

AUSTRALIAN MISSION TO THE UNITED NATIONS

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## Human Rights Council – 31st Regular Session

### Adoption of the Universal Periodic Review of Australia

#### Australian Statement

16 March 2016

Mr President, Excellencies, distinguished delegates and civil society representatives

I am honoured to appear before you today to present Australia's response to our second cycle Universal Periodic Review.

Australia views the UPR as an important opportunity to reflect on our human rights record.

It is an opportunity to celebrate our proud tradition of promoting human rights, to evaluate our existing arrangements, and to assess where further work is needed.

Australia's response adopted today is, of course, not the end of our engagement with the second cycle UPR process.

I would like to take some time today to:

- Describe the steps taken to develop Australia's response, including our consultations
- Provide some further detail on Australia's response, including the approach taken to accepting and noting recommendations
- Outline some recent developments and new commitments, and
- Discuss Australia's approach to implementation and monitoring going forward.

Following the interactive dialogue in November last year Australia has carefully considered each of the 290 recommendations received.

The Australian Government has consulted since November with relevant departments and Ministers at federal, state and territory level to the extent possible.

Australia has also actively engaged with civil society to the extent possible, holding a forum for this purpose on 9 December 2015 and inviting public submissions.



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Australia will continue this discussion and conversation across government and with civil society.

Australia views its response to UPR recommendations as an ongoing process and dialogue.

Australia will implement its voluntary commitment to work with the Australian Human Rights Commission to develop a public and accessible process for monitoring progress against UPR recommendations, including a periodic statement on progress against the recommendations on behalf of the Australian Government.

In some instances, recommendations have been noted for further consideration.

Any subsequent future actions will be presented in our ongoing reporting.

Australia thanks Member States for their genuine engagement with Australia's review.

The 290 recommendations received touched on a wide range of human rights, with a key focus on immigration and asylum seeker issues, the rights of Indigenous Australians, gender, and the rights of people with disability.

Australia was pleased to receive so many informed and considered recommendations.

I would again like to thank civil society for their involvement in Australia's second UPR.

Civil society contributions play an important role in deepening and diversifying the range of views, opinions and information available to Member States ahead of UPR interactive dialogues.

The Australian Government looks forward to engaging further with Australian civil society as we move towards the implementation of Australia's response and the development of our ongoing monitoring mechanisms.

Australia has accepted 150 recommendations in its formal response.

Australia has noted other recommendations, and where recommendations have been noted, Australia's response seeks to provide further clarity and context.



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Australia's primary aim is to provide a clear, genuine, transparent and achievable response, while emphasising Australia's commitment to ongoing consideration of recommendations.

Australia's response addresses recommendations thematically.

However, Australia would like to emphasise its understanding that there is significant intersectionality among and across these themes and that an individual may experience multiple discrimination and disadvantage.

Australia has accepted recommendations in two broad circumstances:

- First, Australia has accepted recommendations on the basis that new action will be taken to implement them.
- Second, Australia has accepted recommendations where existing law, policy or action already address the substance of that recommendation.

I would like to highlight two new actions in Australia's response:

- First, the Australian Government will undertake a national consultation on the implementation of the UN Guiding Principles on Business and Human Rights during 2016.
- Second, Australia will move to withdraw its reservation to CEDAW relating to the exclusion of women from combat roles, including repealing the related exemption from Australian anti-discrimination legislation.

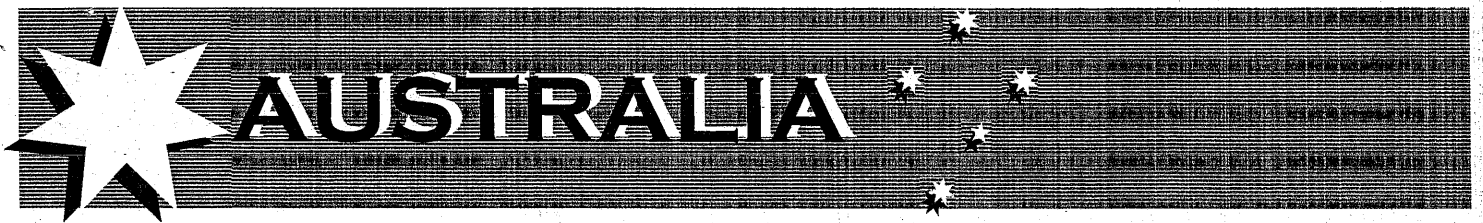
Australia is committed to implementing accepted recommendations and to providing updates in ongoing monitoring processes.

Australia's commitment to human rights and to consideration of UPR recommendations is ongoing.

Even in the last month, there have been a number of important developments.

#### *ALRC – elder abuse*

On 24 February the Australian Government announced a new Australian Law Reform Commission inquiry into laws and frameworks to safeguard older Australians from abuse.



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This highlights Australia's ongoing commitment to promote and protect the rights of older people and is consistent with Australia's voluntary commitment to promote and protect these rights internationally.

The new inquiry follows the Australian Law Reform Commission's review of Commonwealth legislation to identify provisions that unreasonably encroach upon rights, freedoms and privileges. The Commission's report was launched on 2 March and the Australian Government is considering its conclusions.

#### *Sex Discrimination Commissioner*

On 11 February the Australian Government announced the appointment of Ms Kate Jenkins as Australia's new Sex Discrimination Commissioner.

The Sex Discrimination Commissioner is a statutory appointment within the Australian Human Rights Commission.

The focus of the Sex Discrimination Commissioner is to address sex discrimination and promote gender equality, including promoting women's representation in leadership, preventing violence against women, and reducing the gender pay gap.

#### *Family Violence*

Work has also been progressing on the Australian Government's commitment to address the scourge of family violence. On 7 March, Legal Aid New South Wales launched the South West Sydney Domestic Violence Unit.

This is the first of 12 specialist domestic violence units supported by the Australian Government through a \$15 million injection of funds. This pilot program is part of the Australian Government's \$100 million Women's Safety Package.

The specialist units will also include targeted assistance to Indigenous women, and those facing cultural and linguistic barriers.

#### *Women on Government Boards*

On 8 March the Australian government announced that the Government is committed to women holding overall 50 per cent of Australian Government board positions, with at least 40 per cent representation of women and 40 per cent men on individual boards. This ambitious new target commences on 1 July 2016.



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### *Special Envoy for Human Rights*

Australia recently announced the appointment of the Hon Philip Ruddock MP as Australia's new Special Envoy for Human Rights.

Mr Ruddock has had a distinguished parliamentary and Ministerial career, including as a former Attorney-General of Australia, and extensive experience engaging on human rights issues, including representing Australian Parliament as part of Australia's delegation to the UPR in November 2015 as well as chairing Australia's Parliamentary Joint Committee on Human Rights and the Human Rights Sub-Committee of the Australian Parliament's Joint Parliamentary Standing Committee on Foreign Affairs, Defence and Trade.

Mr Ruddock will promote Australia's candidacy for a seat on the Human Rights Council for 2018-2020 and will advance Australia's international human rights priorities:

- i. good governance
- ii. freedom of expression
- iii. gender equality
- iv. the rights of Indigenous peoples,
- v. and capacity building and national human rights institutions.

Mr Ruddock is Australia's first Special Envoy for Human Rights, and his appointment reflects Australia's commitment to further strengthening our international contribution to advancing human rights.

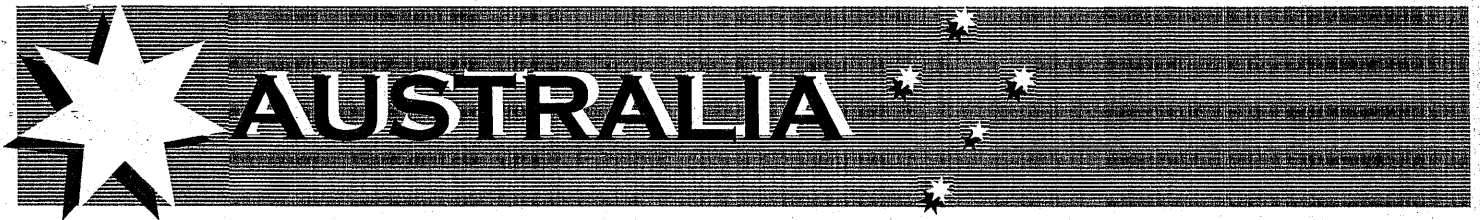
As mentioned, Australia has accepted recommendations where existing law, policy or action already address the substance of a recommendation.

For example, recommendations related to human trafficking.

Some other recommendations called on Australia to combat racial discrimination and promote community cohesion and social harmony.

These general principles currently inform Australia's policy and legislative frameworks.

The Australian Government is committed to building a unified nation, acknowledging the unique contributions of Indigenous cultures and the contributions



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of all Australians, both migrant and Australian-born, to our social cohesion and economic prosperity.

Australia's National Anti-Racism Partnership Strategy and the Racial Discrimination Act are examples of laws and action in this area.

Many recommendations recognised the work Australia is already doing, and called for Australia to either continue or strengthen ongoing efforts:

#### *Women's rights*

Australia has also accepted recommendations that called for continuation of efforts to reduce the gender pay gap and strengthening women's roles in leadership and managerial positions.

Australia also accepted recommendations calling for the continued implementation of the National Plan to Reduce Violence Against Women and their Children.

The recent appointment of Ms Kate Jenkins as Australia's new Sex Discrimination Commissioner will further Australia's work to implement UPR recommendations on women's rights issues.

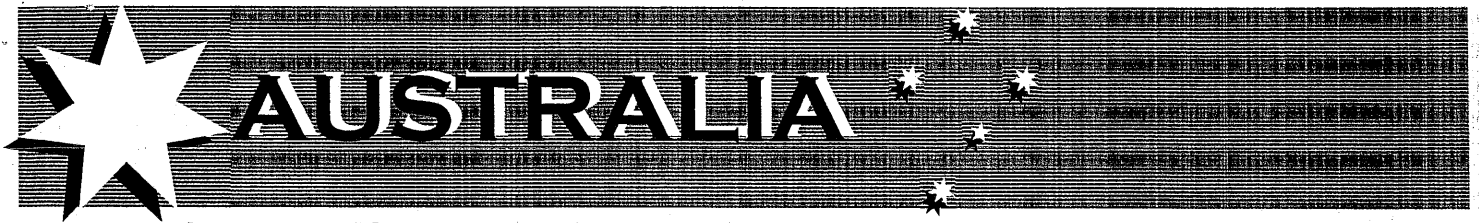
#### *Disability*

Australia accepted recommendations that called for continued special attention on the implementation of national policies for people with disability.

Australia continually reviews its disability legislation, standards and policies to ensure they are robust and effective in upholding the rights of people with disability.

Through the National Disability Strategy, Australia is implementing the National Disability Insurance Scheme, which is central to the Australian Government's disability reform agenda.

An independent review of the National Disability Insurance Scheme legislation was tabled in Parliament on Thursday 3 March 2016 and will be considered by Government.



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### *Indigenous Australians*

Other recommendations recognised the challenges that Australia continues to face, most notably our ongoing efforts to close the gap in outcomes for Indigenous Australians.

Australia has accepted 37 recommendations regarding protection and promotion of the human rights of Indigenous Australians.

On 10 February 2016, the Prime Minister of Australia, the Hon Malcolm Turnbull MP delivered the 2016 Closing the Gap report.

The report measures progress against targets in life expectancy, child mortality, education and employment.

The 2016 report shows mixed results.

However, the delivery of this report highlights Australia's commitment to close the gap between outcomes for Indigenous and non-Indigenous Australians and to report on our progress in an objective, measurable and publicly accessible way.

Although there still remains much work to be done, the Australian Government is committed to closing the gap and ensuring the First Australians have the same opportunities as other Australians.

Australia has endeavoured to make clear the reasons for noting particular recommendations.

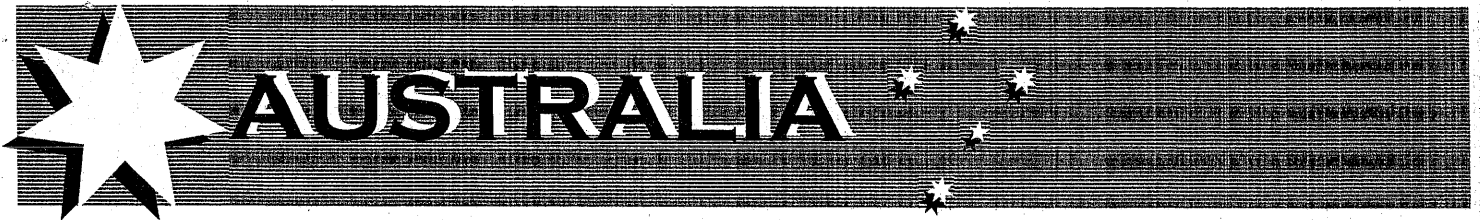
For example, Australia received many recommendations that require further consideration or additional time for sufficient consideration across appropriate levels of Australian Government, including states and territories.

Some recommendations have thus been noted for further consideration.

This approach accords with Australia's commitment to genuine engagement with the UPR and to providing achievable responses to recommendations.

Australia will continue to consider those recommendations, and will provide updates through its ongoing monitoring processes and Australia's mid-term report to the Human Rights Council.

As an example, the Australian Government is considering OPCAT ratification.



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The Australian Government supports the principles of the OPCAT.

Under Australia's federal system, states and territories manage most Australian places of detention and would be key partners in OPCAT implementation in Australia.

The support of all Australian states and territories is therefore required to undertake binding treaty action.

The Australian Government is consulting states and territories on OPCAT ratification and will provide updates on progress in due course.

Australia has also noted some recommendations where the response is dependent on future decisions of the Australian public through a proposed referendum or plebiscite.

#### *Constitutional recognition*

Australia received various recommendations concerning the recognition of Indigenous Australians in Australia's Constitution.

Australia's Constitution may only be amended via a referendum.

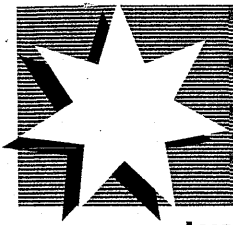
As such, some recommendations have been noted pending the outcome of the future referendum on constitutional recognition of Australia's First Peoples.

The Australian Government is continuing to progress constitutional recognition of Indigenous Australians by establishing a Referendum Council that will lead a national consultation process, including a series of Indigenous-designed and led consultations.

#### *Same-sex marriage*

Australia has similarly noted recommendations to legalise same-sex marriage, pending the proposed plebiscite on the matter.





# AUSTRALIA

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Australia has also noted recommendations that will not be considered further at this time.

For example, Australia does not propose to ratify the Migrant Workers Convention or the International Convention for the Protection of All Persons from Enforced Disappearance at this time.

The Australian Government considers however that Australia's laws and policies are generally consistent with the obligations in these Conventions.

With respect to CED, Australia already has international human rights obligations prohibiting conduct covering enforced disappearance and provides protection against enforced disappearances in its criminal law.

Australia does not propose to alter its federal model of Parliamentary supremacy through the introduction of a judicially enforceable Human Rights Act.

Australia has noted recommendations to cease mandatory immigration detention, turning back boats where it is safe to do so, or transferring people who arrive illegally by boat to other countries for processing and settlement.

Australia is a nation built on migration, and we have a long and successful history of managed migration and the promotion of lawful mobility.

The Australian Government remains committed to our strong immigration and border protection policies.

These policies protect the integrity of our regular and safe global migration program – the largest, per capita in the world – and have been successful in severely damaging the insidious people smuggling trade.

Although Australia notes these recommendations, Australia recognises the concerns of many Member States regarding children in immigration detention.

It is the position of the Australian Government that children are not held in immigration detention centres, but are accommodated in alternative places of detention.

The Australian Government has prioritised reducing the numbers of children in detention and has made significant headway in this regard.



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As at 17 March 2016, there are 35 children accommodated in alternative places of detention, including 29 illegal maritime arrivals.

This number is down from a peak of almost 2000 children in mid-2013.

Mr President, I will conclude my statement, so as to provide time for statements from Member States and civil society before my closing remarks.