafficking in Persons in May 2012, co-chaired by the Australian Government Attorney General's Department with the Indonesian Ministry of Foreign Affairs.

Recommendation nº97: *Consider using the OHCHR's Recommended Principles and Guidelines on Human Rights and Human Trafficking as a guide in its antitrafficking measures* (Recommended by *Philippines*)

IRI: *partially implemented*

State of Australia response:
[...] The Australian Government will monitor Australia's strategy to combat people trafficking to ensure it is in line with international best practice, including the Office of the High Commissioner for Human Rights (OHCHR) Principles and Guidelines.

Performance indicator/ timeline
Ongoing.
[...]

WVA response:
World Vision Australia has not observed any direct reference to OHCHR's Recommended Principles and Guidelines on Human Rights and Human Trafficking in the reports of, for example, the Australian Government's Anti-People Trafficking Interdepartmental Committee. While elements of the Principles and Guidelines may have been incorporated into policy, World Vision Australia encourages the Australian Government to more fully incorporate them into its anti-trafficking measures.

Joint response:
NOT IMPLEMENTED
The OHCR's Recommended Principles and Guidelines on Human Rights and Human Trafficking contains at its core the primacy of human rights and the promotion and protection of human rights. The OHCR Recommended Principles and Guidelines can be further incorporated to place the human rights of the victim at the centre of the Australian Government Strategy to Combat Human Trafficking and Slavery.

Currently, the link between the Trafficking Visa Framework and social security support to the criminal justice process undermines this human rights based approach. Initial support is available for 45 days, however the existing trafficking visa framework is dependent on ongoing participation in the criminal justice system. The inflexibility of the scheme has caused harm to trafficked people. Particularly affecting those trafficked before the 2005 trafficking in persons offences, those unable to participate in a police investigation, those willing to assist police but where the investigation is hampered or in cases where the trafficker has left the jurisdiction or cannot be identified.

Further, while victim-witnesses holding a CJSV or who are granted a WPTPV are eligible for Medicare and limited social security payments, the WPTPV is subject to a two year waiting period for more favourable social security payments. In the case of holders of a WPTPV in receipt of Special Benefit payments, any compensation they receive will be treated as income and the Special Benefit will cease during the time that the compensation award is exhausted through day to day living expenses.

Recommendation nº98: *Increase its efforts to fight human trafficking* (Recommended by *Azerbaijan*)

IRI: *fully implemented*

State of Australia response:
The Australian Government will continue to support victims of trafficking through the Support for Trafficked People Program, involving case management for victims of trafficking who have been referred by the Australian Federal Police, regardless of the purpose for which they were trafficked and, initially, whether they are willing or able to assist in the criminal justice process. The Support Program is demand driven. It receives ongoing funding of $0.755 million per year. Additional funding to meet demand was allocated for the following years:

- $130,000 in 2009–10
- $300,000 in 2010–11 and 2011–12
- $300,000 for each of the next three years (2012–13, 2013–14 and 2014–15)

Performance indicator/ timeline
Ongoing.

The Australian Government will fund the Australian Red Cross to develop and deliver a training package to assist community service providers to better understand the complex needs of victims of people trafficking and how best to support them. The Australian Red Cross were provided with a one-off payment of $126,690 in 2011.
Performance indicator/ timeline
2011-13.

The Australian Government will monitor Australia's strategy to combat people trafficking to ensure it is in line with international best practice, including the Office of the High Commissioner for Human Rights (OHCHR) Principles and Guidelines.
Performance indicator/ timeline
Ongoing.

The Australian Government will continue to investigate and criminally prosecute trafficking offenders. The AFP has established specialised Human Trafficking Teams (HTTs), which have responsibility for investigating people trafficking related offences. The HTT National Coordinator is based in Canberra, with dedicated HTTs in Sydney and Melbourne. AFP members who are specially trained in people trafficking matters are also located in Brisbane, Canberra, Darwin and Perth. For trafficking matters in other locations, the HTTs can draw upon additional support from the AFP's broader crime operations function which has members located in each capital city.
Performance indicator/ timeline
Ongoing.

The Australian Government will have access to intelligence related to human trafficking through a centralised intelligence network maintained by the Australian Crime Commission. Such intelligence will inform investigative strategies and build a better understanding of the activities, and methodologies of people trafficking networks.
Performance indicator/ timeline
Ongoing.

The Australian Government will continue to review criminal sanctions for people trafficking and slavery to ensure that law enforcement has the best tools available to investigate and prosecute perpetrators. On 30 May 2012, the Australian Government introduced the Crimes Legislation Amendment (Slavery, Servitude and People Trafficking) Offences Bill (the Bill) into Parliament. The Bill strengthens the capacity of investigators and prosecutors to combat people trafficking in all its forms, including by introducing new offences of forced marriage, forced labour, servitude and organ trafficking. The Bill was passed by the House of Representatives on 22 August 2012, and is currently being considered by the Senate.
Performance indicator/ timeline

2011–12.

The Australian Government will implement the Australian Policing Strategy to Combat Trafficking in Persons 2011–13, including ensuring that Australia's anti-trafficking strategy remains relevant and responsive to emerging trends and issues. An implementation plan has been agreed to by all state and territory police services and AFP. It identifies a number of objectives and initiatives to be delivered jointly by the various policing jurisdictions during the term of the strategy.
Performance indicator/ timeline
2011–13.

The Australian Government will continue to strengthen the criminal justice sector in the ASEAN (Association of South East Asian Nations) region with a focus on prosecution, judicial and law enforcement responses to people trafficking.A new program with a focus on the criminal justice sector is being designed to build on the successes of the Asia Regional Trafficking in Persons Program. The resources commitment is $50 million over five years commencing in 2013.
Performance indicator/ timeline
Ongoing.

The Australian Government will work with the International Labour Organisation to protect migrants from labour exploitation in the South-East Asian region. Funding of $10.5 million has been allocated over four years commencing in 2010.
Performance indicator/ timeline
2010–14.

The Australian Government will educate employers about their rights and responsibilities under workplace laws and investigate suspected contraventions of the law.
Performance indicator/ timeline
Ongoing.

The Australian Government will initiate civil proceedings against employers of migrant workers for serious contraventions of the Fair Work Act 2009 (Cth).
Performance indicator/ timeline
Ongoing.

The Australian Government will undertake reforms to the employer sanctions framework to ensure that direct action can be taken against those who employ or refer for work non-citizens who do not have lawful permission to work or who work in breach of their visa conditions. The reforms will introduce new non-fault civil penalties and infringement notices and new powers to gather documentary evidence. They will also retain the current criminal penalties with aggravated offences available against those who would exploit migrant workers. The reforms, which are based on the recommendations of the 2010 Review of the Migration Amendment (Employer Sanctions) Act 2007, will provide a more effective deterrent.
Performance indicator/ timeline

The Migration Amendment (Reform of Employer Sanctions) Bill 2012 was introduced into Parliament on 19 September 2012.

The Australian Government will continue its commitment to the Bali Process as the preeminent forum on people smuggling, trafficking in
persons and transnational crime in the region. It will work with other members to:

- address and enhance the region's response to irregular migration, including trafficking in persons, under the auspices of the Regional Cooperation Framework, and
- implement the Bali Process Ministerial directives to build the capacity of regional States to combat people trafficking through technical experts meetings, seminars, workshops and/or specific research programs.

Performance indicator/ timeline
Ongoing.

The Australian Government provided $5.2 million over four years (2011–12 to 2014–15) to fund the establishment and ongoing operation of the Bali Process Regional Support Office (RSO). The RSO will facilitate the implementation of the Regional Cooperation Framework and promote greater information sharing and practical cooperation, including on trafficking issues.

The Australian Government will continue to work with countries in our region to encourage ratification and implementation of the key international legal instruments used in the fight against people trafficking and people smuggling, particularly the United Nations Convention Against Transnational Organized Crime and its supplementary protocols on people trafficking and people smuggling. The Australian Government will also continue to engage in relevant regional mechanisms and international bodies, including the United Nations, to encourage ratification and implementation of these legal instruments.
Performance indicator/ timeline
Ongoing.

The Australian Government will continue to work with ASEAN (Association of South East Asian Nations) and the ILO (International Labour Organisation) to strengthen regional cooperation and standard setting to combat people trafficking and labour exploitation of migrants, and produce regional public goods to help implement these standards.
Performance indicator/ timeline
Ongoing.

The Australian Government will continue to support the United Nations Office on Drugs and Crime's undertaking – a Transnational Organised Crime Threat Assessment for East Asia and the Pacific – in order to determine the size and nature of transnational organised crime threats in the region, including people trafficking and people smuggling, and to better inform national and regional responses.
Performance indicator/ timeline
2011–12.

The Australian Government will continue to provide technical assistance to countries in the region with law enforcement, immigration and legal frameworks to improve capacity to combat people trafficking. DIAC has committed $1.3 million for 2011–12 for technical skills training to border and immigration officials in 25 countries. Within the AFP, Human Trafficking Teams work closely with the AFP's International Network to deliver regional and joint operational outcomes. Human Trafficking Team personnel also provide training. For example, in July 2012, the AFP partnered with the US-funded International Law Enforcement Academy (ILEA) in Bangkok to deliver a two week International Human Trafficking Program to 48 police investigators and prosecutors from 10 Asian countries. AGD works with law and justice agencies in partner countries to strengthen legal and operational frameworks and capacity to address people trafficking and related transnational crime.

Performance indicator/ timeline

Ongoing.

AHRC response:

Partly implemented. The Government has undertaken a number of positive measures including developing a National Action Plan to Combat Human Trafficking and Slavery 2014-18, enacted the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2012, which amends the Crimes Act 1914 to include a number of new offences, strengthens the provisions and improve the availability of reparations to victims.

The Joint Standing Committee released its report Trading Lives: Modern Day Human Trafficking in June 2013. Some of the Committee's recommendations included that the Australian Government:

- continue to use international mechanisms to combat people trafficking
- investigate establishing a federal compensation scheme for victims of slavery and people trafficking and review the current rates of compensation
- renegotiate funding contracts for non-governmental organisations one year before their conclusion
- provide an initial automatic reflection period of 45 days, with relevant agencies given the capability to grant two further extensions of 45 days if required.
- consider a range of tools to combat trafficking crimes including increasing community awareness.

Joint response:

PARTIALLY IMPLEMENTED

In March 2013 the Australian Government introduced new offences into the Criminal Code Act 1995 (Cth) that criminalised forced marriage, forced labour, organ trafficking, expanded the scope of servitude and the definition of coercion. These changes to the existing legislation bring Australia into line with its obligations under the Trafficking Protocol Articles 3 and 5.

Community engagement and culturally appropriate, targeted and accessible materials introducing the new offences, individual rights and obligations is required.

Australia currently lacks a mechanism for the identification and support of child victims of trafficking, with no clear referral pathways for child victims. This is particularly significant given the criminalisation of forced marriage, which affects mostly young women and girls. There is also a lack of research and data available on the prevalence of child trafficking and exploitation in Australia.

International law recognises the right to an effective remedy for trafficked persons. The lack of a national compensation scheme in Australia for victims of the federal crimes of human trafficking, slavery and slavery-like practices creates a system in which harms suffered receive significantly differing monetary compensation from state to state. The varying compensation schemes do not have specific categories for trafficked and exploited persons, and it remains unclear whether those who have experienced servitude and forced labour can access compensation payments as victims of crime within Australia's states and territories.

The draft National Action Plan to Combat Human Trafficking and Slavery 2014 – 2018 is currently being developed by the National Roundtable on Human Trafficking and Slavery, with contributions from key government agencies and non-governmental and community organisations.

Recommendation nº99: *Increase efforts to criminally prosecute trafficking offenders, including employers and labour recruiters who subject migrant workers to debt bondage and involuntary servitude* (Recommended by *United States*)

IRI: *partially implemented*

State of Australia response:
[...]
The Australian Government will monitor Australia's strategy to combat people trafficking to ensure it is in line with international best practice, including the Office of the High Commissioner for Human Rights (OHCHR) Principles and Guidelines.
Performance indicator/ timeline
Ongoing.

The Australian Government will continue to investigate and criminally prosecute trafficking offenders. The AFP has established specialised Human Trafficking Teams (HTTs), which have responsibility for investigating people trafficking related offences. The HTT National Coordinator is based in Canberra, with dedicated HTTs in Sydney and Melbourne. AFP members who are specially trained in people trafficking matters are also located in Brisbane, Canberra, Darwin and Perth. For trafficking matters in other locations, the HTTs can draw upon additional support from the AFP's broader crime operations function which has members located in each capital city.
Performance indicator/ timeline
Ongoing.

The Australian Government will have access to intelligence related to human trafficking through a centralised intelligence network maintained by the Australian Crime Commission. Such intelligence will inform investigative strategies and build a

better understanding of the activities, and methodologies of people trafficking networks.
Performance indicator/ timeline
Ongoing.

The Australian Government will continue to review criminal sanctions for people trafficking and slavery to ensure that law enforcement has the best tools available to investigate and prosecute perpetrators. On 30 May 2012, the Australian Government introduced the Crimes Legislation Amendment (Slavery, Servitude and People Trafficking) Offences Bill (the Bill) into Parliament. The Bill strengthens the capacity of investigators and prosecutors to combat people trafficking in all its forms, including by introducing new offences of forced marriage, forced labour, servitude and organ trafficking. The Bill was passed by the House of Representatives on 22 August 2012, and is currently being considered by the Senate.
Performance indicator/ timeline
2011–12.

The Australian Government will implement the Australian Policing Strategy to Combat Trafficking in Persons 2011–13, including ensuring that Australia's anti-trafficking strategy remains relevant and responsive to emerging trends and issues. An implementation plan has been agreed to by all state and territory police services and AFP. It identifies a number of objectives and initiatives to be delivered jointly by the various policing jurisdictions during the term of the strategy.
Performance indicator/ timeline
2011–13.

The Australian Government will continue to strengthen the criminal justice sector in the ASEAN (Association of South East Asian Nations) region with a focus on prosecution, judicial and law enforcement responses to people trafficking.A new program with a focus on the criminal justice sector is being designed to build on the successes of the Asia Regional Trafficking in Persons Program. The resources commitment is $50 million over five years commencing in 2013.
Performance indicator/ timeline
Ongoing.

The Australian Government will work with the International Labour Organisation to protect migrants from labour exploitation in the South-East Asian region. Funding of $10.5 million has been allocated over four years commencing in 2010.
Performance indicator/ timeline
2010–14.

The Australian Government will educate employers about their rights and responsibilities under workplace laws and investigate suspected contraventions of the law.
Performance indicator/ timeline
Ongoing.

The Australian Government will initiate civil proceedings against employers of migrant workers for serious contraventions of the Fair Work Act 2009 (Cth).
Performance indicator/ timeline
Ongoing.

The Australian Government will undertake reforms to the employer sanctions framework to ensure that direct action can be taken against those who employ or refer for work non-citizens who do not have lawful permission to work or who work in breach of their visa conditions. The reforms will introduce new non-fault civil penalties and infringement notices and new powers to gather documentary evidence. They will also retain the current criminal penalties with aggravated offences available against those who would exploit migrant workers. The reforms, which are based on the recommendations of the 2010 Review of the Migration Amendment (Employer Sanctions) Act 2007, will provide a more effective deterrent.
Performance indicator/ timeline
The Migration Amendment (Reform of Employer Sanctions) Bill 2012 was introduced into Parliament on 19 September 2012.

The Australian Government will continue its commitment to the Bali Process as the preeminent forum on people smuggling, trafficking in persons and transnational crime in the region. It will work with other members to:

- address and enhance the region's response to irregular migration, including trafficking in persons, under the auspices of the Regional Cooperation Framework, and
- implement the Bali Process Ministerial directives to build the capacity of regional States to combat people trafficking through technical experts meetings, seminars, workshops and/or specific research programs.

Performance indicator/ timeline
Ongoing.
[...]

WVA response:
World Vision Australia welcomed the Government's amendments to the slavery and people trafficking offences in Divisions 270 and 271 of the Commonwealth Criminal Code Act 1995 (Criminal Code). The amendment, passed in March 2013, aims to strengthen and expand the existing legal framework criminalising people trafficking and related crimes and increases the penalties applicable to existing debt bondage offences to ensure they adequately reflect the seriousness of the offences.

However, given the amendments have only recently come into force, it is far too early to say whether adequate resources are being applied to investigations and prosecutions of employers and recruiters. World Vision Australia calls on the Australian Government to focus its attention on the prosecution of those at the end of the trafficking chain, i.e. the end-exploiters who profit most from trafficked labour.

AHRC response:
Partly implemented. The Government has undertaken a number of positive measures including developing a National Action Plan to Combat Human Trafficking and

Slavery 2014-18, enacted the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2012, which amends the Crimes Act 1914 to include a number of new offences, strengthens the provisions and improve the availability of reparations to victims.

The Joint Standing Committee released its report Trading Lives: Modern Day Human Trafficking in June 2013. Some of the Committee's recommendations included that the Australian Government:

- continue to use international mechanisms to combat people trafficking
- investigate establishing a federal compensation scheme for victims of slavery and people trafficking and review the current rates of compensation
- renegotiate funding contracts for non-governmental organisations one year before their conclusion
- provide an initial automatic reflection period of 45 days, with relevant agencies given the capability to grant two further extensions of 45 days if required.
- consider a range of tools to combat trafficking crimes including increasing community awareness.

Joint response:
PARTIALLY IMPLEMENTED
Between 2004 and September 2013, the Australian Federal Police have undertaken over 390 investigations or assessments of slavery and human trafficking related matters. As of 30 June 2013, there have been 17 convictions of trafficking related offences, and 7 trafficking related matters were before the courts, two of which are appeals against sentence.

The introduction of the new offences of forced labour and servitude into the Criminal Code Act 1995 (Cth) in March 2013 is projected to increase the number of investigations and prosecutions of matters of extreme labour exploitation and servitude in a wide variety of industries, including in private homes. Debt bondage remains a criminal offence in Australia.

Community awareness raising is necessary to increase the identification of survivor/victims subject to these forms of exploitation. Targeted materials in accessible languages and formats must be delivered introducing the new laws, and individual rights and obligations.

Recommendation nº100: *Take effective legal measures to prohibit the use of excessive force by the police against various groups of peoples* (Recommended by *Iran*)

IRI: *not implemented*

State of Australia response:
The Australian Government will ensure that complaints about the Australian Federal Police are investigated thoroughly, within benchmark timeframes, oversighted appropriately by the Commonwealth Ombudsman and with the Law Enforcement Integrity Commissioner.
Performance indicator/ timeline
Ongoing.

The Australia New Zealand Policing Advisory Agency is developing an overarching principle based framework for use of force by police.
Performance indicator/timeline
Commenced in 2011.

The Victorian Government will make a range of changes to the oversight process, including designing an oversight/investigation framework and principles, to ensure continued accountability and best practice in deaths related to use of force by police members in the course of their duties.
Performance indicator/timeline
Pilot commenced in 2010.

CAALAS response:
In the Northern Territory, the police complaints system is inadequate. Most police complaints are dealt with internally by senior officers, often including the immediate supervisor of those whose conduct is complained about. The NT Ombudsman (an independent 'watchdog') monitors investigations, in some cases at its discretion. The Ombudsman only has the power to conduct its own investigation in limited circumstances, and while it can report on investigations carried out by the police, it can only recommend the action to be taken. Police do not have to act on the Ombudsman's recommendations. The absence of a comprehensive, transparent and independent mechanism to investigate and deal with police complaints is a major shortcoming of our legal system in the Northern Territory.

In addition, victims of the use of excessive force by the police have circumscribed access to justice through the court system. This is because the Northern Territory government has placed tight time limits on the commencement of most civil actions against police. Legal proceedings for a "police tort claim" must be commenced within 2 months after the police action or conduct complained of occurred. This is a very restrictive requirement, particularly given that many police complaints are made by Aboriginal people living in remote communities.

ALSWA response:
Unfortunately ALSWA still receives many complaints from clients regarding the use of excessive force by police officers. There is no current independent mechanism for the investigation of these incidents in WA or Australia. This remains a serious issue in the State and Australia and no progress by the Governments has been made in addressing this.

AHRC response:
In its National Human Rights Action Plan the Australian Government made a commitment to thoroughly investigate complaints about the Australian Federal Police, oversight will be provided by the Commonwealth Ombudsman and with the Law Enforcement Integrity Commissioner

Joint response:
NOT IMPLEMENTED

Taser use may constitute torture especially if used in 'drive stun' mode to inflict pain. There are reports from Australia of misuse and abuse of Tasers by police. No new legal measures followed the release this year of a report by the NSW Ombudsman on the 2012 death of a tasered Brazilian student, who was chased by up to 11 police officers and repeatedly tasered shortly before his death. The critical report, which highlighted the importance of independent civilian oversight of critical incident investigations, followed an October 2012 report by the NSW Ombudsman highlighting that almost 30 per cent of Taser use is against Aboriginal and Torres Strait Island peoples. There should be a consistent Australia-wide high threshold test for Taser use that prohibits use unless there is a real risk of serious injury or death where there are no other reasonable alternatives that can be used. To ensure and demonstrate compliance with this standard, each jurisdiction needs to ensure that there is adequate data collection and reporting on Taser use.

NATSILS response:
In the Northern Territory, the police complaints system is inadequate. Most police complaints are dealt with internally by senior officers, often including the immediate supervisor of those whose conduct is complained about. The NT Ombudsman (an independent 'watchdog') monitors investigations, in some cases at its discretion. The Ombudsman only has the power to conduct its own investigation in limited circumstances, and while it can report on investigations carried out by the police, it can only recommend the action to be taken. Police do not have to act on the Ombudsman's recommendations. The absence of a comprehensive, transparent and independent mechanism to investigate and deal with police complaints is a major shortcoming of our legal system in the Northern Territory.

In addition, victims of the use of excessive by the police have circumscribed access to justice through the court system. This is because the Northern Territory government has placed tight time limits on the commencement of most civil actions against police. Legal proceedings for a "police tort claim" must be commenced within 2 months after the police action or conduct complained of occurred. This is a very restrictive requirement, particularly given that many police complaints are made by Aboriginal people living in remote communities. the excessive use of force by police and independent mechanisms for the investigation of such incidents still remains a major issue in Australia. No progress has been made in addressing this.

Recommendation nº101: *Take effective legal measures to prohibit the use of "Tasers" by the police against various groups of peoples* (Recommended by *Iran*)

IRI: *not implemented*

State of Australia response:
The Australian Government will ensure that complaints about the Australian Federal Police are investigated thoroughly, within benchmark timeframes, oversighted appropriately by the Commonwealth Ombudsman and with the Law Enforcement Integrity Commissioner.
Performance indicator/ timeline
Ongoing.

The Australia New Zealand Policing Advisory Agency is developing an overarching principle based framework for use of force by police.
Performance indicator/timeline
Commenced in 2011.

The Victorian Government will make a range of changes to the oversight process, including designing an oversight/investigation framework and principles, to ensure continued accountability and best practice in deaths related to use of force by police members in the course of their duties.
Performance indicator/timeline
Pilot commenced in 2010.

GHRC response:
Rejected/not implemented. Australia has stated that it believes that police use of Tasers is largely consistent with standard operating procedures, however it notes that incidents have occurred where the use of Tasers was inappropriate or the review process into their use was unsatisfactory. The use of Tasers by law enforcement varies across Australia's states and territories. Some jurisdictions allow both general duty officer and specialist officers to carry Tasers while others only allow their use by specialist or emergency response officers. Police are trained to only employ Tasers in a graduated used of force continuum where other options have or would not succeed in pacifying an offender. Police are also trained not to deploy a Taser in certain situation including when an offender is a juvenile or an elderly person and importantly where there is risk of significant secondary injury from a fall. The current issue Taser (X-26) is able to record its last 1500 uses and is also fitted with a camera that records both audio and video when it is used.

AHRC response:
In its National Human Rights Action Plan the Australian Government made a commitment to thoroughly investigate complaints about the Australian Federal Police, oversight will be provided by the Commonwealth Ombudsman and with the Law Enforcement Integrity Commissioner

Joint response:
NOT IMPLEMENTED
Taser use may constitute torture especially if used in 'drive stun' mode to inflict pain. There are reports from Australia of misuse and abuse of Tasers by police. No new legal measures followed the release this year of a report by the NSW Ombudsman on the 2012 death of a tasered Brazilian student, who was chased by up to 11 police officers and repeatedly tasered shortly before his death. The critical report, which highlighted the importance of independent civilian oversight of critical incident investigations, followed an October 2012 report by the NSW Ombudsman highlighting that almost 30 per cent of Taser use is against Aboriginal and Torres Strait Island peoples. There should be a consistent Australia-wide high threshold test for Taser use that prohibits use unless there is a real risk of serious injury or death where there are no other reasonable alternatives that can be used. To ensure and demonstrate compliance with this standard, each jurisdiction needs to ensure that there is adequate data collection and reporting on Taser use.

Recommendation nº102: *Further improve the administration of justice and the rule of law including by setting up appropriate mechanisms in order to ensure adequate and independent investigation of police use of force, police misconduct and police-related deaths* (Recommended by *Malaysia*)

IRI: *not implemented*

State of Australia response:
The Australian Government will ensure that complaints about the Australian Federal Police are investigated thoroughly, within benchmark timeframes, oversighted appropriately by the Commonwealth Ombudsman and with the Law Enforcement Integrity Commissioner.
Performance indicator/ timeline
Ongoing.

The Australia New Zealand Policing Advisory Agency is developing an overarching principle based framework for use of force by police.
Performance indicator/timeline
Commenced in 2011.

The Victorian Government will make a range of changes to the oversight process, including designing an oversight/investigation framework and principles, to ensure continued accountability and best practice in deaths related to use of force by police members in the course of their duties.
Performance indicator/timeline
Pilot commenced in 2010.

NATSILS response:
See No. 100. In relation to deaths in police custody, see No. 103. no progress has been made to increase the independence of investigative bodies.

ALSWA response:
See 100; the independent administration of justice and rule of law in incidents involving police use of force, police misconduct and police-related deaths appears to be rarely adhered and no progress to remedy this situation has been made.

AHRC response:
Regular systems have continued - no new actions have been undertaken.

Joint response:
PARTIALLY IMPLEMENTED
No new legal measures have been taken at the federal level to explicitly prohibit the use of excessive force by the police. The overwhelming majority of complaints about police misconduct, excessive use of force by the public are sent back to the police for investigation or “performance management” procedures. In all Australian jurisdictions currently, Police investigate themselves when there is a death in police custody; or there is a complaint of torture, degradation, abuse, ill-treatment, assault, racial abuse

or excessive force by police. Police are rarely prosecuted or disciplined for human rights abuses.

Regarding other measures, the government stated in the National Human RIghts Action Plan that it will 'ensure that complaints about the Australian Federal Police are investigated thoroughly, within benchmark timeframes, oversighted appropriately by the Commonwealth Ombudsman and with the Law Enforcement Integrity Commissioner.' It is unclear whether the government is meeting its targets within prescribed timeframes.

The state of Victoria has introduced state policies and legislation regarding the police use of force. In 2011 the Human Rights Law Centre launched the Police Use of Force Project, at the conclusion of which it published a report that outlined a number of recommendations relating to the use of force ('Upholding our Rights: Towards Best Practice in the Use of Force'). Subsequently, the state passed the Police Regulation Amendment Act 2012 (Vic), providing for productivity benefits and improved accountability in cases of misconduct. Furthermore, in 2013 the Victorian Police released its Blueprint 2012-15 report, which included a ten-page action plan outlining in its priorities 'upholding human rights' and 'respecting victims'.

Recommendation nº104: *Introduce a requirement that all deaths in custody be reviewed and investigated by independent bodies tasked with considering prevention of deaths and implement the recommendations of Coronial and other investigations and enquiries* (Recommended by *New Zealand*)

IRI: *not implemented*

State of Australia response:
[...]
State and territory coroners courts will continue to independently investigate all deaths in custody.
Performance indicator/Timeline
Ongoing.

The Australian Government will continue the National Deaths in Custody Monitoring Programs.
Performance indicator/Timeline
Ongoing.
[...]

NATSILS response:
While all deaths in custody are ultimately investigated by an independent coroner, arrangements for the initial investigation of the circumstances of the death are not adequately independent.

ALSWA response:
All deaths in custody are reviewed and investigated by a Coroner, however, a Coroner's recommendations for prevention of deaths in custody following an investigation and/or inquest are not required to be followed by the government and in

many instances, they are ignored and/or not implemented by the relevant government and government bodies.

AHRC response:
All deaths in custody are currently investigated by coroners - no changes to system have been implemented. There also remains an outstanding commitment to ratify the OPCAT and create a National Preventive Mechanism, which may oversight some such review.

Joint response:
NOT IMPLEMENTED
Prior to the federal election in September 2013, the Australian Government (both state and federal) had committed to the inclusion of Justice Targets within a fully-funded Safe Communities National Partnership Agreement as part of the Closing the Gap strategy. This commitment was to be incorporated into the National Indigenous Reform Agreement and supported by significant improvements to data collection regarding Aboriginal and Torres Strait Islander people within the justice system.

The Australian Government is also moving towards ratification of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

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PARTIALLY IMPLEMENTED
There has been a near total failure by successive State and Commonwealth Governments to ensure that the 339 recommendations of the 1991 Royal Inquiry into Aboriginal Deaths in Custody were implemented.

Additionally, widely reported in the mainstream media, have been actual occurrences of several totally avoidable deaths in custody across Australia (Mr Doomagee, Palm Island, Qld, 2004; Mr Ward, Laverton Region, WA, 2008; Mr Phillips, Kalgoorlie, WA, 2011; and Mr Briscoe, Alice Springs, NT, 2012). These deaths demonstrate the failure of the Australian Government to prevent avoidable deaths in custody.

Combined with deaths in custody that have their origin in extreme police and custodial services violence (the Mr Doomagee case), almost inconceivable substandard treatment of a human being (the Mr Ward case) and extremes of indifference to a person's medical condition (the Mr Phillips case), there have been several cases of near occurrences of deaths in custody due to the grossly inadequate provision of medical and general welfare services in Australian prisons.

Recommendation nº107: *Examine possibilities to increase the use of non-custodial measures* (Recommended by *Austria*)

IRI: *partially implemented*

State of Australia response:
[...]
The ACT's Galambany Circle Sentencing Court is a culturally sensitive and specialist sentencing process for Aboriginal and Torres Strait Islander defendants who have pleaded guilty to an offence.

The Circle Court, best described as a step in the sentencing proceeding rather than a standalone court, was introduced in the ACT in 2004 and attempts to address offending behaviour within a culturally sensitive framework.
Performance Indicator/Timeline
Ongoing.

[...]

The Northern Territory Government will implement measures to increase driver training and licensing to reduce incarceration for traffic related offences.
Performance Indicator/Timeline
Ongoing.

In the Northern Territory the Justice (Corrections) and Other Legislation Amendment Act 2011 will introduce two new sentencing options in the Sentencing Act 1995 (NT), called Community-Based Orders and Community Custody Orders.
Performance Indicator/Timeline
Ongoing.

CAALAS response:
The lack of funding for non-custodial sentencing options, and restrictive criminal justice legislation which precludes the court from considering non-custodial sentencing options in some cases, is contributing to the over-representation of Aboriginal people in our criminal justice system (this is discussed in more detail at No. 106).

The Northern Territory government has recently expanded mandatory minimum sentencing in the Northern Territory. The new mandatory minimum sentencing scheme requires the court to impose an actual sentence of imprisonment if an offender is found guilty of a certain type of violent offence. The minimum actual sentence of imprisonment may be between 3 months and 12 months, depending on the type of violent offence committed. This precludes the court from considering the full-range of sentencing options, having regard to the particular circumstances of the case. The legal sector anticipates that the new mandatory minimum sentencing scheme will increase the number of people receiving a custodial sentence.

Even where the court retains the discretion to impose a non-custodial sentence, alternatives to a custodial sentence are limited for some offenders because of a lack of services and programs in some areas. Community Work Orders and Community Custody Orders may be available for some offenders in remote communities, but are not available in connection with violent offending and there is often limited access to drug and alcohol treatment programs for offenders living in remote communities. In addition, defendants from remote communities seeking to obtain bail are sometimes refused bail and remanded in prison or the detention centre because they cannot access suitable accommodation or support programs to allow them to comply with bail conditions.

NATSILS response:

The Northern Territory's imprisonment rate is nearly five times the national average. Approximately 80% of the prison population is Aboriginal, yet Aboriginal people only comprise about 30% of the Northern Territory population. Of great concern, on most nights in Alice Springs, 100% of the youth detained in the Alice Springs youth detention centre are Aboriginal. The lack of funding for non-custodial sentencing options, and restrictive criminal justice legislation which precludes the court from considering non-custodial sentencing options in some cases, is contributing to the over-representation of Aboriginal people in our criminal justice system. This is discussed in more detail at No. 106.

The Northern Territory government has recently expanded mandatory minimum sentencing in the Northern Territory. The new mandatory minimum sentencing scheme requires the court to impose an actual sentence of imprisonment if an offender is found guilty of a certain type of violent offence. The minimum actual sentence of imprisonment may be between 3 months and 12 months, depending on the type of violent offence committed. This precludes the court from considering the full-range of sentencing options, having regard to the particular circumstances of the case. The legal sector anticipates that the new mandatory minimum sentencing scheme will increase the number of people receiving a custodial sentence.

Even where the court retains the discretion to impose a non-custodial sentence, alternatives to a custodial sentence are limited for some offenders because of a lack of services and programs in some areas. While Community Work Orders and Community Custody Orders may be available for some offenders for remote communities, there is often limited access to drug and alcohol treatment programs for offenders living in remote communities. In addition, defendants from remote communities seeking to obtain bail are sometimes refused bail and remanded in prison or the detention centre because they cannot access suitable accommodation or support programs to allow them to comply with bail conditions. Since Australia's review mandatory sentencing has expanded in Australia, namely in Western Australia and the Northern Territory, and more broadly there is a growing trend away from non-custodial measures and towards more 'tough on crime' approaches that emphasise harsher sentencing.

ALSWA response:
The incarceration rate of Aboriginal and Torres Strait Islander peoples continues to grow. There are currently no targeted or coordinated efforts being undertaken to address this situation. For many years organisations like NATSILS have called on all Australian and State governments to commit to a nationally coordinated approach to reduce the over-representation of Aboriginal people in prisons. Specifically, calls have been made to amend the Closing the Gap policy, to which all Australian governments are committed, to include targets related to reducing over-representation. Furthermore, ALSWA continues to advocate for the introduction of justice reinvestment policies to divert persons away from prison. Finally, Western Australia has several laws which require mandatory sentencing of an offender. These laws adversely affect Aboriginal people and help to contribute to the over-incarceration of Aboriginal people.

AHRC response:
Practice on this issue varies among the states and territories.

Joint response:
PARTIALLY IMPLEMENTED
Although a range of alternatives to incarceration are available, incarceration rates for offenders from disadvantaged groups particularly Aboriginal and Torres Strait Islander people and people with mental illness or cognitive impairment continue to be disproportionate to their overall representation in society. Imprisonment rates have been rapidly increasing in some states with Victoria's prison population having increased by nearly 40% over the last 10 years and a 15% increase in the Queensland prison population since June 2012. According to a report by Castan Centre for Human Rights Law, of offences dealt with by the Magistrates'/Local Court more than 90% result in non-custodial orders. For serious offences dealt with by higher courts, convictions lead to custodial sentences 85% of the time. Overall, around 7% of adult males and 3% of adult females receive custodial sentences. Although these may seem like small proportions, they represented more than 32,500 individuals in 2009-10.

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For a discussion of measures to address overrepresentation of Aboriginal and Torres Strait Islander people in prison:
PARTIALLY IMPLEMENTED

In May 2008, the Australian Government established an 11 member National Council to Reduce Violence against Women and their Children. The Council's task was to provide advice on the development of an evidence-based national plan. The National Plan consists of four complementary three-year Action Plans:

- First Action Plan (2010–2013) – Building a Strong Foundation;
- Second Action Plan (2013–2016) – Moving Ahead;
- Third Action Plan (2016–2019) – Promising Results; and
- Fourth Action Plan (2019–2022) – Turning the Corner.

Progress on the National Plan will be made public through annual reports made to the Council of Australian Governments (COAG).
The National Plan Implementation Panel (NPIP) was established to oversee and advise on the National Action Plan."

Recommendation nº108: *Enhance the contacts and communication between Aboriginal and Torres Strait Islander communities and representatives of the law enforcement officials and enhance the training of those officials with respect to cultural specificities of the above communities* (Recommended by *Austria*)

IRI: *not implemented*

State of Australia response:
The Australian Government is working with states and territories and Indigenous people to improve community safety and to address the over representation of Indigenous people in the criminal justice system, both as offenders and as victims. The House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs report Doing Time – Time for Doing: Indigenous Youth in the Criminal Justice System, released in June 2011, again raised concern at the level of

Indigenous over-representation in the justice system, which is particularly acute amongst Indigenous young people. The Australian Government tabled its response to the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs report Doing Time – Time for Doing: Indigenous Youth in the Criminal Justice System on 24 November 2011, accepting all 40 recommendations in whole, in part or in principle. The Australian Government will work with States and Territories to address the key issues raised. The Australian Government is working closely with states and territories to implement the response.

Performance indicator/Timeline

Ongoing. Recommendations that relate to areas of state and territory responsibility are raised through Ministerial Councils in 2012, including the Standing Council on Law and Justice (raised April 2012) and the Standing Council on Police and Emergency Management. The Australian Government will monitor implementation of responses specifically relating to its responsibility.

Through the Stronger Futures in the Northern Territory package, the Australian Government is providing $619 million over ten years to:

- ensure the Northern Territory Government can continue employing 60 full-time Northern Territory police officers in 18 remote communities
- health – primary health care services, hearing and oral health, workforce supplementation, child abuse trauma counselling, alcohol and other drug support services
- maintain community night patrols across 80 communities
- continue additional funding for legal assistance services
- continue child protection, drug and alcohol policing units
- continue to tackle alcohol abuse
- continue to support the community night patrols in remote Aboriginal communities. These night patrols employ over 300 Aboriginal people in local jobs.

Performance indicator/Timeline

As set out in the Stronger Futures in the Northern Territory National Partnership Agreement with the NT Government.

The Australian Federal Police (AFP) will provide presentations on secure and appropriate social networking targeted to school aged children. Over the last six months, AFP (High Tech Crime Operations-Crime Prevention) has made two trips as part of the Stronger Choices Campaign and delivered the presentation to 2,466 young people. In March 2012, the AFP also provided NT Police with training to enable future delivery and customisation of the program by the NT Police. The Australian Government and other relevant agencies will work on development of community safety plans in identified regional growth towns under the Remote Service Delivery National Partnership Agreement. Under the plans relevant service agencies across three tiers of government will be responsible for implementing actions identified by the community across law and justice, child protection, homelessness, alcohol and other drugs, domestic and family violence, environmental design and health and education. The Australian Crime Commission's National Indigenous Intelligence Task Force (NIITF) is building a national picture of the nature and extent of violence and child abuse in Indigenous communities. The NIITF was announced in

July 2006 as part of a whole-of-government response to violence and child abuse in remote, rural and urban Indigenous communities and has recently been extended until mid-2014. The NIITF's extension is part of the Australian Government's Building Stronger Communities in the Northern Territory initiative, and will focus on child abuse and violence across remote Indigenous communities. The NIITF's intelligence holdings and analysis provide Australian governments with valuable information about the nature and extent of violence and child abuse in remote Indigenous communities, and inform policies and programs that improve community safety within Indigenous communities. The NIITF is also supporting the development of a Cross Border Family Violence Information and Intelligence Unit for the remote communities within the Anangu Pitjantjatjara Yankunytjatjara Lands (APY Lands). The Cross Border Family Violence Information Unit will facilitate and encourage lawful exchange of information between police, agencies and service providers, to enable the timely and appropriate victim and offender management to tackle domestic violence and improve the safety, health and wellbeing of families and children in the APY Lands.

[...]

The Australian Government will continue to provide funding for legal assistance services, including:

- Aboriginal and Torres Strait Islander Legal Services (ATSILS) whose priority clients are those detained or at risk of being detained in custody. This includes funding of $199.1 million over three years commencing in 2011.
- Family Violence Prevention Legal Services (FVPLS) for victims/survivors of family violence with all services being provided in rural and remote locations. This includes funding of $58.4 million over three years commencing in 2010.
- Indigenous women's projects which help meet the legal assistance needs of Indigenous women (through the Commonwealth Community Legal Services Program). This includes funding of $4.5 million over four years commencing in 2010.

Performance indicator/Timeline
Ongoing.

[...]

The Aboriginal and Torres Strait Islander Social Justice Commissioner will focus on addressing lateral violence within Aboriginal and Torres Strait Islander communities.
Performance indicator/Timeline
Annual Social Justice Report and Native Title Reports.

The Victorian Government supports the Koori Courts division of the Magistrates Court, which allows greater participation by Aboriginal and Torres Strait Islander people in the court processes.

The Victorian Government supports Wulgunggo Ngalu Learning Place – a residential diversion program for up to 20 Indigenous adult males who are serving community sentences.
Performance indicator/Timeline

A Stage One evaluation measured completion of orders. A Stage two evaluation is currently being developed.

[..]

Under the ACT Aboriginal and Torres Strait Islander Justice Agreement 2010–13 the ACT Government aims to:

- improve community safety and improve access to law and justice services for Aboriginal and Torres Strait Islander people in the ACT, and
- reduce the over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system as both victims and offenders.

Performance Indicator/Timeline
A two year report card on the progress of the Agreement was tabled in the August 2012 assembly sitting period.

The ACT's Galambany Circle Sentencing Court is a culturally sensitive and specialist sentencing process for Aboriginal and Torres Strait Islander defendants who have pleaded guilty to an offence.

The Circle Court, best described as a step in the sentencing proceeding rather than a standalone court, was introduced in the ACT in 2004 and attempts to address offending behaviour within a culturally sensitive framework.
Performance Indicator/Timeline
Ongoing.

The Northern Territory Government will implement measures that relate to Aboriginal and Torres Strait Islander communities.
Performance Indicator/Timeline
Ongoing.

[...]

NATSILS response:
Most commonly law enforcement officials receive no cultural competency training in relation to Aboriginal and Torres Strait Islander peoples.
AHRC response:
Various police forces are committed to cultural competence and cultural awareness, including thorough the adoption of Reconciliation Action Plans.

Joint response:
NOT IMPLEMENTED
Police officers engage with members of the public differently on the basis of their race, ethnic background, national origin or religious beliefs, thus discriminating against them. Studies of young people's encounters with police have shown that racial profiling, over-policing and differential treatment are experienced widely by Aboriginal and Torres Strait Islander and African youth in Australia.

Stop and Search receipting, as a mechanism adopted in other countries to identify and reduce discriminatory police stops, should be introduced in Australia. Stop and Search Receipting would require police officers to complete a form and issue a receipt (an administrative form to be kept by both parties) every time they stop, or stop and search, someone.

The former Commonwealth Government committed $3.8 million for education and training of public sector employees, including developing guidance materials for public sector policy development and implementation of government programs. In its official response to the recommendation made in the course of the UPR in May 2011 the Australian Government stated that the Australian Federal Police is part of the federal public sector and will therefore also benefit from this education and training package (see Australia's formal response)

Recommendation nº109: *Improve the human rights elements of its training for law enforcement personnel* (Recommended by *United States*)

IRI: *not implemented*

State of Australia response:
The Australian Government will continue ensuring that the Australian Human Rights Commission is empowered and funded to resolve complaints of discrimination, including ensuring it is accessible and equitable to all
Performance indicator/timeline
Ongoing

[...]

The ACT Government has passed amendments to include the right to education in the Human Rights Act 2004 (ACT).
Performance indicator/timeline
Human Rights Amendment Bill 2012 was passed on 29 August 2012.

The ACT Government has referred the review of the Discrimination Act 1991 (ACT) to the ACT Law Reform Advisory Council.
Performance indicator/timeline
2013–14.

[...]

The Australian Government is working with states and territories and Indigenous people to improve community safety and to address the over representation of Indigenous people in the criminal justice system, both as offenders and as victims. The House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs report Doing Time – Time for Doing: Indigenous Youth in the Criminal Justice System, released in June 2011, again raised concern at the level of Indigenous over-representation in the justice system, which is particularly acute amongst Indigenous young people. The Australian Government tabled its response to the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs report Doing Time – Time for Doing: Indigenous Youth in the Criminal

Justice System on 24 November 2011, accepting all 40 recommendations in whole, in part or in principle. The Australian Government will work with States and Territories to address the key issues raised. The Australian Government is working closely with states and territories to implement the response.

Performance indicator/Timeline

Ongoing. Recommendations that relate to areas of state and territory responsibility are raised through Ministerial Councils in 2012, including the Standing Council on Law and Justice (raised April 2012) and the Standing Council on Police and Emergency Management. The Australian Government will monitor implementation of responses specifically relating to its responsibility.

[...]

The Australian Federal Police (AFP) will provide presentations on secure and appropriate social networking targeted to school aged children. Over the last six months, AFP (High Tech Crime Operations-Crime Prevention) has made two trips as part of the Stronger Choices Campaign and delivered the presentation to 2,466 young people. In March 2012, the AFP also provided NT Police with training to enable future delivery and customisation of the program by the NT Police. The Australian Government and other relevant agencies will work on development of community safety plans in identified regional growth towns under the Remote Service Delivery National Partnership Agreement. Under the plans relevant service agencies across three tiers of government will be responsible for implementing actions identified by the community across law and justice, child protection, homelessness, alcohol and other drugs, domestic and family violence, environmental design and health and education. The Australian Crime Commission's National Indigenous Intelligence Task Force (NIITF) is building a national picture of the nature and extent of violence and child abuse in Indigenous communities. The NIITF was announced in July 2006 as part of a whole-of-government response to violence and child abuse in remote, rural and urban Indigenous communities and has recently been extended until mid-2014. The NIITF's extension is part of the Australian Government's Building Stronger Communities in the Northern Territory initiative, and will focus on child abuse and violence across remote Indigenous communities. The NIITF's intelligence holdings and analysis provide Australian governments with valuable information about the nature and extent of violence and child abuse in remote Indigenous communities, and inform policies and programs that improve community safety within Indigenous communities. The NIITF is also supporting the development of a Cross Border Family Violence Information and Intelligence Unit for the remote communities within the Anangu Pitjantjatjara Yankunytjatjara Lands (APY Lands). The Cross Border Family Violence Information Unit will facilitate and encourage lawful exchange of information between police, agencies and service providers, to enable the timely and appropriate victim and offender management to tackle domestic violence and improve the safety, health and wellbeing of families and children in the APY Lands.

The Australian Government will continue to monitor Indigenous deaths in custody through the Australian Institute of Criminology's Deaths in Custody Monitoring Program.

Performance indicator/Timeline

Ongoing.

NATSILS response:
no progress

AHRC response:
Unable to uncertain whether this has been done by different state and territory officials.

Joint response:
NOT IMPLEMENTED
Police officers engage with members of the public differently on the basis of their race, ethnic background, national origin or religious beliefs, thus discriminating against them. Studies of young people's encounters with police have shown that racial profiling, over-policing and differential treatment are experienced widely by Aboriginal and Torres Strait Islander and African youth in Australia.

Stop and Search receipting, as a mechanism adopted in other countries to identify and reduce discriminatory police stops, should be introduced in Australia. Stop and Search Receipting would require police officers to complete a form and issue a receipt (an administrative form to be kept by both parties) every time they stop, or stop and search, someone.

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Recommendation nº142: *Repeal the provisions of the Migration Act 1958 relating to the mandatory detention* (Recommended by *Pakistan*)

IRI: *not implemented*

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Recommendation nº143: *Revise the Migration Law of 1958 so that federal initiatives do not penalize foreign migrants in an irregular situation* (Recommended by *Guatemala*)

IRI: *not implemented*

RCA response:
Not implemented. Detention continues to be mandatory under Australian law and is used as a measure of first rather than last resort, although the former government did considerably expand community alternatives in detention and the average time spent in detention by asylum seekers has been reduced. However, a small group of refugees continue to be detained on an indefinite basis as a result of having failed security assessments, some of whom have now been detained for over four years.

Joint response:

NOT IMPLEMENTED
Mandatory detention of unauthorised arrivals is still taking place.

Unauthorised maritime arrivals under current policy will be detained on Christmas island and then detained on Nauru or Manus Island in offshore processing centres.

Recommendation nº144: *Review its mandatory detention regime of asylum-seekers, limiting detention to the shortest time reasonably necessary* (Recommended by *Ghana*)

IRI: *not implemented*

State of Australia response:
The Australian Government will review whether any treaty body recommendations which have not been accepted as reflective of Australia's international obligations and acted upon accordingly can be accepted and acted upon in any event, if consistent with the Australian Government's immigration detention policy objectives.
Performance indicator/timeline
Ongoing.

The Australian Government will monitor the operation of recent reforms – and will continue to implement a range of measures which take into account Australia's human rights obligations – to respond more effectively to Irregular Maritime Arrivals (IMAs), including:

- Regional processing, including conditions in regional processing countries;
- The increase to 20,000 places of Australia's refugee program;
- greater use of the temporary Bridging visa program to allow eligible IMA clients to be released from detention to the Australian community once certain mandatory health, security and identity checks have been completed;
- the expanded use of community detention;
- utilising the increasing capacity within the immigration detention network to more flexibly and effectively manage clients;
- significantly increasing case manager and processing capability;
- strengthening the character provisions of the Migration Act 1958 (Cth); and
- detaining IMAs for the shortest practicable time and in the least restrictive form of immigration detention appropriate to the management of risks.

Performance indicator/timeline
Ongoing.
As at 13 November 2012 DIAC has placed 5,532 people in Community Detention (CD) since the government announcement to expand CD on 18 October 2010.
As at 13 November 2012, DIAC has granted approximately 7,760 Bridging visas (since 25 November 2011).

The Australian Government will continue to implement the recommendations made in the Commonwealth Parliament's Joint Select Committee into Australia's Immigration Detention Network (released on 30 March 2012) and the Expert Panel on Asylum Seekers Report (13 August 2012).
Performance indicator/timeline
Ongoing.

The Australian Government will continue to ensure that detention is not indefinite or otherwise arbitrary, and only for the following groups:

- all irregular arrivals for management of health, identity and security risks to the community
- unlawful non-citizens who present unacceptable risks to the community, and
- unlawful non-citizens who repeatedly refuse to comply with their visa conditions. On 13 October 2011, the Australian Government announced it will be making greater use of existing powers to more flexibly manage Irregular Maritime Arrivals (IMAs) to Australia.
- Bridging visas are granted to IMAs who have no adverse security, health, identity or significant behavioural issues that might pose a risk to the community.

Performance indicator/timeline
Ongoing.
Since November 2011 the Minister for Immigration and Citizenship has used his non-compellable intervention powers under s 195A of the Migration Act 1958 (Cth) to allow some IMAs to live in the community on temporary Bridging Visas E (BVEs) while their claims for protection are being considered. As at 18 September 2012, DIAC have granted 4,889 Bridging visas (since 25 November 2011).

The Australian Government will continue to subject length and conditions of detention (including the appropriateness of both the accommodation and the services provided) to regular review.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to use the least restrictive form of immigration detention available whilst health and security checks are undertaken for children.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to move more people in immigration detention into community-based detention arrangements, including, as a priority, all children, (including unaccompanied children) and families following appropriate risk, security and health assessments.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to resource a dedicated Children's Unit to address complex policy issues relating to unaccompanied minors.
Performance indicator/timeline
Ongoing.

The Commonwealth Ombudsman and Australian Human Rights Commission will continue to have general powers that enable it to report on conditions within detention centres.
Performance indicator/timeline

Ongoing.

The Australian Government will continue to ensure that all persons in immigration detention have the right to request and receive consular access at any time without delay, consistent with Australia's obligations under the Vienna Convention on Consular Relations 1963.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to ensure that all persons in immigration detention have access to appropriate physical and mental health care, commensurate with care available to the broader Australian community.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to provide torture and trauma counselling to people in immigration detention when a history of torture and trauma is indicated.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to provide emergency health services to people in immigration detention.
Performance indicator/timeline
Ongoing.

AHRC response:
A legal and policy framework providing for mandatory and indefinite immigration detention prevails in Australia.

While the increased use of community arrangements for refugees and asylum seekers is welcomed as of 31 May there were 8,521 people in immigration detention facilities which include 1,731 children (Department of Immigration and Citizenship. Immigration Detention Statistics (viewed 17 August)). The Commission has expressed ongoing concern about the impacts of prolonged or indefinite detention on mental health and wellbeing.

The detention of children is of particular concern in that children should only be detained as a measure of last resort and for the shortest appropriate period of time.

The Commission also has serious concerns about the situation for people who have been found to be refugees, but who have received adverse security assessments from the Australian Security and Intelligence Organisation (ASIO). The transfer of asylum seekers who have arrived by boat to third countries for processing of their claims presents a number of challenges and creates a significant risk that Australia may breach its human rights obligations.

On 19 July 2013 the Australian Government announced a Regional Settlement Arrangement (RSA) with the Government of PNG. Under the RSA asylum seekers

arriving unauthorised by boat after 19 July 2013 will be transferred to PNG for processing and resettlement (if found to be refugees). If found not to be refugees they will be returned to their country of origin or a country where they had a right of residence.

Joint response:
NOT IMPLEMENTED
Currently there are still many asylum seekers who have been in held detention for over a year. In July 2013 the UN Human Rights Committee found that Australia had committed 143 human rights violations by holding 46 refugees in indefinite detention. ASIO has deemed these people to be a security risk. Some have been in detention for over 3 years and have no hope of being released. They have been assessed as refugees but there is no right to appeal their adverse security assessment

RCA response:
See [recommendations 137-143]

Recommendation nº147: *Take efficient measures to improve the harsh conditions of custody centres in particular for minorities, migrants and asylum-seekers* (Recommended by *Iran*)

IRI: *not implemented*

RCA response:
See responses to other recommendations on detention.

State of Australia response:
[See response to recommendation n° 144]

NATSILS response:
See No. 1 and No. 3. and see No. 103

AHRC response:
Not implemented. The Commission has raised concerns about the state of many of Australia's immigration detention facilities and has found that many are not appropriate places in which to hold people, especially for prolonged periods of time.

Joint response:
NOT IMPLEMENTED
Nauru facilities were burnt down on July 19 when new policies were announced. Since then all asylum seekers having been living in tents.

The UNHCR recently visited Nauru and described conditions there as very harsh.
400 men share 8 toilets. Health issues include skin infections, gastro and other diseases associated with living in close quarters, in the heat and with little to hope for. Self harm is prevalent.

It is difficult for asylum seekers in detention to access legal advice as they are not given contact details.

Recommendation nº148: *Consider alternatives to the detention of irregular migrants and asylum- seekers, limit the length of detentions, ensure access to legal and health assistance and uphold its obligations under the Vienna Convention on Consular Relations* (Recommended by *Brazil*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 144]

GHRC response:
Partially implemented. There are other programs which operate in conjunction with the closed detention facilities: community detention and bridging visas. It is lawful for people to be detained in immigration detention for an indefinite period of time. Moreover since the adoption of the 'No Advantage' recommendation of the Expert Panel on Asylum Seekers, asylum seekers who arrive by boat must not have their claims processed before such time as they would have been, had they applied offshore. Limiting the length of detention for irregular migrants is against government policy, which is intended to discourage people smuggling. Article 36 of the Vienna Convention was not implemented into domestic legislation with other provisions of the Convention by way of section 5 of the Consular Privileges and Immunities Act 1972 (Cth). While the obligations and rights of Article 36 cannot be enforced in Australia, the Australian Government recognises the rights of consular officials when foreign nationals are in detention, including visitation and correspondence rights as well as the right to arrange legal representation for the detainee

AHRC response:
Partly implemented - since October 2010, the Australian Government has moved increasing numbers of asylum seekers and refugees from closed immigration detention into the community, pending resolution of their claims for protection. This has been achieved through the use of community detention and bridging visas

Joint response:
NOT IMPLEMENTED
Bridging visas are available to some asylum seekers but most asylum seekers on bridging visas do not have work rights.

The Coalition government has stopped referring asylum seekers in detention and asylum seekers who arrived by boat to the legal aid providers who have been contracted to provide such services. This is a cut of legal aid by stealth. Their policy is to replace expert legal advice with info kits provided by the Department of Immigration and Border Protection, the same department that makes RSD decisions.

Over 25'000 people will not be able to receive free independent legal advice regarding their protection claims.

RCA response:
See responses to other recommendations on detention.

Recommendation nº149: *Do not detain migrants other than in exceptional cases, limit this detention to six months and bring detention conditions into line with international standards in the field of human rights* (Recommended by *Switzerland*)

IRI: *not implemented*

RCA response:
See responses to other recommendations on detention. There is still no time limit on immigration detention under Australian law and few grounds on which asylum seekers can challenge the lawfulness of their detention. Theoretically, a person could be detained for the course of their natural life, unless the Australian Government decided to grant them a visa or they agreed to leave the country. Australian Government immigration detention statistics show that, as at 31 May 2013, 112 people had been in immigration detention for more than two years.

Joint response:
NOT IMPLEMENTED
Nauru and Manus Island detention centres rely on tent accommodation in 50 degree heat. Manus Island has malarial mosquitoes. Neither island has enough drinking water. It must be shipped in.

Recommendation nº151: *Continue to work and coordinate with countries in the region to strengthen the regional framework to deal with irregular migration and human trafficking in a comprehensive and sustainable manner, bearing in mind international human rights and humanitarian principles* (Recommended by *Thailand*)

IRI: *fully implemented*

RCA response:
Australia has continued to work through the Bali Process to enhance regional cooperation on irregular migration and human trafficking and in recent years has encouraged a greater focus on refugee protection issues. However, discussions through the Bali Process continue to focus overwhelmingly on deterrence and border protection. Broader protection concerns and measures to provide assistance and support to people fleeing persecution have received comparatively little attention and there have been few concrete achievements on either of these issues.

State of Australia response:
[See response to recommendation n° 95]

Joint response:
NOT IMPLEMENTED
Australia's relationship with Indonesia under the current Government has focussed on the turning back the boats policy but given allegations of spying may now be completely soured.

Sri Lanka has just received two boats from Australia to assist with their endeavours to stop people smugglers.

The current government does not seem to be focussing on regional protection rather more on border control and regional deterrence.

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In May 2008, the Australian Government established an 11 member National Council to Reduce Violence against Women and their Children. The Council's task was to provide advice on the development of an evidence-based national plan. The National Plan consists of four complementary three-year Action Plans:

- First Action Plan (2010–2013) – Building a Strong Foundation;
- Second Action Plan (2013–2016) – Moving Ahead;
- Third Action Plan (2016–2019) – Promising Results; and
- Fourth Action Plan (2019–2022) – Turning the Corner.

Progress on the National Plan will be made public through annual reports made to the Council of Australian Governments (COAG).

The National Plan Implementation Panel (NPIP) was established to oversee and advise on the National Action Plan.

Recommendation nº153: *Investigate allegations of torture in the context of counter-terrorism measures, give publicity to the findings, bring perpetrators to justice and provide reparation to the victims* (Recommended by *Brazil*)

IRI: *partially implemented*

State of Australia response:

The Australian Government will continue to ensure that the Independent National Security Legislation Monitor (INSLM) has the power to review the practical operation, effectiveness and implications of Australia's counterterrorism and national security legislation on an ongoing basis. The INSLM's first annual report was tabled in Parliament on 19 March 2012, in accordance with the Independent National Security Legislation Monitor Act 2010. The Inspector General of Intelligence and Security (IGIS) and the Parliamentary Joint Committee on Intelligence and Security (PJCIS) will also provide additional oversight mechanisms that complement the work of the INSLM.

Performance indicator/ timeline

Ongoing (INSLM).

2013 (COAG Review).

In addition, the Council of Australian Governments (COAG) is undertaking a review of key provisions of Australia's counter-terrorism legislation which were enacted following the 2005 London bombings (this includes both Commonwealth and state and territory legislation). The Review is being conducted by an independent committee, chaired by the Hon Anthony Whealy QC. Full details of the Review are available [online]

AHRC response:

Partly implemented. The Government has undertaken a number of positive measures including developing a National Action Plan to Combat Human Trafficking and Slavery 2014-18, enacted the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2012, which amends the Crimes Act 1914 to

include a number of new offences, strengthens the provisions and improve the availability of reparations to victims.

The Joint Standing Committee released its report Trading Lives: Modern Day Human Trafficking in June 2013. Some of the Committee's recommendations included that the Australian Government:

- continue to use international mechanisms to combat people trafficking
- investigate establishing a federal compensation scheme for victims of slavery and people trafficking and review the current rates of compensation
- renegotiate funding contracts for non-governmental organisations one year before their conclusion
- provide an initial automatic reflection period of 45 days, with relevant agencies given the capability to grant two further extensions of 45 days if required.
- consider a range of tools to combat trafficking crimes including increasing community awareness.

AHRC response:
An independent monitor for security legislation exists and reports annually. No findings on torture have been made to date.

Joint response:
PARTIALLY IMPLEMENTED.
After the alleged torture of Australian citizen Mamdouh Habib (2001-05), the Commonwealth Government requested that the Inspector-General of Intelligence and Security conduct an inquiry into the involvement of intelligence and other agencies regarding the arrest and detention of Mr Habib. The findings were made public and a confidential settlement was reached with Mr Habib.

The Inspector General's report held that no Australian officials were criminally liable for Mr Habib's torture, but made six general recommendations to reduce the likelihood of a similar incident occurring in the future. The recommendations included:

- that DFAT should amend its 'Arrest and Detention checklist' for consular staff;
- that ASIO should amend its policies and procedures for cooperating in the interrogation of Australians overseas and its guidelines for communicating information to foreign authorities; and
- that the AFP should develop a policy on what to do when officers become aware that a person has been, or may be, subject to torture or other similar treatment and review its guidelines on disclosure of information to foreign authorities.

The recommendations were accepted by the Commonwealth government in 2012, with the exception of a recommendation that an apology be made to Mr Habib's wife, and the government has already implemented many of these changes. In particular, the government has adopted 'whole-of-government coordination protocols' designed to 'ensure that the various actions taken by the Australian Government across multiple agencies and departments in response to events of (potential) torture or mistreatment of detainees overseas are consistent, appropriate, with security and safety maintained.'

Recommendation nº154: *Carry out a review of all 50 newly adopted laws since 2001 on combating terrorism, and of their application in practice so as to check their compliance with Australia's human rights obligations* (Recommended by *Russian Federation*)

IRI: *partially implemented*

State of Australia response:
The Australian Government will continue to ensure that the Independent National Security Legislation Monitor (INSLM) has the power to review the practical operation, effectiveness and implications of Australia's counterterrorism and national security legislation on an ongoing basis. The INSLM's first annual report was tabled in Parliament on 19 March 2012, in accordance with the Independent National Security Legislation Monitor Act 2010. The Inspector General of Intelligence and Security (IGIS) and the Parliamentary Joint Committee on Intelligence and Security (PJCIS) will also provide additional oversight mechanisms that complement the work of the INSLM.

Performance indicator/ timeline
Ongoing (INSLM).
2013 (COAG Review).

In addition, the Council of Australian Governments (COAG) is undertaking a review of key provisions of Australia's counter-terrorism legislation which were enacted following the 2005 London bombings (this includes both Commonwealth and state and territory legislation). The Review is being conducted by an independent committee, chaired by the Hon Anthony Whealy QC. Full details of the Review are available [online]

AHRC response:
Partly implemented. On 6 August 2012, the Council of Australian Governments (COAG) commenced its review of counter-terrorism legislation in Australia. The terms of references outlines that the review would evaluate the operation, effectiveness and implications of key Commonwealth, state and territory counter-terrorism laws. The report made 47 recommendations to change counterterrorism laws at the state and federal level to ensure that they are necessary and proportionate, are effective against terrorism by providing law enforcement, intelligence and security agencies with adequate tools to prevent, detect and respond to acts of terrorism, are being exercised in a way that is evidence-based, intelligence-led and proportionate, and contain appropriate safeguards against abuse.

In April 2011, the Governor General appointed the first Independent National Security Legislation Monitor (INSLM) under the Independent National Security Legislation Monitor Act 2010 (the Act). The INSLM's role is to review the operation, effectiveness and implications of Australia's counter-terrorism and national security legislation on an ongoing basis. This includes considering whether the laws contain appropriate safeguards for protecting the rights of individuals, remain proportionate to any threat of terrorism or threat to national security or both, and remain necessary. The Legislation requires that the INSLM produce an annual report. The first report was tabled in Parliament in March 2012.

Joint response:
PARTIALLY IMPLEMENTED
The Independent National Security Legislation Monitor Act 2010 (Cth) has established the office of the Independent National Security Legislation Monitor (INSLM). The INSLM's duty is to review the operation, effectiveness and implications of Australia's counter-terrorism and national security legislation on an ongoing basis. While reviewing legislation the INSLM is also taking into account Australia's obligations under international law including international human rights law.

The INSLM produces an annual report with recommendation to the government. Further, the Prime Minister may refer national security and counter-terrorism matters to the INSLM, either on his own initiative or at the suggestion of the INSLM. Members of the public are also invited to make submission to the INSLM. With regards to the review of relevant legislation, the INSLM is currently reviewing the National Security Information (Criminal and Civil Proceedings) Act 2004 (Cth) and the terrorism financing legislation as contained in Chapter 5 of the Criminal Code Act 1995 (Cth) and Part 4 of the Charter of the United Nations Act 1945 (Cth). As this review is still ongoing no results or the government's reaction thereto can be reported.

In addition to the INSLM, the Inspector General of Intelligence and Security (ICIS) and the Parliamentary Joint Committee on Intelligence and Security (PJCIS) will, according to the government, also provide additional oversight mechanisms complementing the work of the INSLM. Furthermore, the Council of Australian Governments (COAG) is undertaking a review of key provisions of Commonwealth, state and territory counter-terrorism legislation enacted after 2005. The review is scheduled for completion in 2014.

Recommendation nº155: *Review the compatibility of its legislative framework to combat terrorism with its international obligations in the field of human rights and remedy any possible gaps* (Recommended by *Belgium*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 154]

AHRC response:
[See response to recommendation n° 154]

Joint response:
PARTIALLY IMPLEMENTED.

Regarding the review of existing legislation by the INSLM, ICIS, PJCIS and COAG:
NOT IMPLEMENTED
The rights of asylum seekers have been severely curtailed in the past 18 months. Policies discriminate between mode of arrival for asylum seekers, with plane arrivals allowed to live and work in the community whilst their refugee status is assessed and boat arrivals being either placed on bridging visas with no work rights or shipped to a remote offshore detention centre to wait for their claims to be assessed.

Asylum seekers are seeking asylum in Australia not Nauru or PNG. Their claims to asylum should be assessed in Australia.

Sri Lankan asylum seekers are being returned to a country they fear without a full assessment of their protection claims. There is no due process in the enhanced screening process.

Punitive policies have been introduced that focus on asylum seekers who came by boat. They are retrospective. They affect all asylum seekers onshore who have not been granted a visa, regardless of their date of arrival or when their application was lodged.

- Independent, free legal advice is under threat for asylum seekers who came by boat. Without this advice and assistance, vulnerable often illiterate asylum seekers will be left to navigate the complicated protection application process by themselves.
- Temporary Protection Visas will be granted to this cohort. These visas will not act as a deterrent for future asylum seekers as the Government's intention for future asylum seekers is to ship them to offshore processing countries Rather, the TPVs are punishment for those who came to Australia prior to July 19 2013 to claim asylum as they, if found to be refugees, will be granted a TPV and holders of a TPV will never be able to apply for permanent protection, leave the country or apply for family reunion. In addition, every 3 years they will have to prove they are a refugee. There is little chance of refugees settling well into a country if they have a temporary visa. The TPV is not a durable solution. UNHCR underlines the importance of durable solutions for refugees.

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Statement of compatibility for parliamentary scrutiny:
NOT IMPLEMENTED
In its official response to the UPR recommendations on 8 June 2011 the Australian government has announced that 'Australia cannot commit to becoming party to the ILO No.169, but will formally consider becoming a party to this treaty.' In the National Human Rights Action plan published 2012, the government reinforced its intention to review its position and to work in consultation with Aboriginal and Torres Strait Islander representatives and Australia's ILO social partners. Since then there has been no progress and the new Federal Government's official policies do not include any reference to the Convention. To our knowledge, party spokespeople have not made any recent pronouncements on the issue

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NOT IMPLEMENTED
In the government's National Human Rights Action plan 2012 it expressed its intention to review its reservation to Art.4 (a) of the CERD in consultation with state and territory government. This review, the government held, would be finalised by the end of 2012. At the time of writing, the reservation to Art.4 (a) was still in place

Recommendation nº156: *Continue to ensure that its legislation and methods to combat terrorism are in accordance with the International Covenant on Civil and Political Rights* (Recommended by *Moldova*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 154]

AHRC response:
Partly implemented. On 6 August 2012, the Council of Australian Governments (COAG) commenced its review of counter-terrorism legislation in Australia. The terms of references outlines that the review would evaluate the operation, effectiveness and implications of key Commonwealth, state and territory counter-terrorism laws. The report made 47 recommendations to change counterterrorism laws at the state and federal level to ensure that they are necessary and proportionate, are effective against terrorism by providing law enforcement, intelligence and security agencies with adequate tools to prevent, detect and respond to acts of terrorism, are being exercised in a way that is evidence-based, intelligence-led and proportionate, and contain appropriate safeguards against abuse.
In April 2011, the Governor General appointed the first Independent National Security Legislation Monitor (INSLM) under the Independent National Security Legislation Monitor Act 2010 (the Act). The INSLM's role is to review the operation, effectiveness and implications of Australia's counter-terrorism and national security legislation on an ongoing basis. This includes considering whether the laws contain appropriate safeguards for protecting the rights of individuals, remain proportionate to any threat of terrorism or threat to national security or both, and remain necessary. The Legislation requires that the INSLM produce an annual report. The first report was tabled in Parliament in March 2012.

Joint response:
PARTIALLY IMPLEMENTED
The Independent National Security Legislation Monitor Act 2010 (Cth) has established the office of the Independent National Security Legislation Monitor (INSLM). The INSLM's duty is to review the operation, effectiveness and implications of Australia's counter-terrorism and national security legislation on an ongoing basis. While reviewing legislation the INSLM is also taking into account Australia's obligations under international law including international human rights law.

The INSLM produces an annual report with recommendation to the government. Further, the Prime Minister may refer national security and counter-terrorism matters to the INSLM, either on his own initiative or at the suggestion of the INSLM. Members of the public are also invited to make submission to the INSLM. With regards to the review of relevant legislation, the INSLM is currently reviewing the National Security Information (Criminal and Civil Proceedings) Act 2004 (Cth) and the terrorism financing legislation as contained in Chapter 5 of the Criminal Code Act 1995 (Cth) and Part 4 of the Charter of the United Nations Act 1945 (Cth). As this review is still ongoing no results or the government's reaction thereto can be reported.

In addition to the INSLM, the Inspector General of Intelligence and Security (ICIS) and the Parliamentary Joint Committee on Intelligence and Security (PJCIS) will, according to the government, also provide additional oversight mechanisms complementing the work of the INSLM. Furthermore, the Council of Australian Governments (COAG) is undertaking a review of key provisions of Commonwealth,

state and territory counter-terrorism legislation enacted after 2005. The review is scheduled for completion in 2014.

SOGI

Recommendation nº78: *Continue to implement the harmonization and consolidation of antidiscriminatory laws and to move forward with the promulgation of laws protecting persons against discrimination on the grounds of sexual orientation or gender* (Recommended by *Colombia*)

IRI: *partially implemented*

New South Wales Gay & Lesbian Rights Lobby (NSW-GLRL) response:

One of the key projects provided for under Australia's Human Rights Framework was the consolidation of Commonwealth anti-discrimination laws from a number of pieces of legislation, into one consolidated Human Rights and Anti-Discrimination Act. In November 2012, an exposure draft Human Rights and Anti-Discrimination Bill was released by the Australian Government Attorney-General's Department and was referred to the Senate Legal and Constitutional Affairs Legislation Committee for inquiry and report. The Committee's Report was released on 21 February 2013. The draft Bill incorporated anti-discrimination protections on the basis of sexual orientation, gender identity, intersex status and relationship status.

In March 2013, the Australian Government announced that, aside from amendments to the Sex Discrimination Act 1984 (Cth) (SDA), the consolidation process involved a number of issues requiring 'deeper consideration' and that the Attorney-General's Department would 'continue working on this project'. Following a change of Government in Australia in September 2013 to a conservative led coalition, the status of the project was unclear at the time of writing.

In June 2013, the amendments were enacted, offering the first Commonwealth anti-discrimination protection for LGBTI people in Australia. From 1 August 2013, this entitled individuals to make a complaint of discrimination on these grounds to the Australian Human Rights Commission.

The amendments to the SDA included provisions prohibiting discrimination on the basis of sexual orientation, gender identity, intersex status and relationship status. Following strong lobbying efforts by the GLRL and others, important amendments were also made to remove the religious exemption for Commonwealth-funded aged care service providers.

The amendments were a significant step forward; however ongoing concerns remain in relation to a number of issues including the operation of the religious exemptions more broadly (the GLRL is concerned that religious exemptions should be removed from other areas of service delivery, and all areas of employment, to bring sexual orientation, gender identity and intersex status protections into harmony with racial

discrimination protections), and the need for a specific dedicated LGBTI Commissioner at the Australian Human Rights Commission.

There are also inconsistencies between the sexual orientation, gender identity and intersex status protections now offered under Commonwealth law, and anti-discrimination protections under NSW state law, which only cover homosexual and transgender people. In the GLRL's view, these inconsistencies need to be addressed, including removing religious exceptions that operate in NSW.

AHRC response:
Not implemented. A harmonised approach to discrimination law and implementation remains pending. The previous Australian Government committed to the development of a consolidated anti-discrimination law that would address the significant technical, definitional and operational differences between the four existing federal discrimination laws that had been developed over a 30 year period.

A draft exposure bill was released for public comment in late 2012. While offering many significant improvements and simplifications to the existing laws, the bill met with significant public concern relating to issues including the grounds of discrimination covered, changes to the onus of proof, and the reference to behaviour that insults or offends within the definition of discrimination. The bill has not proceeded beyond the draft exposure stage.

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Implemented. The Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 (Cth) inserted new grounds into the Sex Discrimination Act 1984 (Cth) (SDA). The changes to the SDA now provide protection against discrimination on the basis of sexual orientation, gender identity and intersex status. Same-sex couples are now also protected from discrimination under the new definition of 'marital or relationship status' (this was previously limited to 'marital status'). These protections commenced on 1 August 2013. Most states and territories have some form of protection against discrimination on the basis of sexual orientation and gender identity. However, the federal amendments introduce more inclusive definitions and addresses gaps such as a lack of coverage for acts or practices of the federal government. It also qualifies the exemptions for religious organisations to the effect that it does not apply to conduct connected with the provision of Commonwealth-funded aged care services. It also includes the new ground of intersex status which is not covered by any other law.

Joint response:
regarding the consolidation of federal anti-discrimination laws:
NOT IMPLEMENTED
In March 2013 the Government announced that it would delay its consolidation of Australia's anti-discrimination laws. The decision was met with extreme disappointment amongst community organisations and human rights groups.

The consolidation and modernisation of the five laws passed over the course of 4 decades, would simplify legislation schemes, address previous shortcomings and make anti-discrimination laws more effective, accessible and clear.

The draft Human Rights and Anti-Discrimination Bill 2012 was the product of a lengthy consultation process. The Senate Legal and Constitutional Affairs Legislation Committee had recommended that the Bill should be prioritised by the Government for introduction and passage through the parliament.

Although the new Commonwealth Attorney-General, George Brandis, has recognised a need to streamline federal anti-discrimination laws, the new Commonwealth government has not committed to proceeding with the former government's plan to consolidate Australia's anti-discrimination legislation.

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IMPLEMENTED

In 2013, after announcing the delay of the consolidation project, the former Government amended the Sex Discrimination Act 1984 (Cth) to prohibit discrimination based on sexual orientation, gender identity and intersex status and extend the ground of "marital status" to protect same sex de facto couples. If the consolidation plan proceeds this amendment will be replaced, with similar protections to be included in the consolidated Act. Despite a carve out for commonwealth funded age care broad exemptions for religious organisations continue to permit discrimination against lesbian, gay, bisexual, transgender and intersex people in a range of areas. In Australia, each State and Territory also has its own anti-discrimination legislation, which operate concurrently with the Commonwealth regime.

Recommendation nº79: *Introduce a national legal provision prohibiting discrimination and harassment based on sexual orientation and gender* (Recommended by *Switzerland*)

IRI: *fully implemented*

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Recommendation nº80: *As a high priority, introduce federal law which prohibits discrimination on the grounds of sexual orientation* (Recommended by *New Zealand*)

IRI: *fully implemented*

NSW-GLRL response:

[See response to recommendation n° 78]

AHRC response:

Implemented. The Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 (Cth) inserted new grounds into the Sex Discrimination Act 1984 (Cth) (SDA). The changes to the SDA now provide protection against discrimination on the basis of sexual orientation, gender identity and intersex status. Same-sex couples are now also protected from discrimination under the new definition of 'marital or relationship status' (this was previously limited to 'marital status'). These protections commenced on 1 August 2013. Most states and territories have some form of protection against discrimination on the basis of sexual orientation and gender identity. However, the federal amendments introduce more inclusive definitions and addresses gaps such as a lack of coverage for acts or practices of the federal government. It also qualifies the exemptions for religious organisations to the effect that it does not apply to conduct connected with the

provision of Commonwealth-funded aged care services. It also includes the new ground of intersex status which is not covered by any other law.

Joint response:
IMPLEMENTED
In 2013, after announcing the delay of the consolidation project, the former Government amended the Sex Discrimination Act 1984 (Cth) to prohibit discrimination based on sexual orientation, gender identity and intersex status and extend the ground of "marital status" to protect same sex de facto couples. If the consolidation plan proceeds this amendment will be replaced, with similar protections to be included in the consolidated Act. Despite a carve out for commonwealth funded age care broad exemptions for religious organisations continue to permit discrimination against lesbian, gay, bisexual, transgender and intersex people in a range of areas. In Australia, each State and Territory also has its own anti-discrimination legislation, which operate concurrently with the Commonwealth regime.

Recommendation nº81: *Take measures to ensure consistency and equality across individual States in recognizing same-sex relationships* (Recommended by *United Kingdom*)

IRI: *partially implemented*

State of Australia response:
The Australian Government supports a nationally consistent framework for recognition of same-sex relationships to be implemented by states and territories.
Performance indicator/Timeline
Ongoing.

The ACT passed the Civil Unions Act 2012 to provide for legal recognition equal to marriage under territory law for couples who are not able to marry under the Marriage Act 1961 (Cth).
Performance indicator/Timeline
The Civil Unions Act 2012 was notified on 4 September 2012 and commenced on 12 September 2012.

The ACT Government has improved the process for recognition of partnerships registered in other jurisdictions. The Civil unions Act 2012 includes mutual recognition provisions for civil union-type relationships entered into in other jurisdictions.
Performance indicator/Timeline
Recognition of all eligible relationships. Completion September 2012.
The Australian Government will introduce new protections against discrimination and harassment based on sexual orientation and gender identity, as part of the project to consolidate Commonwealth anti-discrimination law into a single Act.
Performance indicator/Timeline
Exposure draft legislation due in second half of 2012.

The Australian Government will amend data collection to allow for or encourage disclosure of sexual orientation and gender identity to establish a better evidence base for service provision and policy development.
Performance indicator/Timeline
In time to input into 2016 census reform, ongoing for other agencies.

The South Australian Equal Opportunity Commission accepts complaints of discrimination, provides information and liaises with interest/ advocacy groups to identify issues affecting the gay, lesbian, bisexual and sex and/or gender diverse community.
Performance indicator/Timeline
Ongoing.
Support provided.

The Tasmanian Government remains committed to developing a Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Suicide Prevention Action Plan as an action under Tasmania's Suicide
Prevention Strategy 2010–14.
Performance indicator/Timeline
Ongoing.

NSW-GLRL response:
There is currently no provision for same-sex marriage at a Commonwealth level in Australia. Note however, other than in relation to marriage, following legislative reform in 2008, same-sex couples in a de facto relationship enjoy the same rights under Commonwealth law as married couples.

There have been no moves to ensure consistency and equality across state and territory jurisdictions in recognising same-sex relationships. States and territories have a range of civil registration and civil union schemes which differ between jurisdictions, including several states which only have de facto relationship recognition.

Recently, there has been some discussion and movement towards the introduction of same-sex marriage legislation in some states and territories.

For example, the Australian Capital Territory, Tasmania and South Australia have introduced same-sex marriage legislation. In August 2012, the Same-Sex Marriage Bill 2012 (Tas) was defeated in the upper house. In July 2013, a Bill to provide for same-sex marriage was also defeated in South Australia.

In New South Wales, in July 2013, a Legislative Council Social Issues Committee inquiry into same-sex marriage law in NSW declared that the State of New South Wales has the constitutional power to legislate on the subject of marriage.

The ACT legislation is expected to pass in late October 2013; however the Australian Government has signalled its intention to challenge the ACT legislation in the High Court of Australia.

Briefly, in Australia under the Constitution, the Commonwealth has power to legislate with respect to marriage. However, the Marriage Act 1975 (Cth), defined marriage as between a man and a woman, which arguably does not 'cover the field' with respect to marriage and may mean states and territories have residual power to legislate for marriage between same-sex couples.

AHRC response:
Implemented. The Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 (Cth) inserted new grounds into the Sex Discrimination Act 1984 (Cth) (SDA). The changes to the SDA now provide protection against discrimination on the basis of sexual orientation, gender identity and intersex status. Same-sex couples are now also protected from discrimination under the new definition of 'marital or relationship status' (this was previously limited to 'marital status'). These protections commenced on 1 August 2013. Most states and territories have some form of protection against discrimination on the basis of sexual orientation and gender identity. However, the federal amendments introduce more inclusive definitions and addresses gaps such as a lack of coverage for acts or practices of the federal government. It also qualifies the exemptions for religious organisations to the effect that it does not apply to conduct connected with the provision of Commonwealth-funded aged care services. It also includes the new ground of intersex status which is not covered by any other law.

Joint response:
NOT IMPLEMENTED
Pursuant to the Marriage Act 1961 (Cth), marriage is limited to a union of a man and a women to the exclusion of all others. A bill to remove discrimination from the Marriage Act 1961 (Cth) and recognise same-sex marriages performed overseas was defeated in June 2013.

The Australian Capital Territory recently enacted the Marriage Equality (Same Sex) Act 2013 (ACT), however the Commonwealth has launched a High Court challenge to the Act, claiming that it is inconsistent with the Commonwealth law. The hearing is due to take place in December 2013. Marriage equality legislation was defeated in South Australia in mid 2013 and narrowly failed to pass Tasmania's legislature in 2012. Similar legislation was introduced to the NSW Parliament in October 2013.

The Government is using the argument of national consistency in marriage laws to justify its efforts to invalidate the ACT's same-sex marriage laws in the High Court. It is imperative that consistency should not come at the cost of one state or territory leading the way towards greater equality. The spirit of the recommendation – to achieve equality in the recognition of same-sex relationships throughout the Australia – remains relevant.

Generally de facto relationships have the same recognition as marriages at both a Commonwealth and State level. A number of states and territories have regimes to register and recognise same-sex relationships, which fall short of marriage.

Recommendation nº82: *Amend the Marriage Act to allow same-sex partners to marry and to recognize same-sex marriages from overseas* (Recommended by *Norway*)

IRI: *not implemented*

NSW-GLRL response:

See above in relation to same-sex marriage. At a Commonwealth level there have been a number of moves, including the defeat of a bill introduced in September 2013. It is currently unclear when the next opportunity to introduce a same-sex marriage bill will arise. The Coalition Government is currently opposed to same-sex marriage and Coalition Members of Parliament were required to vote against the bill in September 2013. The opposition Australian Labor Party permitted its Members of Parliament to vote according to conscience. It is currently unclear when the next bill will be introduced, or whether the new makeup of the Parliament will affect the results of any vote.

The Australian Government does not currently recognise same-sex marriages which occurred overseas, but such marriages may be evidence of a de facto relationship for the purposes of Commonwealth, State and Territory laws. A bill to recognise same-sex marriages which occurred overseas was defeated in the Senate (the Upper House of the Australian Parliament) in June 2013.

Further, in some countries a Certificate of No Impediment to Marriage is required for non-citizens before they are able to legally marry in that country. Certificates of No Impediment to Marriage are not a requirement of Australian law. From 1 February 2012, the Australian Government policy is to issues certificates to Australian residents wishing to enter into same-sex marriages overseas. The issuing of the certificate allows same-sex couples to take part in a marriage ceremony overseas and to be recognised as being married according to the laws of that country.

Joint response:

NOT IMPLEMENTED

Pursuant to the Marriage Act 1961 (Cth), marriage is limited to a union of a man and a women to the exclusion of all others. A bill to remove discrimination from the Marriage Act 1961 (Cth) and recognise same-sex marriages performed overseas was defeated in June 2013.

The Australian Capital Territory recently enacted the Marriage Equality (Same Sex) Act 2013 (ACT), however the Commonwealth has launched a High Court challenge to the Act, claiming that it is inconsistent with the Commonwealth law. The hearing is due to take place in December 2013. Marriage equality legislation was defeated in South Australia in mid 2013 and narrowly failed to pass Tasmania's legislature in 2012. Similar legislation was introduced to the NSW Parliament in October 2013.

The Government is using the argument of national consistency in marriage laws to justify its efforts to invalidate the ACT's same-sex marriage laws in the High Court. It is imperative that consistency should not come at the cost of one state or territory leading the way towards greater equality. The spirit of the recommendation – to achieve equality in the recognition of same-sex relationships throughout the Australia – remains relevant.

Generally de facto relationships have the same recognition as marriages at both a Commonwealth and State level. A number of states and territories have regimes to register and recognise same-sex relationships, which fall short of marriage.

Women & Children

Recommendation nº36: *Establish a National Children's Commissioner to monitor compliance with CRC* (Recommended by *New Zealand*)

IRI: *fully implemented*

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Recommendation nº37: *Consider establishing an independent commissioner for child rights* (Recommended by *Poland*)

IRI: *fully implemented*

Marist International Solidarity Foundation (FMSI) response:
Implemented. Ms Megan Mitchell was announced as Australia's first National Children's Commissioner on 25 February 2013. She gave her first public address on 11 April 2013 and within her speech she spoke about how the guiding principles from Articles 2 (Non – discrimination); 3 (Best interests of the Child); 6 (Right to life, survival and development) and 12 (Respect for the views of the child), of the Convention of the Rights of the Child were not being enjoyed by all children in Australia. Ms Mitchell sited the situation experienced by some indigenous children; children in out of home care; asylum seeker children and children in juvenile detention. Ms Mitchell has commenced a 'listening tour' of Australia ('The Big Banter'). In her address to indigenous young people in Cairns earlier this year Ms Mitchell said: "One of my first priorities as National Children's Commissioner is to listen and learn from children and young people themselves, and their advocates. And to ask them to help me identify the priorities for my work.

State of Australia response:
Australia has established a National Children's Commissioner within the Australian Human Rights Commission. Legislation to create the role of Children's Commissioner was passed in June 2012 and the new Commissioner is expected to take office in early 2013.
Performance indicator/timeline
The Australian Human Rights Commission will develop the performance indicators for the Children's Commissioner.

NATSILS response:
Completed. A National Children's Commissioner was established in 2013. however, the National Commissioner cannot receive complaints from children whose rights have been breached and calls by Aboriginal and Torres Strait Islander organisations for a Deputy Commissioner dedicated to Aboriginal and Torres Strait Islander children, given their uniquely disadvantaged status, were not accepted.

WVA response:
World Vision Australia strongly welcomed the appointment of Megan Mitchell as Australia's first National Children's Commissioner on February 25, 2013

WWDA response:
A Commissioner for Children was appointed by the former Labor Government in February 2013. The future and role of the Commissioner remains uncertain following the election of a Federal Liberal Government in September 2013. See [online].

AHRC response:
Implemented. Australia first National Children's Commissioner was appointed in March 2013 for a five year term.

Joint response:
IMPLEMENTED
The position of the National Children's Commissioner was established by the former Commonwealth government on 25 February 2013 as part of the first three-year action plan of the National Framework for Protecting Australia's Children 2009-2020. Among the duties of the National Children's Commissioner are to promote public discussion and awareness of issues affecting children, to conduct research and education programs and to consult directly with children and representative organisations. Also included is a review of proposed and existing Commonwealth legislation to determine if they sufficiently recognise and protect children's rights.

Recommendation nº47: *Comply with the recommendations of the Committee on the Rights of the Child and the Committee on the Elimination of All Forms of Discrimination against Women concerning the sterilization of women and girls with disabilities* (Recommended by *Denmark*)

IRI: *not implemented*

State of Australia response:
The Australian Government will work with states and territories to clarify and improve laws and practices governing the sterilisation of women and girls with disability.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to fund community legal centres that have a primary focus of providing legal information and help in relation to the Disability Discrimination Act 1992 (Cth). The Australian Government will provide $4.34 million over four years commencing 2010.
Performance indicator/timeline
Ongoing.

The Victorian Government will consider recent reviews of Victoria's guardianship and powers of attorney laws by the Victorian Law Reform Commission and the Victorian Parliament Law Reform Committee. The recommendations of these reviews focus on people with impaired decision making ability.
Performance indicator/timeline
To be determined.

The ACT Intensive Treatment and Support (ITAS) Service, which is coordinated with Mental Health ACT, is designed to meet the needs of people over the age of 17 who have a dual disability with high and complex needs, and who are at risk of criminally offending or re-offending.
Performance indicator/timeline
Ongoing.

The ACT participates in the national disability working group which is considering the experience of people with cognitive disability who engage with the criminal justice system.
Performance indicator/timeline
Ongoing.

WWDA response:
In September 2012 the Australian Senate commenced an Inquiry into the involuntary or coerced sterilisation of people with disability in Australia, and released the Inquiry Report in July 2013. The Senate Inquiry Report recommends that national uniform legislation be developed to regulate sterilisation of children and adults with disability, rather than to prohibit the practice. The Report recommends that for an adult with disability who has the 'capacity' to consent, sterilisation should be banned unless undertaken with that consent. However, based on Australia's Interpretative Declaration in respect of Article 12 of the CRPD, the Report also recommends that where a person with disability does not have 'capacity' for consent, substitute decision-making laws and procedures may permit the sterilisation of persons with disability, including children. If the Australian Government accepts the recommendations of the Senate Inquiry, it will mean that the Australian Government remains of the view that it is an acceptable practice to sterilise children and adults with disabilities, provided that they 'lack capacity' and that the procedure is in their 'best interest', as determined by a third party.

AHRC response:
Not implemented, however the Australian Government has undertaken measures to review the current legal framework. On 20 September 2012 the Senate referred the matter of involuntary or coerced sterilisation of people with disabilities in Australia to the Senate Community Affairs Committee for inquiry and report. The report was released in July 2013. The Committee ultimately rejected the AHRC's recommendation that "National legislation be enacted to criminalise, except where there is a serious threat to life or health, (i) the sterilisation of children (regardless of whether they have a disability), and (ii) the sterilisation of adults with disability in the absence of their fully informed and free consent." The Committee recommended that the law should continue to regulate, rather than prohibit, this practice, and that the law must provide stricter safeguards.

Joint response:
NOT IMPLEMENTED
This recommendation is in keeping with United Nations Committee on the Elimination of Discrimination Against Women (2010), the Committee on the Rights of the Child

(2005, 2012), the Human Rights Council (2011), along with the International Federation of Gynecology and Obstetrics (FIGO) Guidelines on Female Contraceptive Sterilization (2011), and recommendations of the World Medical Association (WMA) (2011) and the International Federation of Health and Human Rights Organisations (IFHHRO) (2011).

Forced/involuntary or coerced sterilisation of people with disability, particularly women and girls with disability is an ongoing practice in Australia. In September 2012 the Senate commenced an Inquiry into the involuntary or coerced sterilisation of people with disability in Australia, and released the Inquiry Report in July 2013. The Report recommends that national uniform legislation be developed to regulate sterilisation of children and adults with disability, rather than to prohibit the practice. The Report recommends that for an adult with disability who has the 'capacity' to consent, sterilisation should be banned unless undertaken with that consent. However, based on Australia's Interpretive Declaration in respect of Article 12 of the UN Convention on the Rights of Persons with Disabilities (CRPD), the Report also recommends that where a person with disability does not have 'capacity' for consent, substitute decision-making laws and procedures may permit the sterilisation of persons with disability. If the Australian Government accepts the recommendations of the Senate Inquiry, it will mean that the Australian Government remains of the view that it is an acceptable practice to sterilise children and adults with disabilities, provided that they 'lack capacity' and that the procedure is in their 'best interest', as determined by a third party.

The forced sterilisation of women and girls with disabilities is an act of unnecessary and dehumanising violence, a form of social control, and a violation of the right to be free from torture and other cruel, inhuman or degrading treatment. By not abolishing this practice of forced and involuntary sterilisation the Australian Government, is denying women and girls with disabilities their rights of informed consent, their rights of being a mother; and it also sets many women up for long term physiological problems.

Recommendation nº59: *Take firm measures to end discrimination and violence against women, children and people from vulnerable groups so as to enhance a better respect for their dignity and human rights* (Recommended by *Viet Nam*)

IRI: *partially implemented*

State of Australia response:

Governments will implement the National Plan to Reduce Violence Against Women and their Children (2010–22).

Performance Indicator/timeline

Implementation of national priorities is guided by three-year action plans.

States and territories will retain legislation to criminalise violent conduct and sexual assault together with mechanisms to prosecute and punish perpetrators.

Performance Indicator/timeline

Ongoing.

State and territory governments will continue to provide services to victims of violence including counselling. Victims of violence may be eligible, where

appropriate, for financial assistance through state and territory based victims of crime compensation schemes
Performance Indicator/timeline
Ongoing.

Anyone who has experienced, or is at risk of, domestic and family violence, and/or sexual assault can access 1800RESPECT, the Australian Government's national professional telephone and online counselling service on 1800 737 732
Performance Indicator/timeline
Ongoing.

The Australian Government has introduced laws to Parliament that will criminalise forced marriage, and other measures that will provide appropriate protection for victims.
Performance Indicator/timeline
Ongoing.

The Commonwealth, state and territory Attorneys- General agreed in March 2011 to develop a National Domestic Violence Order Scheme to ensure people protected by a Domestic Violence Order (DVO) remain protected if they move interstate. The scheme will be underpinned by legislation in each state and territory that will automatically recognise domestic and family violence orders throughout Australia. The Australian Government is working with the states and territories to develop model mutual recognition legislation and to identify and implement information sharing capabilities.
Performance Indicator/timeline
The Australian Government is working with the states and territories to agree on a timeline for the introduction of the Scheme.

Governments will respond to the Australian Law Reform Commission (ALRC) and New South Wales Law Reform Commission (NSWLRC) 2010 Report on Family Violence to achieve a more coordinated response to family violence.
Performance Indicator/timeline
2012–13.

The Australian Government will continue to provide funding to legal assistance services with a focus on raising awareness about family violence, including helping victims to access compensation. Funding of $59.5 million over three years, commencing in 2010, will be provided to Indigenous Family Violence Prevention Legal Services, and $2.6 million over four years, commencing in 2010, will be provided to Australian Government Community Legal Services.
Performance Indicator/timeline
Ongoing.

The Australian Human Rights Commission (AHRC) will develop resources to assist bystanders to address sexual harassment in the workplace.
Performance Indicator/timeline

2012.

The Victorian Government will offer training to specialists and mainstream providers of health, disability and drug and alcohol rehabilitation services under the Family Violence Risk Assessment and Risk Management Framework.
Performance Indicator/timeline
2011–14.

The Victorian Government will continue to support the Eliminating Violence against Women Media Awards, which recognises responsible media reporting of family violence and sexual assault and the Media Advocacy Project, which trains and supports victims of violence against women to be advocates for media interviews and public events.
Performance Indicator/timeline
2011–13.

The Preventing Violence in Our Community Program, run through local councils brings together the community, schools, workplaces, sporting organisations and local media to deliver initiatives and educational resources to reduce violence in local communities.
Performance Indicator/timeline
2011–14.

The South Australian Government will implement A Right to Safety: The Next Phase of the Women's Safety Strategy 2011–22, which includes:
- Violence Against Women Regional Collaborations
- Violence Against Women Alliance Network, and
- Family Safety Framework.

Performance Indicator/timeline
2011–22. Initiatives developed and implemented.

The South Australian Government will provide health services and programs targeted to vulnerable groups of women or women at risk, including women who have experienced domestic violence or sexual assault.
Performance Indicator/timeline
Ongoing. Services delivered.

The South Australian Government will review and implement its women's health strategy and action plans to further develop and improve women's specific as well as generic health services.
Performance Indicator/timeline
Ongoing. Services delivered.

The Tasmanian Government continues to strengthen its whole of government Safe at Home strategy, which includes specific family violence legislation, victim support

programs, proactive policing and offender intervention. Approximately $5 million per annum will be provided across government.
Performance Indicator/timeline
Ongoing.

The Tasmanian Government will progress its implementation of the First Action Plan 2010–13: Building a Strong Foundation of the National Plan to Reduce Violence Against Women and their Children 2012–22. A major focus is strengthening primary prevention activity.
Performance Indicator/timeline
Ongoing.

The ACT Government will continue to implement Our Responsibility: Ending violence against women and children 2011–2017, the ACT Prevention of Violence Against Women and Children Strategy. The strategy outlines key priorities aligned with actions under the National Plan to reduce violence against women and their children.
Performance Indicator/timeline
The ACT Governance Group endorsed the implementation plan on 14 August 2012.

The ACT Government will continue to implement women's safety audits for public events and in public spaces.
Performance Indicator/timeline
Ongoing.

The ACT Government will continue to promote public discussions and forums about violence against women and children.
Performance Indicator/timeline
Ongoing.

The Northern Territory Department of the Attorney-General and Justice and the Department of Families and Children are jointly leading a whole of government 'Integrated Response to Family Violence' (IFVP) project in Alice Springs. The three year, $3.26 million project is funded by the Alice Springs Transformation Plan, a joint Northern Territory and Australian Government initiative which aims to improve life outcomes for Aboriginal residents in Alice Springs and their visitors. The IFVP approach is in line with international and national research that identifies best practice in addressing family violence. The project is also consistent with the COAG National Plan to Reduce violence Against Women and the Children 2010–2022.
Performance Indicator/timeline
2011 – KPMG independent evaluation. Ongoing.

GHRC response:
Implemented. In 2010 Australia introduced the National Plan to Reduce Violence against Women and their Children 2010–2022. The National Plan provides the

framework for action by the Commonwealth, State and Territory governments to reduce violence against women and their children. Other measures to end discrimination and violence against vulnerable groups include legislation to strengthen the Sex Discrimination Act 1984 in May 2011 and and the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013.

WWDA response:
The primary response to addressing violence against women in Australia, including women with disabilities, is through The National Plan to Reduce Violence against Women and their Children 2010-2022. The National Plan is supported by a National Implementation Plan and jurisdictional Implementation Plans. Although the UN Committee on Economic, Social and Cultural Rights (CESCR) has recommended that the National Plan be framed and operationalised in a human rights framework, it is only linked to CEDAW, and focuses only on domestic/family violence and sexual assault. In relation to addressing violence against women and girls with disability, the National Plan, and it's State/Territory Implementation Plans, are limited in that there is little emphasis on girls with disabilities, and they fail to address the myriad forms of violence that women and girls with disabilities experience, such as sterilisation, forced abortions, forced contraception, restrictive interventions and practices, forced psychiatric interventions, and violence and abuse within institutional settings.

AHRC response:
Ongoing. In September 2012 the Government released the first implementation plan for the National Plan to reduce Violence against Women and their Children. The Commission remains concerned that to date there is no formal, independent monitoring or evaluation process proposed for the National Plan.
The Commission also welcomes the development of a national domestic and family violence order (DVO) scheme.

Joint response:
PARTIALLY IMPLEMENTED
During Australia's initial UPR review, NGOs called for the implementation of the 2008 Sex Discrimination Act inquiry recommendations. Many of these recommendations are yet to be implemented.

The simplifying and strengthening of anti-discrimination laws was expected to occur through the consolidation of discrimination laws project. The Senate Committee review of the draft legislation supported a unified definition of discrimination; the sharing of the burden of proof; each party paying their own costs; recognition of intersecting forms of discrimination; and recommended the inclusion of domestic violence as a protected attribute. This legislation is still to be enacted.

Amendments to the Fair Work Act 2009 (Cth) have resulted in a right to request flexible work arrangements for victims of family violence and carers of such victims. However, the government rejected a proposed amendment to include an adverse action protection relating to being a victim/survivor of domestic and family violence in the Fair Work Act.

While welcoming Fair Work Australia's 2012 decision for equal pay in the social and community services industry, it will be many years before its full benefits and impact are realised.

Women in Australia continue to face employment discrimination on the basis of housing, pregnancy and family responsibilities. Furthermore, according to 2013 ABS statistics, women receive on average 17.5% less in weekly wages than men. On average women's superannuation is 56.5% less than of that of men.

Recommendation nº60: *Put an end, in practice and in law, to systematic discrimination on the basis of race in particular against women of certain vulnerable groups* (Recommended by *Iran*)

IRI: *partially implemented*

State of Australia response:
The Tasmanian Government supports and promotes the 'Play by the Rules' initiative which promotes sporting cultures that are inclusive and free of harassment and discrimination.
Performance Indicator/timeline
Launched 2008 and reviewed and re-launched 2012.

The Tasmanian Women's Plan is a framework being developed to help ensure government actions are responsive to the needs of women and girls and are representative of their views for the next five years and into the future. The Plan focuses on economic security, financial independence, education and training, health and wellbeing, housing, leadership, safety and justice.
Performance Indicator/timeline
Ongoing.

The Australian Human Rights Commission (AHRC) has reviewed the treatment of women at the Australian Defence Force Academy (ADFA) and the effectiveness of cultural change strategies and initiatives required to improve leadership pathways for women in the Australian Defence Force (ADF). The Department of Defence's comprehensive response this and other reviews into Defence Force culture, the Pathway to Change: Evolving Defence Culture, outlines how the recommendations of the reviews will be implemented consistently with the wider Defence reform program.
Performance Indicator/timeline
Implementation of the Defence cultural reviews will incorporate implementation of the Review into the Treatment of Women at ADFA. Part Two of the AHRC Review, considering the treatment of women in the wider ADF, was released on 22 August 2012. The Australian Government and Department of Defence have agreed in-principle to accept the recommendations of the Review.

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The Race Discrimination Commissioner of the Australian Human Rights Commission (AHRC) leads the development and delivery of a National Anti-Racism Partnership and Strategy, including government and non-government partners (Federation of Ethnic Communities' Councils of Australia and the National Congress of Australia's First Peoples). In 2012, the AHRC undertook extensive national consultations. The

resulting national anti-racism campaign, Racism. It stops with me, was launched on 24 August 2012, and will be implemented over three years to 2015.
Performance indicator/timeline
The Strategy was launched on 24 August 2012, with implementation of the strategy rolled out over three years (2012–15).

The Australian Government will continue to engage with and monitor the effectiveness of the independent and non-partisan Australian Multicultural Council (AMC) which was established in 2011. Since September 2012, the AMC has met eight times and provided advice to Government in various forms.
Performance indicator/timeline
Ongoing.

The Australian Government will monitor the effectiveness of the People of Australia Ambassadors program to promote the benefits of multiculturalism. In January 2012, 40 Ambassadors were appointed for a 12 month term, following a national Expression of Interest which generated over 350 applications.
Performance indicator/timeline
The Program itself is ongoing.

The Australian Government conducted an inquiry into the responsiveness of Australian Government services to clients disadvantaged by cultural or linguistic barriers. In June 2012, an independent inquiry panel provided the Government with an assessment of the Australian Government's current approach to Access and Equity, and prioritised recommendations for improving the responsiveness of Australian Government services to a culturally and linguistically diverse population. The Government is developing its response to these recommendations.
Performance indicator/timeline
The Panel delivered its final report and recommendations to the Australian Government in June 2012. DIAC is currently progressing a whole-of government response to the recommendations.

The Australian Government will work with state and territory governments under the Council Of Australian Governments to endeavour to ensure that data collected by government agencies on client services can be disaggregated by markers of cultural diversity.
Performance indicator/timeline
2012–14

The Australian Government will monitor the effectiveness of the recently established Multicultural Arts and Festivals Grants (MAFG), a subset of the Diversity and Social Cohesion Program (DSCP). MAFG provides funding for multicultural arts and festivals small grants to support community organisations to express their cultural heritages and traditions. This encourages social cohesion and mutual understanding. The Australian Government has committed $500,000 over four years commencing 2011–12 from the DSCP appropriation.
Performance indicator/timeline

Applicants may apply for funding on an ongoing basis. Applications are considered through distinct cycles over the financial year.

Monitor the effectiveness of the recently established Multicultural Youth Sports Partnership Program.
Performance indicator/timeline
Ongoing.

The Australian Government coordinates an annual Harmony Day to celebrate Australia's cultural diversity on March 21 to coincide with the United Nations Day for the Elimination of Racial Discrimination.
Performance indicator/timeline
Annual.

The Australian Government will undertake future work on community grants to promote social cohesion and combat violent extremism e.g. Building Community Resilience Youth Mentoring Grants Program.
Performance indicator/timeline
Funding across four years was provided in the 2010–11 Budget terminating in 2013–14.

The Australian Government will continue to fund the Federation of Ethnic Communities' Councils of Australia (FECCA) to provide advice on the views and needs of culturally and linguistically diverse communities. The Government allocated $432,000 in 2012–13.
Performance indicator/timeline
Annual.

Australian Governments will work together with international students and the international education sector to implement the Council of Australian Governments (COAG) International Students Strategy for Australia 2010–14 to support a high quality experience for international students.
Performance indicator/timeline
Ongoing.

The Victorian Government will continue to support health service providers to better meet the needs of the diverse communities they serve, including people from culturally and linguistically diverse (CALD) backgrounds through a variety of initiatives Examples include:

- Cultural Responsiveness Framework: guidelines for Victorian Health Services, specifying standards for reporting, and
- Victorian Patient Satisfaction Monitor, to survey and collate information about patients' experiences with adult in-patient healthcare in Victorian hospitals.

Performance indicator/timeline
Ongoing. Improved access and responsiveness of health services for people from CALD backgrounds.

The South Australian Government will provide grants to support activities that increase understanding of the culturally diverse community in which we live and improve equality and tolerance in society.
Performance indicator/timeline
Ongoing. Grants provided.

The South Australian Government will support health service providers to better meet the needs of the diverse communities they serve, including people from culturally and linguistically diverse backgrounds through a range of initiatives.
Performance indicator/timeline
Ongoing. Provision of services.

The Tasmanian Government has implemented a process of anonymous reporting of incidents of racial vilification and or violence in the community to allow for monitoring of the incidences of such and to allow for targeting of programs to address incidences. This is in addition to formal complaint mechanisms to allow for a nonthreatening process. The Tasmanian Government has allocated $20,000 per annum to this initiative.
Performance indicator/timeline
Launched 2010.

AHRC response:
Partly implemented. The Government launched a new national multicultural policy (People of Australia) in February 2011, followed by the National Anti-Racism and Partnership Strategy (NARPS) in August 2012. The Strategy will be implemented between 2012 and 2015. An important component of NARPS is the anti-racism campaign – Racism. It stops with me, which is lead by the Commission.

On 18 March 2013, the Joint Standing Committee on Migration tabled its report in Parliament on the inquiry into Multiculturalism in Australia. The Committee made a number of recommendations to the Government that address issues of racism, religious diversity, social inclusion, settlement, participation, employment to name a few.

Joint response:
PARTIALLY IMPLEMENTED
The Racial Discrimination Act 1975 (Cth) aims to ensure that people of all backgrounds are treated equally and have the same opportunities. The Act also makes discrimination against people on the basis of their race, colour, descent or national or ethnic origin unlawful. Complaints of race discrimination can be lodged with the Australian Human Rights Commission. The Act gives effect to Australia's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, to which Australia is committed.

In March 2012, the Australian Human Rights Commission launched a wide-ranging consultation process to guide the development of the National Anti-Racism Strategy. In July 2012, the National Anti Racism strategy (2012-2015) was launched. The

strategy incorporated the principles of the United Nations Declaration of the Rights of Indigenous Peoples, with particular consideration of the right to self-determination.

Recommendation nº63: *Intensify its efforts to further combat gender discrimination* (Recommended by *Norway*)

IRI: *fully implemented*

State of Australia response:

The Australian Government has committed to achieving a minimum of 40 per cent representation of both women and men on Australian Government Boards and through the Equal Opportunity for Women in the Workplace Agency, will continue to work with the private sector to achieve gender balance in private sector leadership ranks and forums.

Performance Indicator/timeline

By 2015.

The Australian Government has released its National Action Plan on Women, Peace and Security 2012–18. This National Action Plan consolidates and builds on the broad program of work already underway in Australia to integrate a gender perspective into peace and security efforts, protect women and girls' human rights, particularly in relation to gender-based violence, and promote their participation in conflict prevention, management and resolution. The National Action Plan implements United Nations Security Council Resolution 1325 (UNSCR 1325) and related resolutions under the United Nations Women, Peace and Security agenda. The Australian Government, in partnership with UN Women, launched a documentary Side by Side: Women, Peace and Security. An accompanying educational toolkit was also developed, which together with the documentary will be used as a training and practical awareness raising tool for peacekeepers, civilians and humanitarians working in the women, peace and security space.

Performance Indicator/timeline

2012–18.

The South Australian Government will aim to improve women's participation in leadership positions, particularly as members of State Government boards and committees and as executives in the public sector as outlined in South Australia's Strategic Plan.

Performance Indicator/timeline

Participation rates of women in leadership positions. By end 2014.

Hobart Women's Health Centre is funded by the Tasmanian Government to provide a range of services and programs to support Tasmanian Women to increase their knowledge, skills and action for informed self-determining of their health and wellbeing. The Centre also offers an advocacy voice that provides a feminist perspective on public policy that affects the lives of women across the state.

Performance Indicator/timeline

Ongoing.

The Australian Government will consider the recommendations made by the Senate Legal and Constitutional Affairs Committee in its 2008 inquiry on the effectiveness of

the Sex Discrimination Act 1984, as part of the project to consolidate Commonwealth anti-discrimination laws into a single Act.
Performance Indicator/timeline
Exposure draft legislation due in 2012.

WWDA response:
In the 2006 Concluding Observations made by the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee), concerns were expressed to Australia about the lack of reporting of data disaggregated by gender, sex and disability which would support effective analysis of legal and policy measures taken towards the practical realisation of equality for women. In the 2010 Concluding Observations made by the CEDAW Committee, a number of concerns were expressed to Australia about the situation of girls and women with disabilities, particularly in relation to educational and employment disadvantage, lack of participation in leadership and decision-making positions, the high levels of violence and the ongoing practice of non-therapeutic sterilisation. The CEDAW Committee urged Australia to undertake a comprehensive assessment of the situation of women with disabilities in Australia. This has not occurred.

AHRC response:
Partly implemented. The Government has undertaken a number of initiatives to combat gender discrimination. In November 2012 the federal Parliament passed the Workplace Gender Equality Act 2012. The Act focuses on gender equality including equal pay between women and men, promotes the elimination of discrimination on the basis of family and caring responsibilities and provides data on the state of gender equality in Australian workplaces 4) changes the name of the Equal Opportunity for Women in the Workplace Agency to the Workplace Gender Equality Agency. The Commission however remains concerned about the significant pay gap between men and women in Australia (17.5%), the significant gap in retirement savings women when compared with men, and the comparatively lower levels of participation of women in senior and leadership positions in employment.

Other welcomed achievements include the Australian National Action Plan on Women, Peace and Security, a commissioned Review into the Treatment of Women in the Defence Force, a commissioned review into pregnancy discrimination in the workplace, support by the Government for the UN Special Rapporteur on violence against women to undertake a study tour in Australia in April 2012.

Joint response:
PARTIALLY IMPLEMENTED
During Australia's initial UPR review, NGOs called for the implementation of the 2008 Sex Discrimination Act inquiry recommendations. Many of these recommendations are yet to be implemented.

The simplifying and strengthening of anti-discrimination laws was expected to occur through the consolidation of discrimination laws project. The Senate Committee review of the draft legislation supported a unified definition of discrimination; the sharing of the burden of proof; each party paying their own costs; recognition of

intersecting forms of discrimination; and recommended the inclusion of domestic violence as a protected attribute. This legislation is still to be enacted.

Amendments to the Fair Work Act 2009 (Cth) have resulted in a right to request flexible work arrangements for victims of family violence and carers of such victims. However, the government rejected a proposed amendment to include an adverse action protection relating to being a victim/survivor of domestic and family violence in the Fair Work Act.

While welcoming Fair Work Australia's 2012 decision for equal pay in the social and community services industry, it will be many years before its full benefits and impact are realised.

Women in Australia continue to face employment discrimination on the basis of housing, pregnancy and family responsibilities. Furthermore, according to 2013 ABS statistics, women receive on average 17.5% less in weekly wages than men. On average women's superannuation is 56.5% less than of that of men.

Recommendation nº64: *Strengthen the Sex Discrimination Act as indicated in the national report, and consider the adoption of temporary special measures, as recommended by the Committee on the Elimination of All Forms of Discrimination against Women* (Recommended by *Israel*)

IRI: *not implemented*

State of Australia response:

The Tasmanian Government supports and promotes the 'Play by the Rules' initiative which promotes sporting cultures that are inclusive and free of harassment and discrimination.

Performance Indicator/timeline

Launched 2008 and reviewed and re-launched 2012.

The Tasmanian Women's Plan is a framework being developed to help ensure government actions are responsive to the needs of women and girls and are representative of their views for the next five years and into the future. The Plan focuses on economic security, financial independence, education and training, health and wellbeing, housing, leadership, safety and justice.

Performance Indicator/timeline

Ongoing.

The Australian Human Rights Commission (AHRC) has reviewed the treatment of women at the Australian Defence Force Academy (ADFA) and the effectiveness of cultural change strategies and initiatives required to improve leadership pathways for women in the Australian Defence Force (ADF). The Department of Defence's comprehensive response this and other reviews into Defence Force culture, the Pathway to Change: Evolving Defence Culture, outlines how the recommendations of the reviews will be implemented consistently with the wider Defence reform program.

Performance Indicator/timeline

Implementation of the Defence cultural reviews will incorporate implementation of the Review into the Treatment of Women at ADFA. Part Two of the AHRC Review,

considering the treatment of women in the wider ADF, was released on 22 August 2012. The Australian Government and Department of Defence have agreed in-principle to accept the recommendations of the Review.

AHRC response:
Not implemented. The previous Australian Government committed to addressing this issue through the development of a consolidated anti-discrimination act. A draft exposure bill of the legislation was released for public comment but did not progress to the legislative stage. No alternative actions have occurred and the longstanding issues relating to the SDA remain unaddressed.

Joint response:
PARTIALLY IMPLEMENTED
In May 2011, legislation to strengthen the Sex Discrimination Act 1984 (SDA) (Cth) to improve protections against sexual harassment, and discrimination on the basis of breastfeeding and family responsibilities was passed. Although welcome, further improvements are needed including those recommended in the 2008 Senate Committee Inquiry into the SDA. The previous Australian Government did not proceed with the consolidation and harmonisation of anti-discrimination laws and the balance of the 2008 Inquiry recommendations have not been implemented. The current Government has indicated it will not proceed with the consolidation project and it is unclear what will happen to the 2008 Inquiry recommendations. The SDA continues to provide limited protection against gender discrimination and does not fully implement obligations under CEDAW. In particular, the SDA does not adequately address systemic discrimination or promote substantive equality. See Recommendation 67 in relation to temporary special measures for public and private sector boards. Australia has not introduced temporary special measures to address the under-representation of certain vulnerable groups of women, including indigenous women, women with disabilities, migrant women, women from culturally and linguistically diverse backgrounds and women from remote or rural communities in leadership and decision-making positions in public and political life as well as their equal access to education, employment and health.

Recommendation nº66: *Persist in its efforts in order to redress remaining gender inequalities, in particular with regard to the employment of women in the private sector* (Recommended by *Japan*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 63]

AHRC response:
[See response to recommendation n° 63]

Joint response:
PARTIALLY IMPLEMENTED
In January 2011, Australia's first national paid parental leave (PPL) scheme commenced, providing 18 weeks leave paid at the minimum wage, while maintaining an attachment to the workforce (without superannuation component). In January

2013, the scheme was expanded to include a two week payment for working fathers or partners. The current Government proposes to introduce a new PPL scheme where “mothers will be provided with 26 weeks of paid parental leave at their full replacement wage or the national minimum wage (whichever is greater) plus superannuation”. Note Australia is yet to remove its CEDAW reservation in relation to paid maternity leave. Australia’s Sex Discrimination Commissioner, on behalf of the Australian Human Rights Commission, is conducting a national review into the prevalence, nature and consequences of discrimination relating to pregnancy at work and return to work after parental leave, with recommendations due in mid-2014. In December 2012, the Workplace Gender Equality Act 2012 (Cth) replaced the Equal Opportunity for Women in the Workplace Act 1999 (Cth), which aims to improve and promote equality for both women and men in the workplace. The Equal Opportunity for Women in the Workplace Agency, has been renamed the Workplace Gender Equality Agency reflecting the change in focus from equal opportunity. The Workplace Gender Equality Act 2012 (Cth) introduces a revised private sector reporting and compliance framework in relation to gender equality. The gender pay gap experienced by Australian women persists and sits at 17.5 per cent. See also Recommendation 68 for further discussion of pay equity. The current Australian Government has announced a Productivity Commission inquiry into child c are availability and accessibility. According to the Australian Government Workplace Gender Equality Agency, Women continue to be underrepresented in senior executive ranks of the private sector, with the percentage of women at 9.7% (a negligible increase from 2010 to 2012).

Recommendation nº67: *Adopt targets of 40 per cent representation of women on public and private sector boards* (Recommended by *Norway*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 63]

AHRC response:
Partly implemented. In October 2011, the Government extended requirements for 40% of government board positions to be women to also apply to major government business enterprises. The 2012 Australian Census of Women in Leadership shows a significant increase in the number of women on boards, with 61.5% of ASX 200 companies having at least one female director. However representation on Boards is not being reflected in the overall leadership. Women comprise 9.2% of executives in the ASX 500, and only 12 ASX 500 companies have female CEOs (see [online])

Joint response:
PARTIALLY IMPLEMENTED
In 2010, the Australian Government introduced a new gender diversity target of 40 per cent representation for both women and men on Australian Government boards, to be achieved by 2015. The target was achieved two years early: as at 30 June 2013, women held 41.7 per cent of Australian Government board appointments. This is up from 38.4 per cent in 2012. While the Australian Government has met the target as a whole, the Women, Gender Balance on Australian Government Boards Report

2012 – 2013 shows that not all Government portfolios have met the target individually. Although the Government has supported women's representation on private sector boards through some initiatives, Australia has not introduced targets for private sector boards. However, the ASX Corporate Governance Council requires publicly listed companies in Australia to set gender diversity targets. According to the Australian Census of Women in Leadership, in 2012 women held 12.3% of ASX 200 directorships, up from 8.4% in 2010. Further temporary special measures are needed in relation to private sector boards, and to increase the participation of Aboriginal and Torres Strait Islander women, women with disabilities and women from culturally and linguistically diverse communities. The current Australian Government has indicated that, as a general principle, they do not support quotas.

Recommendation nº68: *Remain steadfast in pursuing its policies towards gender equality, in particular through its Fair Work Act* (Recommended by *Botswana*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 63]

AHRC response:
Partly implemented. The first equal pay remuneration order was made under the Fair Work Act in the Social and Community Services Workers Equal Pay test case (decision issued in February 2012). Fair Work Australia found that Social and Community Services workers do not receive remuneration equal to that 'of employees of state and local governments who perform similar work, and that gender has been important in creating that pay gap'. The decision by Fair Work Australia to award more than 200,000 social and community services sector workers, pay-rises of between 19 and 41 per cent was welcomed by the Commission. This was the first ever successful claim for an equal remuneration order in the Australian national system and will mean a significant advance for equal pay for women.

In June 2013 the federal Parliament passed amendments to the Fair Work Act. The amendments allow workers who have been employed for 12 months or more the right to request a flexible work schedule when they are experiencing domestic violence or when they are supporting an immediate family/household member who is experiencing violence in the family

Joint response:
[See response to recommendation n° 66]

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There has been some progress towards improving pay equality for women recently with the SACS Equal Remuneration case. In February 2012 Fair Work Australia (now Fair Work Commission) delivered pay increases, under the Fair Work Act's equal remuneration provisions, of 19 - 42 per cent to 150,000 workers in the social and community services sector. 80 per cent of workers in the sector are women and Fair Work Australia determined that gender was a factor in the low wages of the sector; the pay increases will be phased in over an 8-year period. Although this case is a big step forward, it has been argued that the case may not serve as a useful precedent for future equal remuneration cases. Research suggests that because the Fair Work

Commission has minimal direct involvement in wage-setting in several of the industries in which gender-based undervaluation persists, there may be limits to the Commission's ability to achieve equal remuneration for the whole workforce.

The Fair Work Commission has established a specialist Pay Equity Unit, which commenced in 1 July 2013, to undertake pay equity related research and provide information to inform matters relating to pay equity under the Fair Work Act 2009 (Cth). The Pay Equity Unity has commissioned a report on 'Equal remuneration under the Fair Work Act 2009', which is intended to assist parties in equal remuneration proceedings and provides good practice examples for the development of equal remuneration regulation. According to the draft report, there is no impediment to the Commission developing a federal equal remuneration principle.

Recommendation nº84: *Strengthen efforts to combat family violence against women and children with a particular focus on indigenous communities* (Recommended by *United States*)

IRI: *partially implemented*

State of Australia response:

The Australian Parliament has passed legislation to prioritise the safety of children in family law proceedings. The legislation also sends a clear message that family violence and child abuse are unacceptable.

Performance indicator/Timeline

Legislation commenced on 7 June 2012.

The Australian Government has committed to a common screening and risk assessment tool to identify safety risks for clients across the family law system.

Performance indicator/Timeline

The screening and risk assessment tool was developed (mid-2012).

The Australian Government funded the development of the AVERT training package, which aims to provide professionals within the family law system with a sound and practical understanding of family violence, its impact and strategies for responding that promote safety for all involved.

Performance indicator/Timeline

Ongoing.

The Australian Government is trialling a supported family dispute resolution model in cases where there is family violence and will assess the viability of the pilot and whether it justifies ongoing funding.

Performance indicator/Timeline

The trial will run until 30 April 2013 and will be evaluated by the Australian Institute of Family Studies.

The Australian Government is working with the States and Territories to improve the interface between the federal family law system and the state and territory child protection systems to provide better outcomes for children.

Performance indicator/Timeline

Ongoing.

The Australian Human Rights Commission has indicated that it will release tools to assist young people (12–14 years of age) to address cyber bullying that they witness.
Performance indicator/Timeline
By June 2012.

The Victorian Government will monitor the effectiveness of recent amendments to stalking legislation related to prosecution of bullying offences.
Performance indicator/Timeline
Ongoing.
The performance indicator is a reduction in workplace and school bullying.

The South Australian Government will develop a Vulnerable Youth Strategy to assist all young people, especially those experiencing vulnerability in our communities, providing support to reach their full potential and transition from adolescence to adulthood. The strategy will aim to improve systemic responses to young people who are vulnerable or at risk, through the development of a whole of government response.
Performance indicator/Timeline
2012–15.
Strategy developed.

The South Australian Government will support the establishment of child safe environments in government and non-government organisations across South Australia and monitor progress towards achieving this outcome.
Performance indicator/Timeline
Ongoing.
Initiatives developed.

The South Australian Government will work toward establishing South Australia's first recognised UNICEF (United Nations Children Fund) Child Friendly City (a strategy aligned to the United Nations Convention on the Rights of the Child).
Performance indicator/Timeline
2012–14.
Strategy developed.

The ACT, through internal reviews of child deaths, Coronial Inquiries and the newly established ACT Children and Young People Death Review Committee will consider evidence based measures to improve the safety of children and young people in the ACT.
Performance indicator/Timeline
Ongoing.
The Children and Young People Death Review Committee must report annually.

The ACT will continue to monitor the health, wellbeing, learning and development of children and young people through the annual publication of Picture of ACT's Children and Young People, to be tabled annually in the Legislative Assembly.
Performance indicator/Timeline

Annually 2012–14.

CAALAS response:
Aboriginal women in the Northern Territory are hospitalised for assault at 80 times the rate for non-Aboriginal in Australia, according to hospital data presented in a paper written by the Northern Territory Children's Commissioner. This shocking statistic is unfortunately not surprising for many service-providers working in Central Australia, who see the impacts of severe family violence every day.

Both the Commonwealth Government and the Northern Territory have committed to reducing the rate of family violence in Aboriginal communities. In Central Australia, for example, the Northern Territory government is administering the Alice Springs Integrated Response to Family and Domestic Violence ("the Integrated Response") within the context of the broader National Plan to Reduce Violence against Women and their Children developed by the Commonwealth. The Integrated Response project has brought together key government agencies, including Police, Corrections and the Department of Justice, with key non-government service providers, including legal services and the Women's Shelter. The Integrated Response project has had some successes, including the development and implementation of a common service delivery framework to improve service-delivery and coordination between agencies responding to domestic violence.

While we commend both the Commonwealth Government and the Northern Territory Government for committing to taking action to reduce violence against women and children in the Northern Territory, particularly within Aboriginal communities, there are still significant gaps in the response to family violence. In Central Australia, there is very little access to counselling services for victims of violence living in remote communities. There is also very little access to anger management counselling and behaviour change programs for perpetrators of violence living in remote communities which hinders the ability of the justice system to break the cycle of violence that is so prevalent in many families and communities in remote Central Australia.

Finally, while work is underway through the Integrated Response in Alice Springs to improve the police response to domestic violence, more work needs to be done to ensure that police consistently respond in a culturally sensitive and appropriate manner. Poor police practice, including a lack of cultural training, can significantly damage the relationship between police and parts of the Aboriginal community, and can deter people from seeking police assistance when they need it.
NATSILS response:
[See CAALAS response]

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Finally, while work is underway through the Integrated Response in Alice Springs to improve the police response to domestic violence, more work needs to be done to ensure that police consistently respond in a culturally sensitive and appropriate manner. Poor police practice, including a lack of cultural training, can significantly damage the relationship between police and parts of the Aboriginal community, and can deter people from seeking police assistance when they need it. Aboriginal and Torres Strait Islander women continue to experience violence at a shockingly

disproportionate rate. Nationally, Aboriginal and Torres Strait Islander females and males are 35 and 21 times as likely to be hospitalised due to family violence related assaults as non-Aboriginal and Torres Strait Islander females and males.

AHRC response:
Ongoing. In September 2012 the Government released the first implementation plan for the National Plan to reduce Violence against Women and their Children. The Commission remains concerned that to date there is no formal, independent monitoring or evaluation process proposed for the National Plan.

The Commission also welcomes the development of a national domestic and family violence order (DVO) scheme.

Joint response:
NOT IMPLEMENTED
The Foundation to Prevent Violence against Women and their Children is a new national organisation launched on 26 July 2013 by the Australian and Victorian governments. Its establishment is a component of the National Plan to Reduce Violence against Women and their Children and is in addition to the National Centre of Excellence to Reduce Violence Against Women and Children.

While this initiative is welcome it remains to be seen to what extent the Foundation will engage with the Aboriginal community and work to address the still disproportionately high rates of family violence experienced by Aboriginal people.

Aboriginal and Torres Strait Islander women are thirty-five times more likely to be hospitalised as a result of family violence related assault than other Australian women. Efforts to focus particularly on Aboriginal communities and tailored cultural needs must be sustained, given the way that Aboriginal women have been poorly represented in national law and justice policy debates historically.

The recent move of the National Family Violence Prevention Legal Services Program and other Aboriginal services to Department of Prime Minister and Cabinet hopefully signals a new prioritisation of Aboriginal victims/survivors of violence and their access to justice. In addition, it is hoped that the next Australia-wide tender of the National FVPLS program will bring an expansion of the program to address the geographic and service delivery gaps.

Recommendation nº85: *Adopt special legislation to prevent and combat violence against women and girls and to prosecute and punish the perpetrators* (Recommended by *Iran*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 59]

CAALAS response:
A comprehensive and effective legislative response to prevent and combat violence against women and girls is of particular importance in Central Australia, where rates

of violence against Aboriginal women and girls are noted to be extremely high. Successive Northern Territory governments have failed to address this issue. The Northern Territory Government has emphasised tougher sentences and mandatory minimum sentences as a key target for law reform. Unfortunately, new minimum mandatory sentencing laws have produced no reduction in rates of violence against women and children since their introduction on 1 May 2013. Women and children may receive short-term protection from the perpetrator whilst the perpetrator is imprisoned, but the risk of further violence remains following the offender's release. Support services for victims of domestic and family violence are also under resourced, particularly in remote and regional parts of Australia. Given the very high rates of violence, repeat violence and recidivism in the Northern Territory, a range of measures are needed to effectively reduce violence against women and girls. Effective therapeutic interventions should be made available to perpetrators, including in prisons. Governments must also increase investment in preventative programs, support services for those who have experienced violence and community education campaigns.

NATSILS response:
The Northern Territory government has expanded the scope of mandatory minimum sentencing legislation to cover a broader range of violent crimes, with a stricter requirement to impose sentences of actual imprisonment. While we acknowledge the importance of criminalising domestic violence, and arguably this indicates progress towards this recommendation, we are concerned that this approach will not effectively deal with the complex problem of family violence in the Northern Territory. Women and children may receive short-term protection from the perpetrator whilst the perpetrator is imprisoned, however, without effective therapeutic intervention, education and systemic changes at a community, Territory and Commonwealth level, the risk of further violence remains following the offender's release. Governments must continue efforts to invest heavily in preventative programs, services and education campaigns, rather than relying on a crude criminal justice response.

AHRC response:
Ongoing. See [recommendation n°] 84 for implementation plan for the National Action Plan to reduce Violence. National Outcome 6 lists strategies and initiatives to be taken by Australian Governments to hold perpetrators accountable.

Other positive actions include: The Australian National Action Plan on Women, Peace and Security, a commissioned review into the Treatment of Women in the Defence Force, changes to migration laws to help those experiencing domestic or family violence on provisional partner visas, and the support by the Government for the UN Special Rapporteur on violence against women to undertake a study tour in April 2012.

Joint response:
PARTIALLY IMPLEMENTED, some elements, such as changes to the Family Law Act 1975 (Cth) to better recognise family violence, though further protections.

The National Plan has 6 outcomes, including outcome 6- 'Perpetrators stop their violence and are held to account'. Research is currently being conducted (October 2013-) via national consultations on national perpetrator interventions outcome standards.

Including domestic violence/family violence as a protected attribute in anti-discrimination laws will be an important educative tool and help move this issue out of the private sphere into the public sphere. This will also highlight domestic and family violence as a community issue that requires a whole of community response as is consistent with the National Plan to Reduce Violence against Women and their Children.

Due diligence obligations include compensation for victims of violence. The NSW Victims Compensations scheme was recently abolished to be replaced with victims support. The new law does not provide adequate recognition of domestic violence and sexual assault. It also applies retrospectively. There needs to be a strengthening of victims' compensation.

Remove the presumption of equal shared parental responsibility in the Family Law Act. Protections are also required for vulnerable witnesses in family law proceedings so they cannot be directly cross-examined by a violent perpetrator.

Accreditation of family report writers in family law proceedings is required, including effective mechanism for complaints, standards and clinical experience in working with victims of family violence. Specialised legal assistance guidelines are required regarding family violence in family law and funding for specialised family violence reports. Training required for family law judiciary on impact of violence, inter-relationship between violence against women and violence against children; lethality indicators.

In Victoria, the Family Violence Protection Act 2008 (Vic) was enacted in late 2008. The Act was developed after extensive consultation through the Victorian Law Reform Commission with sector agencies, government and the State-wide Steering Committee to Reduce Family Violence. Since it was enacted, it has been regarded as leading the nation in terms of protections offered and purpose, which is to prioritise the safety of victims, and hold perpetrators accountable for their use of violence.

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PARTIALLY IMPLEMENTED

During Australia's initial UPR review, NGOs called for the implementation of the 2008 Sex Discrimination Act inquiry recommendations. Many of these recommendations are yet to be implemented.

The simplifying and strengthening of anti-discrimination laws was expected to occur through the consolidation of discrimination laws project. The Senate Committee review of the draft legislation supported a unified definition of discrimination; the sharing of the burden of proof; each party paying their own costs; recognition of

intersecting forms of discrimination; and recommended the inclusion of domestic violence as a protected attribute. This legislation is still to be enacted.

Amendments to the Fair Work Act 2009 (Cth) have resulted in a right to request flexible work arrangements for victims of family violence and carers of such victims. However, the government rejected a proposed amendment to include an adverse action protection relating to being a victim/survivor of domestic and family violence in the Fair Work Act.

While welcoming Fair Work Australia's 2012 decision for equal pay in the social and community services industry, it will be many years before its full benefits and impact are realised.

Women in Australia continue to face employment discrimination on the basis of housing, pregnancy and family responsibilities. Furthermore, according to 2013 ABS statistics, women receive on average 17.5% less in weekly wages than men. On average women's superannuation is 56.5% less than of that of men.

Recommendation nº86: *Adapt its legislation to ensure greater security for women and children* (Recommended by *Switzerland*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 59]
NATSILS response:
See No. 85.

AHRC response:
Ongoing. See 84 for implementation plan for the National Action Plan to reduce Violence. National Outcome 6 lists strategies and initiatives to be taken by Australian Governments to hold perpetrators accountable.
Other positive actions include: The Australian National Action Plan on Women, Peace and Security, a commissioned review into the Treatment of Women in the Defence Force, changes to migration laws to help those experiencing domestic or family violence on provisional partner visas, and the support by the Government for the UN Special Rapporteur on violence against women to undertake a study tour in April 2012.

Joint response:
PARTIALLY IMPLEMENTED, some elements have been implemented, such as amendments to the Family Law Act 1975 (Cth) to better recognise family violence, but further amendments required.

Amendments to the Fair Work Act 2009 (Cth) have resulted in a right to request flexible work arrangements for victims of family violence and carers of such victims. However, the government rejected a proposed amendment to include an adverse

action protection relating to being a victim/survivor of domestic and family violence in the Fair Work Australia Act.

State, territory and commonwealth governments have agreed to a national register of apprehended violence orders. However, this is still to be implemented.

Recommendations in the New South Wales and Australian Law Reform Commissions' Family Violence - A National Legal Response Report are still to be implemented.

There is a need for increase in funding and support for specialist programs, including crisis response, refuges, housing, health, specialist women's legal services, including Aboriginal and Torres Strait Islander women's legal services as well as the legal aid system generally as demand is increasing rapidly due to increased reporting and better system responses, resulting in increased turn away of those most vulnerable.

See also Recommendation 85.

Despite the introduction of the National Framework for Protecting Australia's Children 2009-2020 and the establishment of a National Children's Commissioner, greater effort is needed to reduce high levels of disadvantage, abuse and neglect, particularly amongst vulnerable groups of children and young people:

- Aboriginal and Torres Strait Islander children continue to experience abuse and family violence at unacceptably high levels and are significantly over-represented in the child protection system.
- The age of criminal responsibility in Australia is 10 years old. The Government has been urged to raise this to an internationally accepted standard, most recently by the Committee on the Rights of the Child.
- Aboriginal children and youth and children with disabilities continue to be overrepresented in the juvenile justice system.
- Children are detained in immigration detention for prolonged periods, with 1,428 children in closed detention facilities as of September 2013.
- There is a need for an effective and inclusive education system for the reported 63% of children with a disability who experience difficulties at school.

Effort should also be made at all levels of government to include the views of children and young people on matters directly affecting them.

Recommendation nº87: *Introduce a full prohibition of corporal punishment within the family in all states and territories* (Recommended by *Russian Federation*)

IRI: *not implemented*

Global Initiative to End All Corporal Punishment of Children (GIEACPC) response:

There has been no change in the legality of corporal punishment in the family in any state or territory. Throughout Australia, corporal punishment of children is lawful in the home under the right of "reasonable chastisement" and similar provisions (under common law in Australian Capital Territory and Victoria, in section 27 of the Criminal Code in Northern Territory, section 280 of the Criminal Code Act 1899 in

Queensland, section 20 of the Criminal Law Consolidation Act 1935 in South Australia, section 50 of the Criminal Code Act 1924 in Tasmania, and section 257 of the Criminal Code 1913 in Western Australia). In New South Wales, section 61 of the Crimes Act was amended in 2001 to limit the application of the defence of "lawful correction" but it still allows some corporal punishment to be inflicted on children. For corporal punishment to be prohibited in the family, all of these provisions must be explicitly repealed. Australia has received multiple recommendations from UN treaty bodies to prohibit corporal punishment of children in the home and other settings.

WVA response:
The Government of Australia rejected this recommendation, stating: “While Australia has programs in place to protect children against family violence, and laws against assault, it remains lawful for parents in all States and Territories to use reasonable corporal punishment to discipline their children.” World Vision supported the United Nations Study on Violence against Children, endorses its findings and affirms its central message, namely that no violence against children is justifiable and all forms of violence are preventable.

Moreover, World Vision endorses the UN Study’s 12 overarching recommendations to prevent and address all forms of violence against children and supports the numerous setting-specific recommendations relating to the home and family, schools and educational settings, care and justice institutions, places of work, and the community.

Joint response:
NOT IMPLEMENTED
Parental physical punishment of children (including hitting with stick, strap or other implement) is permitted in all States and Territories despite the warning given to Australia in 1997 by the Committee on the Rights of the Child that such practices breach Article 19 of Convention on the Rights of the Child. Corporal punishment in schools is not prohibited by law in any State or Territory (other than New South Wales) although it may breach education department policy in government schools in some States.

Recommendation nº88: *Speed up the process for the adoption of the National Plan to Reduce Violence against Women and their Children* (Recommended by *Azerbaijan*)

IRI: *fully implemented*

State of Australia response:
[See response to recommendation 59]
AHRC response:
Ongoing. In September 2012 the Government released the first implementation plan for the National Plan to reduce Violence against Women and their Children. The Commission remains concerned that to date there is no formal, independent monitoring or evaluation process proposed for the National Plan.

The Commission also welcomes the development of a national domestic and family violence order (DVO) scheme.

Joint response:
PARTIALLY IMPLEMENTED
In September 2012, the first 3-year implementation plan (first action plan) for the National Plan to Reduce Violence against Women and their children (June 2010-June 2013) was publicly released. While governments provided input there was little opportunity for NGOs to participate in this process. Consultation about the second implementation plan, which was due to start 1 July 2013, is yet to commence.
While acknowledging progress made, Australia needs:

- greater consultation, participation and collaboration in the development, implementation, monitoring and evaluation of implementation plans by the prevention of violence against women sector and those whose lives and rights will be affected
- strategies to address the specific needs of all women experiencing violence in all locations, including Aboriginal and Torres Strait Islander women; culturally and linguistically diverse women, women with disability, women who identify as bi-sexual, lesbian, same-sex attracted, queer, transgender or intersex; younger women; older women; women in prison; women in regional, rural and remote areas.
- improved communication by government with civil society, transparency and accountability in implementing the National Plan. NGO representatives to the National Plan Implementation Panel were required to sign confidentiality agreements. While these NGO representatives have been told since that they are able to communicate NPIP work unless it is specifically declared confidential, the official communication from Governments out to the NGO sector is very slow. The Advisory Groups to the NPIP which could be richly constituted by experts from the NGO sector are yet to be set up, despite the plan to set them up in the first three years of the National Plan.
- more timely implementation of the National Plan in both content and release of implementation plans - the First Action Plan (2010-2013) was released in September 2012, with only 9 months remaining on the 3 year plan.
- adequate resourcing of the National Plan
- an independent monitoring mechanism and the resourcing of civil society to participate in this.

Source: Australian NGO's Follow up Report to CEDAW Committee, 2012

Recommendation nº89: *Take steps, in partnership with State, Territory and Local governments, to further advance and accelerate implementation of the National Action Plan to Reduce Violence against Women and Their Children, so as to effectively address prevalence of violence against these vulnerable groups* (Recommended by *Canada*)

IRI: *fully implemented*

State of Australia response:
[See response to recommendation 59]

NATSILS response:
See No. 84.

AHRC response:

Ongoing. In September 2012 the Government released the first implementation plan for the National Plan to reduce Violence against Women and their Children. The Commission remains concerned that to date there is no formal, independent monitoring or evaluation process proposed for the National Plan.

The Commission also welcomes the development of a national domestic and family violence order (DVO) scheme.

Joint response:
PARTIALLY IMPLEMENTED
In 2013, the NSW Government released It Stops Here: Standing together to end domestic and family violence

The Queensland Government released its coordinated state strategy, For Our Sons and Daughters - A Queensland Government strategy to reduce domestic and family violence 2009-2014 in January 2010.

The Western Australian Family and Domestic Violence Strategic Plan 2009-2013 involves systemic reform of Western Australia's response to family and domestic violence.

In December, 2011 the South Australian Government launched A Right to Safety – South Australia's Women's Safety Strategy 2011-2022. This builds on the reform agenda of the first SA Women's Safety Strategy in 2005.

On 9th March 2012, the NT Government announced The Policy Framework for Northern Territory Women.

Australian Capital Territory initiatives are in accordance with the ACT Women's Plan (2010-2015), which includes the prevention of violence against women and their children and the need to instil an anti-violence culture in the community. In 2011, the ACT Government published Our responsibility: Ending violence against women and children

In June 2012, the Tasmanian Government released Taking Action: Tasmania's Primary Prevention Strategy to Reduce Violence Against Women and Children 2012-2022

Victoria's Action Plan to Address Violence against Women & Children (2012-2015), was released in October 2012.
On 18 November 2013, the Northern Territory Attorney-General announced that the Northern Territory is developing its first ever cross-government strategy to reduce domestic and family violence under the Government's 'Pillars of Justice Framework'. A community consultation process is currently underway and the protection of women and children is stated to be the core focus.

Negotiations between states and territories & the Commonwealth have been relatively slow on State and Territory Action Plans.

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PARTIALLY IMPLEMENTED

In September 2012, the first 3-year implementation plan (first action plan) for the National Plan to Reduce Violence against Women and their children (June 2010-June 2013) was publicly released. While governments provided input there was little opportunity for NGOs to participate in this process. Consultation about the second implementation plan, which was due to start 1 July 2013, is yet to commence.

While acknowledging progress made, Australia needs:

- greater consultation, participation and collaboration in the development, implementation, monitoring and evaluation of implementation plans by the prevention of violence against women sector and those whose lives and rights will be affected
- strategies to address the specific needs of all women experiencing violence in all locations, including Aboriginal and Torres Strait Islander women; culturally and linguistically diverse women, women with disability, women who identify as bi-sexual, lesbian, same-sex attracted, queer, transgender or intersex; younger women; older women; women in prison; women in regional, rural and remote areas.
- improved communication by government with civil society, transparency and accountability in implementing the National Plan. NGO representatives to the National Plan Implementation Panel were required to sign confidentiality agreements. While these NGO representatives have been told since that they are able to communicate NPIP work unless it is specifically declared confidential, the official communication from Governments out to the NGO sector is very slow. The Advisory Groups to the NPIP which could be richly constituted by experts from the NGO sector are yet to be set up, despite the plan to set them up in the first three years of the National Plan.
- more timely implementation of the National Plan in both content and release of implementation plans - the First Action Plan (2010-2013) was released in September 2012, with only 9 months remaining on the 3 year plan.
- adequate resourcing of the National Plan
- an independent monitoring mechanism and the resourcing of civil society to participate in this.

Source: Australian NGO's Follow up Report to CEDAW Committee, 2012

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PARTIALLY IMPLEMENTED

In May 2008, the Australian Government established an 11 member National Council to Reduce Violence against Women and their Children. The Council's task was to provide advice on the development of an evidence-based national plan. The National Plan consists of four complementary three-year Action Plans:

- First Action Plan (2010–2013) – Building a Strong Foundation;
- Second Action Plan (2013–2016) – Moving Ahead;
- Third Action Plan (2016–2019) – Promising Results; and
- Fourth Action Plan (2019–2022) – Turning the Corner.

Progress on the National Plan will be made public through annual reports made to the Council of Australian Governments (COAG).

The National Plan Implementation Panel (NPIP) was established to oversee and advise on the National Action Plan.

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A tripartite National Plan Implementation Panel has been established to advise on the development and implementation key national priority projects identified in the Action Plans. The Implementation Panel was set up to provide advice to ministers on emerging issues for subsequent Action Plans. Working groups were scheduled to be established to sit under the Implementation Panel to progress the implementation of important national priorities. Working groups are yet to be established. Frequent calls for an independent monitoring and evaluation mechanism and the resourcing of civil society to participate in this has resulted in the National Implementation Plan for the First Action Plan 2010 – 2013 Building a Strong Foundation (First Action Plan released Sept 2012) referring to governments "and their community partners" agreeing to a framework for the evaluation over the 12 years of the National Plan "including agreement on the methodology, data and information requirements and timing" by mid-2012. The evaluation framework is yet to be finalised by the government. The government must commit to continuing the implementation of an independent monitoring and evaluation mechanism and the resourcing of civil society to participate in this. Also, an independent monitoring body should include the following elements:

- time specific and measurable indicators and targets
- an institutional multi-sectoral mechanism to monitor implementation;
- meaningful participation of civil society and other stakeholders;
- evaluation of practice and system;
- accountable reporting procedures.

Source: UN Women, Good Practices in National Action Plans on Violence against Women, Report of the Expert Working Group, 2010 (at 72).

Recommendation nº90: *Implement a national action plan to reduce violence against women and children* (Recommended by *Switzerland*)

IRI: *partially implemented*

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Recommendation nº91: *Implement immediately the National Plan to Reduce Violence against Women and their Children* (Recommended by *Norway*)

IRI: *not implemented*

State of Australia response:
[See response to recommendation 59]

NATSILS response:
See No. 84.

AHRC response:
Ongoing. In September 2012 the Government released the first implementation plan for the National Plan to reduce Violence against Women and their Children. The Commission remains concerned that to date there is no formal, independent monitoring or evaluation process proposed for the National Plan.

The Commission also welcomes the development of a national domestic and family violence order (DVO) scheme.

Joint response:

PARTIALLY IMPLEMENTED
In May 2008, the Australian Government established an 11 member National Council to Reduce Violence against Women and their Children. The Council's task was to provide advice on the development of an evidence-based national plan. The National Plan consists of four complementary three-year Action Plans:

- First Action Plan (2010–2013) – Building a Strong Foundation;
- Second Action Plan (2013–2016) – Moving Ahead;
- Third Action Plan (2016–2019) – Promising Results; and
- Fourth Action Plan (2019–2022) – Turning the Corner.

Progress on the National Plan will be made public through annual reports made to the Council of Australian Governments (COAG).
The National Plan Implementation Panel (NPIP) was established to oversee and advise on the National Action Plan.

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PARTIALLY IMPLEMENTED
In September 2012, the first 3-year implementation plan (first action plan) for the National Plan to Reduce Violence against Women and their children (June 2010-June 2013) was publicly released. While governments provided input there was little opportunity for NGOs to participate in this process. Consultation about the second implementation plan, which was due to start 1 July 2013, is yet to commence.

While acknowledging progress made, Australia needs:

- greater consultation, participation and collaboration in the development, implementation, monitoring and evaluation of implementation plans by the prevention of violence against women sector and those whose lives and rights will be affected
- strategies to address the specific needs of all women experiencing violence in all locations, including Aboriginal and Torres Strait Islander women; culturally and linguistically diverse women, women with disability, women who identify as bi-sexual, lesbian, same-sex attracted, queer, transgender or intersex; younger women; older women; women in prison; women in regional, rural and remote areas.
- improved communication by government with civil society, transparency and accountability in implementing the National Plan. NGO representatives to the National Plan Implementation Panel were required to sign confidentiality agreements. While these NGO representatives have been told since that they are able to communicate NPIP work unless it is specifically declared confidential, the official communication from Governments out to the NGO sector is very slow. The Advisory Groups to the NPIP which could be richly constituted by experts from the NGO sector are yet to be set up, despite the plan to set them up in the first three years of the National Plan.
- more timely implementation of the National Plan in both content and release of implementation plans - the First Action Plan (2010-2013) was released in September 2012, with only 9 months remaining on the 3 year plan.
- adequate resourcing of the National Plan
- an independent monitoring mechanism and the resourcing of civil society to participate in this.

Source: Australian NGO's Follow up Report to CEDAW Committee, 2012

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In 2013, the NSW Government released It Stops Here: Standing together to end domestic and family violence

The Queensland Government released its coordinated state strategy, For Our Sons and Daughters - A Queensland Government strategy to reduce domestic and family violence 2009-2014 in January 2010.

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In December, 2011 the South Australian Government launched A Right to Safety – South Australia's Women's Safety Strategy 2011-2022. This builds on the reform agenda of the first SA Women's Safety Strategy in 2005.

On 9th March 2012, the NT Government announced The Policy Framework for Northern Territory Women.

Australian Capital Territory initiatives are in accordance with the ACT Women's Plan (2010-2015), which includes the prevention of violence against women and their children and the need to instil an anti-violence culture in the community. In 2011, the ACT Government published Our responsibility: Ending violence against women and children

In June 2012, the Tasmanian Government released Taking Action: Tasmania's Primary Prevention Strategy to Reduce Violence Against Women and Children 2012-2022

Victoria's Action Plan to Address Violence against Women & Children (2012-2015), was released in October 2012.

Negotiations between states and territories & the Commonwealth have been relatively slow on State and Territory Action Plans.

See also Recommendations 88 & 89.

Recommendation nº92: *Implement the National Action Plan to reduce violence against women and their children, including through an independent supervision mechanism that involves civil society organizations and take into account the specific situation of indigenous women and migrants* (Recommended by *Mexico*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation 59]

NATSILS response:
See No. 84.

AHRC response:
see 84. The National Action Plan recognises the high incidence of violence experienced by Indigenous women and their children, and focuses on ways to strengthen Indigenous communities to prevent violence. It also recognises the different experiences facing women and their children from culturally linguistically and diverse backgrounds. The National Action Plan lists a number of initiatives Governments have agree to pursue to addressing and preventing violence against women and children in these communities.

Joint response:
PARTIALLY IMPLEMENTED
In September 2012, the first 3-year implementation plan (first action plan) for the National Plan to Reduce Violence against Women and their children (June 2010-June 2013) was publicly released. While governments provided input there was little opportunity for NGOs to participate in this process. Consultation about the second implementation plan, which was due to start 1 July 2013, is yet to commence.
While acknowledging progress made, Australia needs:

- greater consultation, participation and collaboration in the development, implementation, monitoring and evaluation of implementation plans by the prevention of violence against women sector and those whose lives and rights will be affected
- strategies to address the specific needs of all women experiencing violence in all locations, including Aboriginal and Torres Strait Islander women; culturally and linguistically diverse women, women with disability, women who identify as bi-sexual, lesbian, same-sex attracted, queer, transgender or intersex; younger women; older women; women in prison; women in regional, rural and remote areas.
- improved communication by government with civil society, transparency and accountability in implementing the National Plan. NGO representatives to the National Plan Implementation Panel were required to sign confidentiality agreements. While these NGO representatives have been told since that they are able to communicate NPIP work unless it is specifically declared confidential, the official communication from Governments out to the NGO sector is very slow. The Advisory Groups to the NPIP which could be richly constituted by experts from the NGO sector are yet to be set up, despite the plan to set them up in the first three years of the National Plan.
- more timely implementation of the National Plan in both content and release of implementation plans - the First Action Plan (2010-2013) was released in September 2012, with only 9 months remaining on the 3 year plan.
- adequate resourcing of the National Plan
- an independent monitoring mechanism and the resourcing of civil society to participate in this.

Source: Australian NGO's Follow up Report to CEDAW Committee, 2012

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A tripartite National Plan Implementation Panel has been established to advise on the development and implementation key national priority projects identified in the Action Plans. The Implementation Panel was set up to provide advice to ministers on emerging issues for subsequent Action Plans. Working groups were scheduled to be

established to sit under the Implementation Panel to progress the implementation of important national priorities. Working groups are yet to be established. Frequent calls for an independent monitoring and evaluation mechanism and the resourcing of civil society to participate in this has resulted in the National Implementation Plan for the First Action Plan 2010 – 2013 Building a Strong Foundation (First Action Plan released Sept 2012) referring to governments "and their community partners" agreeing to a framework for the evaluation over the 12 years of the National Plan "including agreement on the methodology, data and information requirements and timing" by mid-2012. The evaluation framework is yet to be finalised by the government. The government must commit to continuing the implementation of an independent monitoring and evaluation mechanism and the resourcing of civil society to participate in this. Also, an independent monitoring body should include the following elements:

- time specific and measurable indicators and targets
- an institutional multi-sectoral mechanism to monitor implementation;
- meaningful participation of civil society and other stakeholders;
- evaluation of practice and system;
- accountable reporting procedures.

Source: UN Women, Good Practices in National Action Plans on Violence against Women, Report of the Expert Working Group, 2010 (at 72).

Recommendation nº93: *Effectively implement the national policy to reduce violence against women* (Recommended by *Philippines*)

IRI: *not implemented*

State of Australia response:
[See response to recommendation 59]

WWDA response:
The primary response to addressing violence against women in Australia, including women with disabilities, is through The National Plan to Reduce Violence against Women and their Children 2010-2022. The National Plan is supported by a National Implementation Plan and jurisdictional Implementation Plans. Although the UN Committee on Economic, Social and Cultural Rights (CESCR) has recommended that the National Plan be framed and operationalised in a human rights framework, it is only linked to CEDAW, and focuses only on domestic/family violence and sexual assault. In relation to addressing violence against women and girls with disability, the National Plan, and its State/Territory Implementation Plans, are limited in that there is little emphasis on girls with disabilities, and they fail to address the myriad forms of violence that women and girls with disabilities experience, such as sterilisation, forced abortions, forced contraception, restrictive interventions and practices, forced psychiatric interventions, and violence and abuse within institutional settings.

Joint response:
PARTIALLY IMPLEMENTED
In May 2008, the Australian Government established an 11 member National Council to Reduce Violence against Women and their Children. The Council's task was to provide advice on the development of an evidence-based national plan. The National Plan consists of four complementary three-year Action Plans:

- First Action Plan (2010–2013) – Building a Strong Foundation;
- Second Action Plan (2013–2016) – Moving Ahead;
- Third Action Plan (2016–2019) – Promising Results; and
- Fourth Action Plan (2019–2022) – Turning the Corner.

Progress on the National Plan will be made public through annual reports made to the Council of Australian Governments (COAG).

The National Plan Implementation Panel (NPIP) was established to oversee and advise on the National Action Plan.

Recommendation nº94: *Ensure that all victims of violence have access to counselling and assistance with recovery* (Recommended by *Hungary*)

IRI: *partially implemented*

State of Australia response:
The Australian Government will build a stronger evidence base for the civil justice system (the Civil Justice Evidence Base Project) to help ensure compliance with the objectives identified in the Strategic Framework for Access to Justice in the Federal Civil Justice System, and to inform future access to justice policy and program decisions. The project will be progressed in consultation with the civil justice sector and relevant work being undertaken within AGD. A working group comprising key civil justice stakeholders and data and research experts has been established to help AGD establish a civil justice data collection, research and evaluation framework.
Performance indicator/timeline
Ongoing – the project is a long-term one that may take many years. AGD proposes holding a forum in May 2013 to inform state and territory representatives of the project and seek their input.

The Australian Government will respond to the Family Law Council's reports into Indigenous and Culturally and Linguistically Diverse Clients in the family law system. The Attorney-General provided terms of reference to the Family Law Council in November 2010. Council provided its reports on 27 February 2012.
Performance indicator/timeline
Ongoing.

Governments will implement the National Partnership on Legal Assistance Services. The current National Partnership on Legal Assistance Services will be reviewed. It will establish an evaluation framework for monitoring the efficiency, effectiveness and quality of Commonwealth legal assistance services (ie legal aid commissions, family violence prevention legal services, community legal services and Aboriginal and Torres Strait Islander legal services).
Performance indicator/timeline
National Partnership Agreement ends on 30 June 2014. The review of the National Partnership on Legal Assistance will run from May 2012 to June 2013.

The Australian Government will maintain and expand the Access to Justice website and monitor feedback. The website draws together information about all levels of the civil justice system, including legal and non-legal assistance providers, alternative

dispute resolution services providers, government delivery services, courts, tribunals and related professional assistance services in Australia. See [the following website].
Performance indicator/timeline
Ongoing.

The Australian Government will promote a dispute resolution culture that focuses on early intervention and resolution, including through:
- the Civil Dispute Resolution Act 2011 (Cth), to encourage parties to take genuine steps to resolve their disputes before considering entering the court system
- supporting the National Alternative Dispute Resolution Advisory Council
- promoting the use of alternative dispute resolution, and
- continuing to ensure the availability of nonlegislative systems and programs that provide access to fair, simple, effective assistance for family matters, including family dispute resolution services.

Performance indicator/timeline
Ongoing.

The Australian Government will fund clinical legal education programs, including family law focused programs that increase law students' awareness of social justice and equity issues in the legal system, including participating in alternative dispute resolution. The Government has committed $1.46 million over four years commencing in 2010.
Performance indicator/timeline
Ongoing.

The Victorian Government provides various Family Violence programs, including a Family Violence Court Division and Specialist Family Violence Services at various Magistrates' Court sites.
Performance indicator/timeline
Legislation for Family Violence Court Division sunsets in 2013. Performance indicators include accountability of persons who have used violence against family members, simplification of access to the justice system for affected family members, and enhanced safety of affected family members and affected children.

The Victorian Government supports the CREDIT/ Bail Support Program run through the Magistrates Court. The Program supports those on bail with the longer term aim of reducing the involvement of persons in the criminal justice system.
Performance indicator/timeline
Ongoing.

The Victorian Government supports the Criminal Justice Diversion Program for first time offenders.
Performance indicator/timeline
Performance indicators include recidivism rate and program completion numbers.

The Victorian Government provides programs to support offenders who have special circumstances or complex needs, such as drug or alcohol dependency, diagnosed

mental illness or are experiencing homelessness, through the Drug Court in Dandenong, the Enforcement Review Program, the Homeless Persons' Liaison Officer Program, and the Court Integrated Services Program at three Magistrates' Court sites.

Performance indicator/timeline

Performance indicators include rehabilitation of offenders, recidivism rates, number of custodial sentences received upon completion of the Court Integrated Services Program.

The Victorian Government will continue supporting the Neighbourhood Justice Centre, which is a multijurisdictional court that offers a range of services to support victims, offenders, civil litigants and residents.

Performance indicator/timeline

Funded to June 2013.

The South Australian Government will maintain its commitment to respecting victims' rights. It will monitor the effectiveness of the Victims of Crime Act 2001 (SA), including the Declaration of Principles Governing Treatment of Victims of Crime.

Performance indicator/timeline

Ongoing.

Initiatives implemented.

The South Australian Government will continue providing opportunities for victims of crime to participate in the criminal justice system, including Young Offender Family conferencing, Victim- Offender Adult Conference in the Magistrates Court, individual and neighbourhood victim impact statements and written/oral submissions to the Parole Board. It will continue to provide services to victims of crime, including counselling, information and advocacy. It will also continue to fund a range of peak non-government services from the Victims of Crime Fund.

Performance indicator/timeline

Ongoing.

Provision of services.

Victims of crime may be eligible, where appropriate, for financial assistance through the South Australia statutory compensation scheme, which also provides for discretionary payments to assist with the installation of security devices to protect victims of violent crime and to pay for crime scene clean-up, as appropriate.

Performance indicator/timeline

Ongoing.

Provision of support.

The South Australian Government (via the Commissioner for Victims' Rights) will provide assistance to citizens of South Australia who become victims of crime in other places.

Performance indicator/timeline

Ongoing.

Provision of support.

The Tasmanian Government continues to pursue the adoption of problem solving courts including the Mental Health Diversion Court and Mandated Drug Diversion with a view to addressing long term harms. Approximately $2 million has been allocated per annum.
Performance indicator/timeline
Ongoing.

The Tasmanian Government has introduced a range of specialist services to assist witnesses to understand and participate in court processes, including family violence court support and liaison, family violence child witness program, a serious crime witness assistance program run through the office of the Director of Public Prosecutions and a victims' of crime compensation scheme. Approximately $9 million has been allocated per annum.
Performance indicator/timeline
Ongoing.

The ACT Government, working with the ACT Supreme Court, has developed a range of improvements to criminal and civil procedures based on a new docket case management system. The system will reduce delay, streamline process and ensure the right of fair trial. The ACT Government provided funding during 2011–12 and 2012–13 for a 'blitz' of existing matters to assist transition to the new docket system.
Performance indicator/timeline
Ongoing.

The ACT Government tabled a final response to the declaration of incompatibility with the Human Rights Act 2011 (ACT), issued by the ACT Supreme Court in 2010 in relation to a bail provision, in May 2012. In June 2012, the Government consulted with ACT justice stakeholders about the Government position on the statement of incompatibility. Any further work in this area will be considered by the Government of the 8th Assembly.
Performance indicator/timeline
N/A

Following an Inquiry in 2011, the ACT will implement a number of amendments to the Prostitution Act 1992 (ACT), and to administrative practices, with a view to improving the health and safety of sex workers in the ACT and their clients.
Performance indicator/timeline
Inquiry report tabled 23 February 2012. Government response tabled in June 2012 sittings

Governments will implement the National Plan to Reduce Violence Against Women and their Children (2010–22).
Performance Indicator/timeline
Implementation of national priorities is guided by three-year action plans.

States and territories will retain legislation to criminalise violent conduct and sexual assault together with mechanisms to prosecute and punish perpetrators.
Performance Indicator/timeline
Ongoing.

State and territory governments will continue to provide services to victims of violence including counselling. Victims of violence may be eligible, where appropriate, for financial assistance through state and territory based victims of crime compensation schemes
Performance Indicator/timeline
Ongoing.

Anyone who has experienced, or is at risk of, domestic and family violence, and/or sexual assault can access 1800RESPECT, the Australian Government's national professional telephone and online counselling service on 1800 737 732 [...].
Performance Indicator/timeline
Ongoing.

The Australian Government has introduced laws to Parliament that will criminalise forced marriage, and other measures that will provide appropriate protection for victims.
Performance Indicator/timeline
Ongoing.

The Commonwealth, state and territory Attorneys- General agreed in March 2011 to develop a National Domestic Violence Order Scheme to ensure people protected by a Domestic Violence Order (DVO) remain protected if they move interstate. The scheme will be underpinned by legislation in each state and territory that will automatically recognise domestic and family violence orders throughout Australia. The Australian Government is working with the states and territories to develop model mutual recognition legislation and to identify and implement information sharing capabilities.
Performance Indicator/timeline
The Australian Government is working with the states and territories to agree on a timeline for the introduction of the Scheme.

Governments will respond to the Australian Law Reform Commission (ALRC) and New South Wales Law Reform Commission (NSWLRC) 2010 Report on Family Violence to achieve a more coordinated response to family violence.
Performance Indicator/timeline
2012–13.

The Australian Government will continue to provide funding to legal assistance services with a focus on raising awareness about family violence, including helping victims to access compensation. Funding of $59.5 million over three years, commencing in 2010, will be provided to Indigenous Family Violence Prevention Legal Services, and $2.6 million over four years, commencing in 2010, will be provided to Australian Government Community Legal Services.

Performance Indicator/timeline
Ongoing.

The Australian Human Rights Commission (AHRC) will develop resources to assist bystanders to address sexual harassment in the workplace.
Performance Indicator/timeline
2012.

The Victorian Government will offer training to specialists and mainstream providers of health, disability and drug and alcohol rehabilitation services under the Family Violence Risk Assessment and Risk Management Framework.
Performance Indicator/timeline
2011–14.

The Victorian Government will continue to support the Eliminating Violence against Women Media
Awards, which recognises responsible media reporting of family violence and sexual assault and the Media Advocacy Project, which trains and supports victims of violence against women to be advocates for media interviews and public events.
Performance Indicator/timeline
2011–13.

The Preventing Violence in Our Community Program, run through local councils brings together the community, schools, workplaces, sporting organisations and local media to deliver initiatives and educational resources to reduce violence in local communities.
Performance Indicator/timeline
2011–14.

The South Australian Government will implement A Right to Safety: The Next Phase of the Women's Safety Strategy 2011–22, which includes:
- Violence Against Women Regional Collaborations
- Violence Against Women Alliance Network, and
- Family Safety Framework.

Performance Indicator/timeline
2011–22. Initiatives developed and implemented.
The South Australian Government will provide health services and programs targeted to vulnerable groups of women or women at risk, including women who have experienced domestic violence or sexual assault.
Performance Indicator/timeline
Ongoing. Services delivered.

The South Australian Government will review and implement its women's health strategy and action plans to further develop and improve women's specific as well as generic health services.
Performance Indicator/timeline
Ongoing. Services delivered.

The Tasmanian Government continues to strengthen its whole of government Safe at Home strategy, which includes specific family violence legislation, victim support programs, proactive policing and offender intervention. Approximately $5 million per annum will be provided across government.
Performance Indicator/timeline
Ongoing.

The Tasmanian Government will progress its implementation of the First Action Plan 2010–13: Building a Strong Foundation of the National Plan to Reduce Violence Against Women and their Children 2012–22. A major focus is strengthening primary prevention activity.
Performance Indicator/timeline
Ongoing.

The ACT Government will continue to implement Our Responsibility: Ending violence against women and children 2011–2017, the ACT Prevention of Violence Against Women and Children Strategy. The strategy outlines key priorities aligned with actions under the National Plan to reduce violence against women and their children.
Performance Indicator/timeline
The ACT Governance Group endorsed the implementation plan on 14 August 2012.

The ACT Government will continue to implement women‘s safety audits for public events and in public spaces.
Performance Indicator/timeline
Ongoing.

The ACT Government will continue to promote public discussions and forums about violence against women and children.
Performance Indicator/timeline
Ongoing.

The Northern Territory Department of the Attorney-General and Justice and the Department of Families and Children are jointly leading a whole of government ‘Integrated Response to Family Violence’ (IFVP) project in Alice Springs. The three year, $3.26 million project is funded by the Alice Springs Transformation Plan, a joint Northern Territory and Australian Government initiative which aims to improve life outcomes for Aboriginal residents in Alice Springs and their visitors. The IFVP approach is in line with international and national research that identifies best practice in addressing family violence. The project is also consistent with the COAG National Plan to Reduce violence Against Women and the Children 2010–2022.
Performance Indicator/timeline
2011 – KPMG independent evaluation. Ongoing.

NATSILS response:
See No. 84. Family Violence Prevention Legal Services remain critically underfunded and are largely restricted to regional areas and are not provided in metropolitan areas (except for one service in Melbourne).

AHRC response:
Ongoing. Strategies and initiatives are outlined in the National Action Plan.

Joint response:
PARTIALLY IMPLEMENTED
Under the National Plan, victims and survivors have access to 1800 RESPECT: Domestic and Sexual Violence National Counselling Service.

Due diligence obligations include compensation for victims of violence: The NSW Victims Compensations scheme was recently abolished to be replaced with victims support. The new law does not provide adequate recognition of domestic violence and sexual assault. It also applies retrospectively. There needs to be a strengthening of victims' compensation.

In Victoria, the state funds counselling and recovery programs but not the extent that the community require them. Demand exceeds capacity – particularly in regards to therapeutic services for children.

Women in prison should also be able to access counselling while in prison should they wish to do so - there has been a pilot counselling project in some prisons in NSW. This should be rolled out across Australia.

Recommendation nº112: *Develop a national pay strategy to monitor pay gaps mechanisms and establish a comprehensive childcare policy, as recommended by the Committee on the Elimination of All Forms of Discrimination against Women* (Recommended by *Israel*)

IRI: *partially implemented*

State of Australia response:
The Australian Government has committed to achieving a minimum of 40 per cent representation of both women and men on Australian Government Boards and through the Equal Opportunity for Women in the Workplace Agency, will continue to work with the private sector to achieve gender balance in private sector leadership ranks and forums.
Performance Indicator/timeline
By 2015.

The Australian Government has released its National Action Plan on Women, Peace and Security 2012–18. This National Action Plan consolidates and builds on the broad program of work already underway in Australia to integrate a gender perspective into peace and security efforts, protect women and girls' human rights, particularly in relation to gender-based violence, and promote their participation in conflict prevention, management and resolution. The National Action Plan implements United Nations Security Council Resolution 1325 (UNSCR 1325) and related resolutions under the United Nations Women, Peace and Security agenda. The Australian Government, in partnership with UN Women, launched a documentary Side by Side: Women, Peace and Security. An accompanying educational toolkit was also developed, which together with the documentary will be

used as a training and practical awareness raising tool for peacekeepers, civilians and humanitarians working in the women, peace and security space.
Performance Indicator/timeline
2012–18.

The South Australian Government will aim to improve women's participation in leadership positions, particularly as members of State Government boards and committees and as executives in the public sector as outlined in South Australia's Strategic Plan.
Performance Indicator/timeline
Participation rates of women in leadership positions. By end 2014.

Hobart Women's Health Centre is funded by the Tasmanian Government to provide a range of services and programs to support Tasmanian Women to increase their knowledge, skills and action for informed self-determining of their health and wellbeing. The Centre also offers an advocacy voice that provides a feminist perspective on public policy that affects the lives of women across the state.
Performance Indicator/timeline
Ongoing.

The Australian Government will consider the recommendations made by the Senate Legal and Constitutional Affairs Committee in its 2008 inquiry on the effectiveness of the Sex Discrimination Act 1984, as part of the project to consolidate Commonwealth anti-discrimination laws into a single Act.
Performance Indicator/timeline
Exposure draft legislation due in 2012.

AHRC response:
Not implemented

Joint response:
IMPLEMENTED
Gender equality developments generally and childcare are addressed under Recommendation 66.

There has been some progress towards improving pay equality for women recently with the SACS Equal Remuneration case. In February 2012 Fair Work Australia (now Fair Work Commission) delivered pay increases, under the Fair Work Act's equal remuneration provisions, of 19 - 42 per cent to 150,000 workers in the social and community services sector. 80 per cent of workers in the sector are women and Fair Work Australia determined that gender was a factor in the low wages of the sector; the pay increases will be phased in over an 8-year period. Although this case is a big step forward, it has been argued that the case may not serve as a useful precedent for future equal remuneration cases. Research suggests that because the Fair Work Commission has minimal direct involvement in wage-setting in several of the industries in which gender-based undervaluation persists, there may be limits to the Commission's ability to achieve equal remuneration for the whole workforce.

The Fair Work Commission has established a specialist Pay Equity Unit, which commenced in 1 July 2013, to undertake pay equity related research and provide information to inform matters relating to pay equity under the Fair Work Act 2009 (Cth). The Pay Equity Unity has commissioned a report on 'Equal remuneration under the Fair Work Act 2009', which is intended to assist parties in equal remuneration proceedings and provides good practice examples for the development of equal remuneration regulation. According to the draft report, there is no impediment to the Commission developing a federal equal remuneration principle.

Recommendation nº145: *Address the issue of children in immigration detention in a comprehensive manner* (Recommended by *Philippines*)

IRI: *not implemented*

RCA response:
Not implemented. The former government considerably expanded community alternatives in detention, including for children and young people. However, children continue to be routinely detained in immigration detention facilities, and the number of children held in closed detention reached an all-time high in May 2013 (1731 children).

State of Australia response:
[See response to recommendation n° 144]

WVA response:
According to statistics published by the Australian Department of Immigration and Border Protection, as of 31 May 2013 there were 1,731 children in closed immigration detention facilities, and a further 1,326 children in community detention in Australia. World Vision Australia holds that a child should never have to face the fear of a lengthy or indefinite stay in detention and that all immigration policy must ensure that children receive the best care for their physical and mental well-being and that their claims for refugee status are assessed as quickly as possible.

AHRC response:
Not implemented. The Commission has repeatedly raised concerns about the mandatory detention of children, the number of children in immigration detention and the prolonged periods for which some children are detained. As at 5 September 2013, there were 1,428 children in closed immigration detention. See [online]

Joint response:
NOT IMPLEMENTED
Children should not be detained unlawfully or arbitrarily, and must only be detained as a measure of last resort and for the shortest appropriate period of time. Children should be treated with respect and humanity and in a manner that takes into account their age and developmental needs. This ought to include consideration of the developmental needs to be with their immediate family members.

Currently requests to be transferred to be with immediate family members are not being considered by the Minister. There is little assistance for family members in the Australian community to make such a request to the Departmental case officer. The

default arrangement is to keep family members separated based purely on their date of arrival.

Recommendation nº146: *Ensure that no children are held in detention on the basis of their migratory status and that special protection and assistance is provided to unaccompanied children* (Recommended by *Brazil*)

IRI: *not implemented*

FMSI response:

Not implemented. There are still children in detention on the basis of their migratory status. The latest available figures show children in immigration detention as at 31 May 2013 to be 49 in Immigration residential housing, 128 in immigration transit accommodation, 1554 in alternative places of detention (total of 1731). Children in community under 'residential determination' = 1326. The Department of Immigration designates immigration detention into three categories:

- Immigration Residential Housing – 49 children – housing in residential communities, at the same time as being detained. People are given greater autonomy to live a more self-sufficient lifestyle, cook, shop, engage in recreational activities – however, they are still under the control of officers. ChilOut describes this as a "mini detention centre"
- Immigration Transit Accommodation – 128 children – short term accommodation facilities, now holding an increasing number of children
- Alternative Places of Detention (APODs) – 1554 children – described by the Immigration Department as including hospital accommodation, schools, rented accommodation in the community . ChilOut contests that children are kept under guard, lack freedom of movement and that the APODs "are not equipped to meet the needs of children" .
- Regardless of the variation, it can be argued that these are nevertheless all forms of detention of children in breach of Recommendation No 129: "all such places look and feel like immigration detention centres and have the same detrimental effects on detainees' health and well-being" .

In addition to the above numbers, there are children held in immigration detention centre compounds at Curtin, Wickham Point and Leonora . This has been a recent policy of the Commonwealth Government and the Department of Immigration's statistics should gradually reflect this.

The Department of Immigration statistics also do not include children detained on Manus Island and Nauru . Whilst these locations are officially under the jurisdiction of the Papua New Guinea and Nauru Governments, Australia is arguably playing a part in sponsoring the program of immigration detention in foreign territories.

There are unaccompanied children being held in immigration detention facilities:

Despite the Immigration's Department claim that unaccompanied minors would only be placed in detention facilities in exceptional circumstances many of these children are being kept detention facilities. On 1 July this year both the National Children's Commissioner (Megan Mitchell) and the President of the Human Rights Commission (Gillian Trigg) had cause to speak out about the situation of unaccompanied children

being kept in the Pontville Detention Centre near Hobart. Ms Mitchell reported that most of the 270 detainees were unaccompanied boys between the ages of 15 and 18 who were feeling quite depressed and had lost a lot of hope . The young men had been in detention for periods of 6 - 9 months. Both Ms Mitchell and Ms Trigg called for the children in Pontville to be immediately released and for the newly appointed Minister for Immigration Mr Tony Burke, to make the 'release of all children and particularly unaccompanied minors into appropriate community detention' his first priority.

On 9 August it was reported that the Minister Burke was investigating the option of moving the unaccompanied minors from Pontville Detention Centre into the homes of local families. The Minister had told a national radio program that the Federal Government had been expanding community places for the youngest detainees across the country . This same news report carried the voices of some of the young people presently detained in Pontville. One teenager said:
"Everyone is feeling so down here they are not sleeping much."

A 16-year-old teenager who recently spent two months in Pontville and is now living in the community said:
"The life inside Pontville was something like prison. You feel you're in prison. Everything had boundaries for you, "he said.

"Mentally, it does makes you crazy. You find a lot of problems in there. Please don't keep the boys a lot there- don't keep them long in detention centre".
The situation of unaccompanied minors who have been living in community detention in the State of NSW is as follows:

Once any unaccompanied young person is granted a protection visa in the state of New South Wales and has no family links they have to leave the State because this government refuses to take on the guardianship of these children. Despite the fact that these young people have built up links with numerous individuals and other supporting bodies they are once again displaced and again in search of some sense of normality and security. These young people normally find themselves resituated in Queensland, Victoria or South Australia. The Multicultural Youth Advocacy Network reported some young people take desperate measures in order to avoid having to relocate.
RCA response:
See [recommendation n° 145]. The former government made efforts to improve care arrangements for unaccompanied children, but there is no national framework guiding these arrangements. The Minister for Immigration and Citizenship remains the guardian of any unaccompanied children arriving in Australia. This creates a conflict of interest, as the Minister is also responsible for making decisions about the child's visa status and determining whether or not they will be held in detention or subject to offshore processing.

State of Australia response:
[See response to recommendation n° 144]

ALHR response:
Section 4AA(1) of the Migration Act 1957 (Cth) states that the government 'affirms the principle that children shall only be detained as a measure of last resort.' Australia's Key Immigration Detention Values were introduced to reflect the Government's 'New Directions in Detention', introduced in July 2008.

At 31 May 2013 there were 1731 children in detention, over double the number at the same time in 2012, while 1326 were living in the community under Residence Determinations under s197AB of the Migration Act.

Several hundred children remain in restrictive immigration detention centres as they await processing with their families subject to the arbitrary effects of the 'No Advantage' principle, including unaccompanied minors as young as five.

Children continue to be transferred to Manus Island and Nauru under s198 of the Migration Act, despite concerns for their welfare and the harsh circumstances of detention in those places.

WVA response:
According to statistics published by the Australian Department of Immigration and Border Protection, as of 31 May 2013 there were 1,731 children in closed immigration detention facilities, and a further 1,326 children in community detention in Australia. World Vision Australia holds that a child should never have to face the fear of a lengthy or indefinite stay in detention and that all immigration policy must ensure that children receive the best care for their physical and mental well-being and that their claims for refugee status are assessed as quickly as possible.

AHRC response:
Not implemented. The Commission has a range of concerns relating to unaccompanied minors in immigration detention. Most significantly, the Commission is concerned that the Minister's role as guardian of unaccompanied minors creates a conflict of interest, as the Minister is also responsible for administering the immigration detention regime under the Migration Act and for making decisions about granting visas. Given these multiples roles, it is difficult for the Minister, or his delegate, to make the best interests of the child the primary consideration when making decisions concerning unaccompanied minors.

The Commission has repeatedly recommended that an independent guardian be appointed for all unaccompanied minors in immigration detention, to ensure that their rights are protected

Joint response:
NOT IMPLEMENTED
Over 1000 children are in held detention currently (onshore and offshore) with the Government announcing that there will be no exceptions to the rule that all boat arrivals will be sent to Offshore processing centres – regardless of age, disability or health issues.

Unaccompanied minors are in held detention in Christmas Island and Nauru.

Other

Recommendation nº22: *Bring its legislation and practices into line with international obligations* (Recommended by *Sweden*)

IRI: *partially implemented*

+

Recommendation nº23: *Take the necessary measures to fully incorporate into Australian legislation its international obligations in the field of human rights* (Recommended by *France*)

IRI: *partially implemented*

+

Recommendation nº24: *Incorporate its international obligations under human rights instruments into domestic law* (Recommended by *Jordan*)

IRI: *partially implemented*

+

Recommendation nº25: *Continue its efforts in strengthening the mechanisms for the effective incorporation of international human rights obligations and standards into its domestic legislation* (Recommended by *Argentina*)

IRI: *fully implemented*

State of Australia response:
The Australian Government will continue to work with states and territories to move towards ratifying the Optional Protocol to the Convention Against Torture (OPCAT). A National Interest Analysis proposing ratification was tabled in Parliament on 28 February 2012. The OPCAT was considered by the Parliamentary Joint Standing Committee on Treaties and reported in June 2012 and recommended that binding treaty action be taken. The next step will be introduction and passage of model legislation in each jurisdiction to provide for international monitoring. Following passage of legislation for international monitoring, Australia anticipates lodging an instrument of ratification with the United Nations, together with its proposed declaration under Article 24 of the OPCAT, to delay commencement of domestic monitoring obligations for up to three years.
Performance indicator/timeline
Introduction and passage of model legislation in each jurisdiction to provide for international monitoring 2012–13. Ratification of the OPCAT by 2013.

The Australian Government will review its reservations under the following international human rights instruments:

- International Covenant on Civil and Political Rights (ICCPR): Articles 10.2, 10.3, 14.6 & 20,

- Convention on the Elimination of Discrimination Against Women (CEDAW): Articles 11.1 & 11.2,
- Convention on the Elimination of All Forms of Racial Discrimination (CERD): Article 4,
- Convention on the Rights of the Child (CRC): Article 37(c) The Australian Government will place this review on the agenda of the Standing Council of Treaties for consultation with state and territory governments.

Performance indicator/timeline
Consult with states and territories, relevant Australian Government agencies and civil society and finalise review by the end of 2012.

The Australian Government will formally consider its position on the International Convention for the Protection of All Persons from Enforced Disappearances.
Performance indicator/timeline
Completion by end of 2013.

The Australian Government is currently considering its position on the Third Optional Protocol to the Convention on the Rights of the Child which opened for signature on 28 February 2012.
Performance indicator/timeline
Mid 2013.

The Australian Government will review its position on International Labor Organization (ILO) Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries.
Performance indicator/timeline
Australian, state and territory governments to commence consideration of Australia's compliance with the convention in 2012, in consultation with Aboriginal and Torres Strait Islander representatives and Australia's ILO social partners.

The Australian Government will continue to maintain a publicly accessible database of United Nations human rights treaty body recommendations.
Performance indicator/timeline
Database updated on a regular basis.

The Australian Government will continue to adhere to the provisions in the Extradition Act 1988 (Cth) regarding surrender in cases where a person may be subjected to torture or where the offence for which extradition is sought is punishable by the death penalty.
Performance indicator/timeline
Ongoing.

The Australian Government will increase aid to 0.5 per cent Gross National Income.
Performance indicator/timeline
By 2015–16.

The Australian Government will work with the Australian Human Rights Commission, the Asia- Pacific Forum, the Commonwealth secretariat and the Pacific Islands Forum to promote human rights in the region, with:

- $175,000 to be provided to the Australian Human Rights Commission in 2012 to build linkages with the ASEAN (Association of South-East Asian Nations) Intergovernmental Commission on Human Rights
- $2.6 million to be provided to the Asia-Pacific Forum over four years (2011–14)
- $150,000 to be provided to the Australian Human Rights Commission to support its role as Chair of the Commonwealth Forum of National Human Rights Institutions
- $1.6 million to be provided to the Australian Human Rights Commission for program management of Australia-Vietnam Human Rights Technical Cooperation Program Phase four, and
- $9.4 million to be provided to the Australian Human Rights Commission over four years (2012–16) for Australia-China Human Rights Technical Cooperation Program.

Performance indicator/timeline
Ongoing.

The Australian Government will continue promoting human rights through official aid programs.
Performance indicator/timeline
Ongoing.

The Australian Government will continue funding support for the Office of the High Commissioner for Human Rights (OHCHR). The Australian Government provided $2.35 million to OHCHR in 2011–12.
Performance indicator/timeline
Ongoing.

The Australian Government will continue to build the capacity of the Association of Southeast Asian Nations (ASEAN) Intergovernmental Commission on Human Rights. This will include $175,000 to be provided to the Australian Human Rights Commission in 2012 to build linkages with the ASEAN Intergovernmental Commission on Human Rights, focusing on corporate social responsibility and human rights.
Performance indicator/timeline
Ongoing.

The Australian Government will continue implementing the first disability strategy for the aid program (2009–14) — Development For All, including: • providing support for people with disability to advocate for rights and influence decision making through the Disability Rights Fund (DRF). Australian support has enabled the DRF to expand to include Indonesia and Pacific Island countries, contributing to advocacy efforts in Indonesia, which ratified the CRPD in November 2011, providing $3.2 million since 2008 • in Cambodia, where Australia assisted the Government to develop disability rights legislation which now forms a solid legal basis to end discrimination, and • in

PNG, with support for accessible elections, including through involvement of disability organisations.
Performance indicator/timeline
2009-14.

The Australian Government will continue resourcing the International Pro Bono Advisory Group to support pro bono work internationally. This group's work will help to promote human rights and the rule of law in the region and address law and justice challenges confronting Pacific partners. In support of the group's work, in 2011 the Australian Government provided the Law Council of Australia with $450,000 over three years to establish and administer a clearinghouse to coordinate requests from the Asia-Pacific region for pro bono assistance to Australia and to administer an associated disbursement fund.
Performance indicator/timeline
Ongoing.

The Australian Government will provide the Australian Human Rights Commission $300,000 over three years from 2011–12 to help representatives of people with disability participate in key international forums on human rights.
Performance indicator/timeline
Allocate funds to support attendance by delegations of disability peak organisations and disability advocacy organisations at key CRPD related and key international human rights forums. Target — Minimum of eight delegates (includes delegate carers) supported per annum and 100 per cent of funds allocated by June 2014.

NATSILS response:
no progress/ Not necessarily no progress - limited progress is perhaps more accurate

AHRC response:
Partly implemented. NHRAP commits Attorney General's Department to review of existing legislation for compatibility. Update needed on implementation.

The Commonwealth Parliament passed the Human Rights (Parliamentary Scrutiny) Act 2011 (the Scrutiny Act), which came into force on 4 January 2012. The Scrutiny Act provided for the establishment of a Parliamentary Joint Committee on Human Rights (PJCHR). This Committee was established on 13 March 2012, and has been very active in its scrutiny of the compatibility of bills and legislative instruments with Australia's human rights obligations. The requirement that all bills and disallowable legislative instruments be accompanied by a statement assessing their compatibility has largely been complied with. While the Parliamentary scrutiny process has been reasonably effective, the expansion of the Australian Human Rights Commission's jurisdiction to cover same range of rights as are covered by PJCHR awaits progress.

Joint response:
PARTIALLY IMPLEMENTED
Although there has been some limited progress in the Commonwealth, States and Territories in terms of bringing legislation in line with Australia's international obligations, there remain substantial and material gaps.

Despite being a party to seven of the core human rights treaties, Australia has not incorporated these treaties into its domestic law and has failed to adopt a comprehensive legal framework for the protection of human rights. There are significant gaps in the protection of human rights by and in Australia and many individuals are unable to access effective remedies. Both major political parties in the Federal Parliament have a policy of not introducing a Human Rights Act or a Charter of Human Rights. See Recommendation 26 for a discussion of Australia's failure to enact a judicially enforceable Human Rights Act.

A positive development in strengthening the mechanisms for the effective incorporation of international human rights obligations and standards into its domestic legislation is the establishment of the Parliamentary Joint Committee on Human Rights. Since early 2012, all new legislation must be accompanied by a statement of compatibility under the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth). It aims to improve parliamentary scrutiny for consistency with rights and freedoms contained in the seven core human rights treaties signed by Australia. Statements of compatibility are required for all bills and disallowed legislative instruments, regardless of whether they have an impact on human rights or not. The statement of compatibility is, however, merely an expression of opinion by the relevant minister or sponsor of the bill and is not binding on a court or tribunal.

Recommendation nº26: *Strengthen its human rights framework by establishing a comprehensive legislative scheme for all human rights* (Recommended by *Timor-Leste*)

IRI: *not implemented*

State of Australia response:

The Australian Government will prioritise human rights education by:

- providing grants to NGOs to develop and deliver community education and engagement programs to promote a greater understanding of human rights
- investing $3.8 million in an education and training package for the Australian Government public sector, including developing guidance materials for public sector policy development and implementation of government programs
- providing $6.6 million over four years to the Australian Human Rights Commission to expand its community education role on human rights and to provide information and support for human rights education programs, and
- enhancing support for human rights education in primary and secondary schools by continuing to work with states and territories and the Australian Curriculum, Assessment and Reporting Authority to include human rights and principles across the Australian curriculum, ensuring that human rights forms a part of student learning.

Performance indicator/timeline

Funding expended by 2013–14.

The Australian Parliament will continue to play a role in the implementation of the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth) (commenced on 4 January 2012) which:

- establishes a Parliamentary Joint Committee on Human Rights which will provide greater scrutiny of legislation for compliance with Australia's international human rights obligations under the seven core United Nations human rights treaties to which Australia is a party, and
- requires all new Bills and disallowable legislative instruments to be accompanied by a statement assessing its compatibility with the rights in the seven core United Nations human rights treaties to which Australia is a party. In accordance with the Human Rights (Parliamentary Scrutiny) (Consequential Provisions) Act 2011 (Cth), the President of the Australian Human Rights Commission has been appointed as a permanent member of the Administrative Review Council.

In accordance with the *Human Rights (Parliamentary Scrutiny) (Consequential Provisions) Act 2011 (Cth)*, the President of the Australian Human Rights Commission has been appointed as a permanent member of the Administrative Review Council.

Performance indicator/timeline

The Australian Government will consider the effectiveness of the new Committee's powers, the content and function of Statements of Compatibility and the definition of 'human rights' as part of the 2013–14 review of Australia's Human Rights Framework.

AGD will respond to any relevant Committee recommendations in a timely way.

NATSILS response:

no progress

AHRC response:

Not implemented. A harmonised approach to discrimination law and implementation remains pending. The previous Australian Government committed to the development of a consolidated anti-discrimination law that would address the significant technical, definitional and operational differences between the four existing federal discrimination laws that had been developed over a 30 year period.

A draft exposure bill was released for public comment in late 2012. While offering many significant improvements and simplifications to the existing laws, the bill met with significant public concern relating to issues including the grounds of discrimination covered, changes to the onus of proof, and the reference to behaviour that insults or offends within the definition of discrimination. The bill has not proceeded beyond the draft exposure stage.

Joint response:

NOT IMPLEMENTED

Australia has failed to incorporate its international human rights obligations into domestic law by enacting a judicially enforceable Human Rights Act. Australia has ratified many international human rights instruments, but it has failed to adopt the rights in those treaties into domestic law to provide a comprehensive justiciable law on human rights.

Under Article 2 the International Covenant on Civil and Political Rights (ICCPR) Australia is required to implement the necessary legislative measures to give

domestic effect to the treaty. Under Article 2 individuals should have the right to enforceable remedies and the right to seek these remedies in a competent judicial administrative legislative authority. However, in many cases there is no protection under Australian law for the human rights enshrined in the Covenant. Only non-justiciable avenues without enforceable remedies, such as complaints to the Australian Human Rights Commission or the UN Human Rights Committee (UNHRC) under the First Optional Protocol, are available.

Since Australia ratified the ICCPR 33 years ago, there have been over fifty complaints made to the UNHRC. Of those complaints, the Australian federal government has been found to be in violation of its obligations under the ICCPR at least seventeen times. For example, in the case of Bakhtiyari v Australia (2003) Australia was found to be in breach of Articles 9(1) and 9(4) of the ICCPR for the arbitrary detention of asylum seekers. These articles require no person to be subject to arbitrary arrest or detention and in the event of that happening, the person is entitled to take proceedings before a court. The Bakhtitari family was held in detention for 3 years before the High Court overturned the Family Court decision and deported the family back to Pakistan. The Constitution, however, does not provide for protections regarding arbitrary detention, therefore the High Court of Australia lacks the jurisdiction to rule on these matters without legislation to comprehensively protect human rights. The federal government has still chosen to ignore most of the findings of the Human Rights Committee (see Young v Australia (2003) and Baban v Australia (2003)) and even deported some of the complainants (see Bakhtiyari v Australia (2003)).

Although Australia has not incorporated a comprehensive, judicially enforceable Human Rights Act, it has enacted positive legislative protections such as the Race Discrimination Act 1975 (Cth) and the Sex Discrimination Act 1984 (Cth) in line with its obligations under the ICCPR. However, not all the rights in the ICCPR or the other human rights instruments Australia has ratified are protected by existing legislation. Furthermore, It is important to note that the Australian government has previously suspended the Race Discrimination Act in order to allow for the implementation of the Northern Territory Intervention. Currently, Australia has very few constitutional human rights protections and individuals and groups within Australia's jurisdiction with human rights complaints do not have access to a judicially enforceable Human Rights Act.

In September 2009 the federal government's consultative committee recommended that Australia consider a comprehensive Human Rights Act. In 2010, in response to the report, the federal government launched a Human Rights Framework, which did not include a Human Rights Act. The Australian government indicated in its response to the UPR, that it will not be introducing a Human Rights Act because the Australian Government considers that existing mechanisms are sufficient.

As required by its treaty obligations Australia should implement a comprehensive Human Rights Act, which provides enforceable remedies for violations of human rights.

Recommendation nº27: *Consider a comprehensive human rights act as recommended by the National Human Rights Consultative Committee* (Recommended by *Canada*)

IRI: *not implemented*

ALRMSA response:
ALRM submits that the denial of basic human rights to Aboriginal people needs to be remedied by a comprehensive Human Rights Act which binds both Commonwealth and State and Territory policies in the Australian Commonwealth. Examples include lack of interpreters for prisoners for whom English is a second language, lack of recompense to the Stolen Generation and the roll back of the Racial Discrimination Act by the Commonwealth Parliament on numerous occasions. In addition ALRM asserts that the practice of the State Government of South Australia , in requiring it , as a legal aid organisation to pay for court transcripts and court filing fees for its indigent Aboriginal clients is in breach of the spirit and intent of the CERD convention See article 2.2. Other state funded legal aids organisations, particularly the Legal Services Commission of SA is not charged for these essential services by the Courts Administration Authority of SA

Joint response:
NOT IMPLEMENTED
Australia has failed to incorporate its international human rights obligations into domestic law by enacting a judicially enforceable Human Rights Act. Australia has ratified many international human rights instruments, but it has failed to adopt the rights in those treaties into domestic law to provide a comprehensive justiciable law on human rights.

Under Article 2 the International Covenant on Civil and Political Rights (ICCPR) Australia is required to implement the necessary legislative measures to give domestic effect to the treaty. Under Article 2 individuals should have the right to enforceable remedies and the right to seek these remedies in a competent judicial administrative legislative authority. However, in many cases there is no protection under Australian law for the human rights enshrined in the Covenant. Only non-justiciable avenues without enforceable remedies, such as complaints to the Australian Human Rights Commission or the UN Human Rights Committee (UNHRC) under the First Optional Protocol, are available.

Since Australia ratified the ICCPR 33 years ago, there have been over fifty complaints made to the UNHRC. Of those complaints, the Australian federal government has been found to be in violation of its obligations under the ICCPR at least seventeen times. For example, in the case of Bakhtiyari v Australia (2003) Australia was found to be in breach of Articles 9(1) and 9(4) of the ICCPR for the arbitrary detention of asylum seekers. These articles require no person to be subject to arbitrary arrest or detention and in the event of that happening, the person is entitled to take proceedings before a court. The Bakhtitari family was held in detention for 3 years before the High Court overturned the Family Court decision and deported the family back to Pakistan. The Constitution, however, does not provide for protections regarding arbitrary detention, therefore the High Court of Australia lacks the jurisdiction to rule on these matters without legislation to comprehensively protect

human rights. The federal government has still chosen to ignore most of the findings of the Human Rights Committee (see Young v Australia (2003) and Baban v Australia (2003)) and even deported some of the complainants (see Bakhtiyari v Australia (2003)).

Although Australia has not incorporated a comprehensive, judicially enforceable Human Rights Act, it has enacted positive legislative protections such as the Race Discrimination Act 1975 (Cth) and the Sex Discrimination Act 1984 (Cth) in line with its obligations under the ICCPR. However, not all the rights in the ICCPR or the other human rights instruments Australia has ratified are protected by existing legislation. Furthermore, It is important to note that the Australian government has previously suspended the Race Discrimination Act in order to allow for the implementation of the Northern Territory Intervention. Currently, Australia has very few constitutional human rights protections and individuals and groups within Australia's jurisdiction with human rights complaints do not have access to a judicially enforceable Human Rights Act.

In September 2009 the federal government's consultative committee recommended that Australia consider a comprehensive Human Rights Act. In 2010, in response to the report, the federal government launched a Human Rights Framework, which did not include a Human Rights Act. The Australian government indicated in its response to the UPR, that it will not be introducing a Human Rights Act because the Australian Government considers that existing mechanisms are sufficient.

As required by its treaty obligations Australia should implement a comprehensive Human Rights Act, which provides enforceable remedies for violations of human rights.

Recommendation nº30: *Implement a federal human rights act to maximize all Australian's legal human rights protection in accordance with Australia's international obligations* (Recommended by *Norway*)

IRI: *not implemented*

ALRMSA response:

The Racial Discrimination Act 1975 (RDA) does not bind the Commonwealth Parliament, which can pass laws which impliedly repeal the RDA. As such, the RDA is ineffectual in preventing racially discriminatory laws, passed by that Parliament, impacting upon Aboriginal people. Furthermore, individual breaches of the RDA are not judicially enforceable by the Courts, leaving aggrieved individuals (including many Aboriginal people) without a remedy.

The recent High Court decision in Maloney v The Queen [2013] HCA 28 (19 June 2013) also indicates the difficulty for Courts in interpreting the RDA in light of relevant international standards, including the recommendations of the Committee on the Elimination of Racial Discrimination and the UN Declaration on the Rights of Indigenous Peoples. ALRM submits that many of these issues could be remedied by a comprehensive, judicially enforceable Human Rights Act to explicitly implement Australia's international obligations.

Joint response:
[See response to recommendation n° 27]

Recommendation nº38: *Continue measures for the adoption of the new National Action Plan on Human Rights* (Recommended by *Azerbaijan*)

IRI: *fully implemented*

State of Australia response:
[See response to recommendation n° 26]

NATSILS response:
the National Action Plan for Human Rights was adopted in 2013. However, the Plan did not comprehensively cover many of Australia's human rights issues. It is also unclear as to whether there is an ongoing plan for implementation or review of progress.

WWDA response:
The future of the National Human Rights Action Plan remains unclear following the election of the new Federal Liberal Government in September 2013. The new Attorney General has "signalled his intention to challenge what he sees as a Left-controlled human rights agenda". See [online]

AHRC response:
Implemented. Australia's National Human Rights Action Plan was launched on 10 December 2013 and lodged with UN Human Rights Council June 2013. Implementation however has been slow and lacked consultation.

Joint response:
PARTIALLY IMPLEMENTED
The National Human Rights Action Plan (NHRAP) was released in December 2012. NGO's welcomed the NHRAP but have expressed concern with several key aspects. Only 9% of action items contain performance indicators and only 35% identify a timeframe for implementation. The NHRAP should be strengthened through a more effective plan for implementation, monitoring and evaluation. Some action items are also inconsistent with human rights standards. This limits the NHRAP's effectiveness and ability to improve the human rights situation on the ground in Australia.

Recommendation nº43: *Follow-up on the implementation of recommendations of human rights mechanisms* (Recommended by *Austria*)

IRI: *partially implemented*

State of Australia response:
[See response to recommendation n° 22]

AHRC response:
Partly implemented. UPR recommendations accepted by the Australian Government were included as actions in the national action plan on human rights. Outstanding recommendations of treaty committees were also considered by the government int his process. At the time of review the Government made a voluntary commitment to

lodge the concluding observations of treaty bodies and UPR recommendations with Parliament. This has been done for each set of concluding observations since 2011. The tabling of recommendations has not included commitments to implement and implementation of recommendations remains patchy.

Joint response:
PARTIALLY IMPLEMENTED
Australia regularly fails to implement recommendations of UN human rights mechanisms. Australia lacks effective institutional mechanisms to systemically implement and follow up on recommendations of human rights mechanisms.

Recommendation nº152: *Protect Official Development Assistance from budgetary cuts in the context of the international crisis and make every effort to bring it to the internationally agreed target of 0.7 per cent of GDP* (Recommended by *Algeria*)

IRI: *not implemented*

State of Australia response:
[...]
The Australian Government will increase aid to 0.5 per cent Gross National Income.
Performance indicator/timeline
By 2015–16.

The Australian Government will work with the Australian Human Rights Commission, the Asia- Pacific Forum, the Commonwealth secretariat and the Pacific Islands Forum to promote human rights in the region, with:

- $175,000 to be provided to the Australian Human Rights Commission in 2012 to build linkages with the ASEAN (Association of South-East Asian Nations) Intergovernmental Commission on Human Rights
- $2.6 million to be provided to the Asia-Pacific Forum over four years (2011–14)
- $150,000 to be provided to the Australian Human Rights Commission to support its role as Chair of the Commonwealth Forum of National Human Rights Institutions
- $1.6 million to be provided to the Australian Human Rights Commission for program management of Australia-Vietnam Human Rights Technical Cooperation Program Phase four, and
- $9.4 million to be provided to the Australian Human Rights Commission over four years (2012–16) for Australia-China Human Rights Technical Cooperation Program.

Performance indicator/timeline
Ongoing.

The Australian Government will continue promoting human rights through official aid programs.
Performance indicator/timeline
Ongoing.

The Australian Government will continue funding support for the Office of the High Commissioner for Human Rights (OHCHR). The Australian Government provided $2.35 million to OHCHR in 2011–12.

Performance indicator/timeline
Ongoing.

The Australian Government will continue to build the capacity of the Association of Southeast Asian Nations (ASEAN) Intergovernmental Commission on Human Rights. This will include $175,000 to be provided to the Australian Human Rights Commission in 2012 to build linkages with the ASEAN Intergovernmental Commission on Human Rights, focusing on corporate social responsibility and human rights.
Performance indicator/timeline
Ongoing.
The Australian Government will continue implementing the first disability strategy for the aid program (2009–14) — Development For All, including: • providing support for people with disability to advocate for rights and influence decision making through the Disability Rights Fund (DRF). Australian support has enabled the DRF to expand to include Indonesia and Pacific Island countries, contributing to advocacy efforts in Indonesia, which ratified the CRPD in November 2011, providing $3.2 million since 2008 • in Cambodia, where Australia assisted the Government to develop disability rights legislation which now forms a solid legal basis to end discrimination, and • in PNG, with support for accessible elections, including through involvement of disability organisations.
Performance indicator/timeline
2009-14.

The Australian Government will continue resourcing the International Pro Bono Advisory Group to support pro bono work internationally. This group's work will help to promote human rights and the rule of law in the region and address law and justice challenges confronting Pacific partners. In support of the group's work, in 2011 the Australian Government provided the Law Council of Australia with $450,000 over three years to establish and administer a clearinghouse to coordinate requests from the Asia-Pacific region for pro bono assistance to Australia and to administer an associated disbursement fund.
Performance indicator/timeline
Ongoing.

The Australian Government will provide the Australian Human Rights Commission $300,000 over three years from 2011–12 to help representatives of people with disability participate in key international forums on human rights.
Performance indicator/timeline
Allocate funds to support attendance by delegations of disability peak organisations and disability advocacy organisations at key CRPD related and key international human rights forums. Target — Minimum of eight delegates (includes delegate carers) supported per annum and 100 per cent of funds allocated by June 2014.

WVA response:
Official Development Assistance has not been protected from budgetary cuts. As of the 2011-12 federal budget, Australia was on track to meeting its Official Development Assistance (ODA) commitment to reach 0.5% of GNI by 2015-16. At

the 2012-13 budget, this commitment was deferred to 2016-17, and then at the 2013-14 budget, the commitment was pushed back another year, with a revised commitment to reach 0.5% of GNI by 2017-18. In September 2013, the incoming Government announced that it will hold aid in real dollars at 2012-13 level for the next 4 years, which will likely reduce Australia's ODA commitment to 0.32% of GNI by 2016-17, with no timeframe identified for reaching 0.5% of GNI. World Vision Australia supports the internationally agreed target of 0.7% of GNI being allocated to ODA, and supports ringfencing ODA from budget cuts and establishing an immediate timeframe for reaching 0.5% of GNI.

AHRC response:
Not implemented. The Official Development Assistance consisted of 0.37% GNI in 2013-14. It is unclear what level the new Government will pursue.

Joint response:
PARTIALLY IMPLEMENTED
The Minister for Foreign Affairs, Julie Bishop, has reaffirmed Australia's commitment to the Millennium Development Goals and stated that "Australia will continue to be an effective and principled humanitarian donor". Australia has made some commendable commitments to international assistance including over $2 billion on spent on the Regional Assistance Mission to the Solomon Islands from 2003-2013 and a $30 million package of humanitarian assistance in the aftermath of Typhoon Haiyan. However aid organisations are concerned that funding cuts introduced by the new Government, will cost lives and have a profound impact on developing countries, particularly in the Asia Pacific region.

In 2013, the government announced that it will cut $4.5 billion of foreign aid over four years to fund domestic infrastructure (see p.6 Fiscal Budget overview of the Liberal Party). This move is expected to bring Australia further away from its target of 0.5 per cent of GNI and the internationally agreed target of 0.7% of GDP.

Australia made a commitment under the Howard Government in 2000, that Australia would raise its national foreign aid budget to 0.7 per cent of gross national income by 2015. According to economist Stephen Howes of the Australian National University, the recent cut will see aid falling from 0.35 per cent of GNI in 2012-13 to 0.31 per cent in 2017.

The new government also announced in 2013 that AusAID is to be subsumed into the Department of Foreign Affairs and Trade, a move that may represent the de-prioritisation of the goal of poverty alleviation.

In December 2012 the previous Government announced that $375 million from the foreign aid budget will be used to pay for the expenses of asylum seekers on the Australian mainland. When in opposition the new government opposed this use of the foreign aid budget, it is not clear yet whether the practice will continue now that they are in office.

Recommendation nº158: *Continue to share its experiences for the promotion of human rights in the region and the world* (Recommended by *Laos*)

IRI: *fully implemented*

State of Australia response:
[See response to recommendation n° 22]

Joint response:
PARTIALLY IMPLEMENTED
The Minister for Foreign Affairs, Julie Bishop, has reaffirmed Australia's commitment to the Millennium Development Goals and stated that "Australia will continue to be an effective and principled humanitarian donor". Australia has made some commendable commitments to international assistance including over $2 billion on spent on the Regional Assistance Mission to the Solomon Islands from 2003-2013 and a $30 million package of humanitarian assistance in the aftermath of Typhoon Haiyan. However aid organisations are concerned that funding cuts introduced by the new Government, will cost lives and have a profound impact on developing countries, particularly in the Asia Pacific region.

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In December 2012 the previous Government announced that $375 million from the foreign aid budget will be used to pay for the expenses of asylum seekers on the Australian mainland. When in opposition the new government opposed this use of the foreign aid budget, it is not clear yet whether the practice will continue now that they are in office.

Recommendation nº161: *Continue to promote and protect human rights internationally through bilateral and multilateral dialogue to enhance human right capacity regionally across the Asia-Pacific and globally through the AusAID programme* (Recommended by *Cambodia*)

IRI: *fully implemented*

State of Australia response:
[See response to recommendation n° 22]

AHRC response:
Ongoing. The new Government has announced that AusAID will be subsumed into the Department of Foreign Affairs and Trade (DFAT). The implication on activities and funding in the Asia-Pacific and globally is unknown

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Implemented.
Australia has continued to fulfil its role as a good global citizen .The Government actively participates in a range of international and regional forums sharing its experiences for the promotion and protection of human rights. In June 2013, Australia announced its candidacy for membership of the Human Rights Council for the 2018-2020 term.

Joint response:
PARTIALLY IMPLEMENTED
The Minister for Foreign Affairs, Julie Bishop, has reaffirmed Australia's commitment to the Millennium Development Goals and stated that "Australia will continue to be an effective and principled humanitarian donor". Australia has made some commendable commitments to international assistance including over $2 billion on spent on the Regional Assistance Mission to the Solomon Islands from 2003-2013 and a $30 million package of humanitarian assistance in the aftermath of Typhoon Haiyan. However aid organisations are concerned that funding cuts introduced by the new Government, will cost lives and have a profound impact on developing countries, particularly in the Asia Pacific region.

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Recommendation nº162: *Continue its efforts for the promotion and protection of human rights in the world and in their country* (Recommended by *Chad*)

IRI: *fully implemented*

State of Australia response:
[See response to recommendation n° 22]

AHRC response:
Implemented. Australia has continued to fulfil its role as a good global citizen .The Government actively participates in a range of international and regional forums sharing its experiences for the promotion and protection of human rights. In June 2013, Australia announced its candidacy for membership of the Human Rights Council for the 2018-2020 term .

Joint response:
PARTIALLY IMPLEMENTED

The Minister for Foreign Affairs, Julie Bishop, has reaffirmed Australia's commitment to the Millennium Development Goals and stated that "Australia will continue to be an effective and principled humanitarian donor". Australia has made some commendable commitments to international assistance including over $2 billion on spent on the Regional Assistance Mission to the Solomon Islands from 2003-2013 and a $30 million package of humanitarian assistance in the aftermath of Typhoon Haiyan. However aid organisations are concerned that funding cuts introduced by the new Government, will cost lives and have a profound impact on developing countries, particularly in the Asia Pacific region.

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Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.
4. UN Agencies which sent information for the UPR were contacted.

We posted our requests to the States and NHRI, and sent emails to NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing recommendations and voluntary pledges

Stakeholders we contact are encouraged to use an Excel sheet we provide which includes all recommendations received and voluntary pledges taken by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was "fully implemented" nor that it was "not implemented", UPR Info usually considers the recommendation as "partially implemented", unless the implementation level is obvious.

UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for both recommendations received and voluntary pledges taken at the UPR.

The **Implementation Recommendation Index** (IRI) is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.
An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as "not implemented".

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.

Contact

UPR Info
Rue de Varembé 3
CH - 1202 Geneva
Switzerland

Website: http://www.upr-info.org

Phone: + 41 (0) 22 321 77 70

General enquiries info@upr-info.org

http://twitter.com/**UPRinfo**

http://www.facebook.com/**UPRInfo**