

Universal Periodic Review

National Report — Australia

I. METHODOLOGY AND CONSULTATION PROCESS

1. The Australian Government is committed to a fairer and more inclusive Australia. It believes that everyone is entitled to respect and to a fair go and should be able to participate fully in the economic, political and social life of our nation. All Australians are responsible for respecting and protecting human rights and ensuring that our commitment to a fair go becomes a reality for all Australians. A community that respects the rights of all citizens is stronger, safer and more resilient to challenges.
2. The preparation of Australia's National Report was assisted by the work of National Human Rights Consultation carried out in 2009. The Consultation Committee travelled all around Australia to seek the community's views, conducting over 65 community roundtables and public hearings in more than 50 urban, regional and remote locations. The Consultation Committee received 35 000 submissions and also commissioned focus group research to ascertain community attitudes towards human rights and to cast light on the experiences and opinions of marginalised and vulnerable groups. The Consultation generated a national discussion and debate about human rights which has helped to inform and frame Australia's National Report.
3. In addition, the Australian Government has engaged extensively with civil society to prepare Australia's National Report. In early 2010, a workshop hosted by the Australian Human Rights Commission (AHRC) brought together National Human Rights Institutions, Government officials and non-government organisations (NGOs) to discuss the UPR. Participants attending the workshop proposed that the Australian Government draw on the National Human Rights Consultation for the UPR National Report.
4. In March 2010, the Australian Government launched a preliminary consultation on the National Report, inviting NGOs and members of the public to submit initial views on issues to be addressed in the Report. The UPR was a featured topic at the inaugural joint annual NGO Forum on Human Rights, hosted by the Attorney-General and Minister for Foreign Affairs in June 2010, which was attended by representatives of 48 NGOs, and also at the NGO Forum hosted by the Department of Foreign Affairs and Trade in October 2010.
5. A draft version of the National Report was released on the Attorney-General's website for comment in July 2010. States and Territories were also invited to comment on the draft National Report. The submissions made during this consultation process were used to update and amend the National Report in preparation for its submission.
6. Recognising the importance of consultation following Australia's first UPR, the Australian Government intends to dedicate part of the 2011 joint annual NGO Forum on Human Rights

to a discussion about Australia's UPR, with an emphasis on follow-up to UPR recommendations.

II. BACKGROUND AND FRAMEWORK

7. Australia is a stable, culturally diverse and democratic society. The estimated resident population is 22 million people. Of this population, almost one quarter was born overseas. The estimated Indigenous population is 2.5%. The total number of children aged 0–14 years is approximately 4.1 million.

A. Constitutional framework

8. Australia is a constitutional democracy with a parliamentary system of government based on the rule of law.¹ The Australian Constitution, which commenced in 1901, establishes a federal system in which legislative, executive and judicial powers are shared or distributed between federal institutions, six States² and three self-governing Territories.³ In each of these political units there is a parliament elected by the people, an executive responsible to that parliament which is formed by the party (or parties) commanding a majority (except for Norfolk Island, which currently does not have a party structure), and an independent judiciary. Australia's federal system presents some practical challenges in the implementation of Australia's international human rights obligations.
9. The federal Parliament consists of two Houses, the Senate and the House of Representatives, and the Queen (represented by the Governor-General). Laws have to be passed by both Houses and assented to by the Governor-General.
10. The Australian Constitution embodies the doctrine of separation of powers between the legislature, executive and judiciary. The independence of the judiciary is of great importance in Australia. Judges act independently of the Government in interpreting and applying the law. The High Court is the highest court in the Australian judicial system and has original jurisdiction in all matters arising under the Constitution or involving its interpretation.
11. The Constitution contains a number of express guarantees of rights and immunities, although these are not contained in a separate bill of rights. These include: any property acquired by the Commonwealth Government must be acquired on just terms (s51 (xxxi)); trial on indictment of any offence against any law of the Commonwealth shall be by jury (s80); the Commonwealth Government shall not make any law to establish any religion or to interfere with religious freedom (s116); and citizens are not to be subjected to any discrimination in any State by reason of residence in another State (s117).
12. The High Court has also indicated that there are some rights implied in the Constitution. It has held that the Constitution is predicated on a system of 'representative democracy' and that, since free communication and debate on political issues and institutions of government is essential to that system, legislation which infringes the implied freedom of political communication is invalid, unless necessary to protect some other public interest.

13. At various stages, proposals have been made to include rights expressly in the Constitution, but these proposals have been rejected by federal governments of all political persuasions.
14. The Australian Government is committed to the recognition of Aboriginal and Torres Strait Islander peoples in the Australian Constitution. It recently announced an intention to establish an Expert Panel comprising Indigenous leaders, constitutional lawyers, representatives of the federal Parliament and community representatives. The Expert Panel will consider how best to make progress on constitutional recognition of Indigenous peoples, and provide options on the form of the amendment which could be put to the Australian people at a referendum to amend the Constitution.

B. Legal framework

15. An extensive anti-discrimination legislative framework exists in Australia at the Commonwealth level and is described at paragraph 49.
16. The *Australian Human Rights Commission Act 1986*⁴ (AHRC Act) establishes the AHRC and gives it a wide range of functions in relation to a number of international instruments to which Australia is a party or has subscribed.⁵
17. Under Australia's legal system, the recognition and protection of many basic rights and freedoms is enshrined in common law. The common law has also developed principles of statutory interpretation that function to protect human rights. The first principle is that when interpreting legislation, courts will presume that Parliament did not intend to interfere with fundamental human rights. The second principle is that in cases of ambiguity, courts will presume that legislation is intended to be consistent with established rules of international law, including Australia's international human rights obligations. International human rights principles also play an important role in shaping the common law — for example in the landmark *Mabo* case,⁶ which recognised the existence of native title.
18. Australia has a comprehensive framework for independent review of administrative decisions. The merits of many decisions can be reviewed by tribunals such as the Administrative Appeals Tribunal. A person aggrieved by most decisions made under federal laws can apply for an order of review on various grounds.⁷ Australia's Constitution also separately guarantees a broad scope of judicial review of government action.
19. Victoria and the Australian Capital Territory have introduced statutory charters of rights based on a 'dialogue model'. The *Human Rights Act 2004* (ACT) and the *Victorian Charter of Human Rights and Responsibilities Act 2006* (Vic) protect civil and political rights, require public authorities to act in a manner consistent with those rights, and require public authorities to give proper consideration to those rights when making administrative decisions. Statements of compatibility must accompany each Bill introduced into Parliament, and courts can make a declaration where it is not possible to interpret a law consistently or compatibly with human rights. In June 2010, the Tasmanian Government announced that it intends to introduce a charter of rights, following a public consultation process.

20. In April 2010, the Australian Government announced Australia's Human Rights Framework, a set of measures to promote and protect human rights. Details of the Framework are set out at paragraphs 41 to 47.

C. Institutions

1. Australian Human Rights Commission

21. The AHRC is Australia's national human rights institution. It is an independent statutory authority and meets the criteria for human rights institutions set out in the Paris Principles. It has been accredited as 'A-Status' by the International Coordinating Committee of National Human Rights Institutions.
22. The AHRC is a collegiate body made up of a President and five Commissioners. The Commissioner offices are: Human Rights Commissioner; Disability Discrimination Commissioner; Race Discrimination Commissioner; Sex Discrimination Commissioner; and Aboriginal and Torres Strait Islander Social Justice Commissioner. The Sex Discrimination Commissioner is currently also responsible for age discrimination issues. However, the Government introduced legislation in September 2010 to establish a stand-alone Age Discrimination Commissioner.
23. The Aboriginal and Torres Strait Islander Social Justice Commissioner is a unique position among National Human Rights Institutions globally, being the only dedicated Indigenous commissioner position and whose reports are mandatorily tabled in Parliament.
24. The AHRC's functions include public education and human rights awareness and the power to inquire into and conciliate individual complaints made in relation to a person's race, sex, disability or age. It also has broader policy and promotional functions, including: advising the Australian Government on human rights questions; examining the potential domestic impact of draft treaties; reviewing existing and proposed legislation to ensure compliance with human rights principles; and conducting research into human rights issues.
25. The AHRC can also inquire into complaints concerning alleged breaches of human rights by the Australian Government or an Australian Government authority (based on the rights included in the instruments listed at paragraph 16), or discrimination in the area of employment on numerous grounds including sexual preference, criminal record, trade union activity, political opinion, religion or social origin.
26. One of the most significant and innovative powers of the AHRC is the power to conduct public inquiries into human rights matters. The AHRC can also intervene in court proceedings concerning human rights, and apply to be *amicus curiae* in court matters concerning discrimination issues.

2. State and Territory commissions

27. Each State, the Northern Territory and the Australian Capital Territory has its own body dedicated to promoting human rights, anti-discrimination or equal opportunity.⁸ Together with the AHRC, these bodies constitute the Australian Council of Human Rights Agencies.

3. Parliamentary committees

28. The Commonwealth Parliament has a number of committees that scrutinise proposed and existing legislation. The Senate Standing Committee on the Scrutiny of Bills reports on whether Bills introduced into the Senate, and existing Acts of Parliament, ‘trespass unduly on personal rights and liberties’.⁹ The Senate Standing Committee on Regulations and Ordinances scrutinises regulations, ordinances and other legislative instruments tabled in the Senate to ensure that they do ‘not trespass unduly on personal rights and liberties’.¹⁰
29. The Joint Standing Committee on Foreign Affairs, Defence and Trade, which has a Human Rights Sub-Committee, considers and reports on matters relating to foreign affairs, defence, trade and human rights. The Joint Standing Committee on Treaties reviews and reports on all treaty actions proposed by the Australian Government before action is taken which binds Australia to the terms of the treaty.
30. The Australian Government has introduced legislation to establish a new 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 (UN) human rights treaties to which Australia is a party (see paragraph 45).
31. State and Territory parliaments have also established scrutiny committees which consider matters relating to rights. A Standing Committee on Treaties comprising senior Commonwealth and State and Territory officers meets regularly to identify and discuss treaties and other international instruments of sensitivity and importance to the States and Territories.

4. Ombudsman

32. The Office of the Commonwealth Ombudsman investigates complaints about the administrative actions of Commonwealth Government departments and agencies. The Ombudsman can investigate matters on his or her own motion, and also has responsibility for reviewing the cases of long-term immigration detainees. States and Territories have also established Ombudsmen.

5. Privacy Commissioner

33. The Office of the Commonwealth Privacy Commissioner investigates complaints from individuals about interferences with privacy against Commonwealth and Australian Capital Territory government agencies and private sector organisations. Most States and Territories also have privacy commissioners.

6. National Congress of Australia’s First Peoples

34. In November 2009, the Australian Government announced the establishment of a national representative body for Aboriginal and Torres Strait Islander peoples to be known as the National Congress of Australia’s First Peoples. Through its contribution to government processes for engagement, policy development and review of program performance, the body will play a key role in the Australian Government’s commitment to re-setting the relationship with Indigenous peoples and developing genuine partnerships. The model was

developed after 12 months of consultation and was recommended by the Aboriginal and Torres Strait Islander Social Justice Commissioner and an independent Indigenous Steering Committee. The Australian Government anticipates that a fully operational body will be in place in early 2011.

D. Civil society

35. NGOs and the media play important roles in promoting and protecting human rights in Australia. The NGO community is active across all sectors of society and there are many consultative fora between civil society and government at both the federal and state levels. The media in Australia enjoys a high degree of freedom which allows it to report on human rights issues.
36. Recognising the important role played by NGOs, in June 2010 the Australian Government held the inaugural joint annual NGO Forum on Human Rights, hosted by the Attorney-General and the Minister for Foreign Affairs, to ensure a comprehensive consultation mechanism for discussion about domestic and international human rights issues.

E. International obligations

37. Australia has a long tradition of supporting human rights around the world, and was closely involved in the development of the international human rights system.¹¹
38. Australia is a party to the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the ICCPR, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the CRC and the CRPD. Australia has reservations to certain obligations under the CERD, the ICCPR, the CEDAW and the CRC, which it reviews regularly.
39. Australia is a party to the Optional Protocols establishing individual communications mechanisms under the ICCPR, the CEDAW and the CRPD and has also accepted individual communication mechanisms under the CERD and the CAT. It is also a party to the Optional Protocol to the ICCPR aiming at the abolition of the death penalty, the Optional Protocol to the CRC on the involvement of children in armed conflict and the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography. Australia signed the Optional Protocol to the CAT in 2009 and is proceeding towards ratification.
40. Treaties to which Australia is a party require legislative implementation in order to have direct application in Australian law. Before Australia ratifies or otherwise becomes bound by a treaty, the Australian Government practice is to satisfy itself that any legislation necessary to implement the treaty is in place.

III.PROMOTION AND PROTECTION OF HUMAN RIGHTS

A. Australia's Human Rights Framework

41. On the 60th Anniversary of the Universal Declaration of Human Rights, the Attorney-General appointed an independent Committee to undertake a National Human Rights Consultation to seek the community's views on human rights in Australia. The Committee conducted the most extensive consultation on human rights in Australia's history.
42. In response to the National Human Rights Consultation report, released in September 2009, the Government announced Australia's Human Rights Framework, a set of measures to promote and protect human rights, including measures to strengthen parliamentary and Executive consideration of human rights when considering the impact that policies and laws may have on citizens. The Framework did not include a statutory charter of rights. It is the Government's view that existing mechanisms, including well-established principles of statutory interpretation, together with new requirements like the proposed Statements of Compatibility for all Bills, will provide the courts with the appropriate tools to undertake their role in the context of the Parliament's enhanced focus on human rights considerations.
43. The centrepiece of the Framework is a series of measures to make information about human rights more readily available across the Australian community. Under the Framework, the Australian Government has allocated funding over the next four years for the development and delivery of human rights awareness and education programs across the community, including primary and secondary schools, by the Australian Human Rights Commission and NGOs. The Government is also investing in an education and training program for the Commonwealth public sector, including development of a human rights toolkit and guidance materials for public sector policy development and implementation of Government programs. These measures reflect the National Human Rights Consultation Committee's recommendation that education be the highest priority for improving and promoting human rights in Australia.
44. The Australian Government has introduced legislation to require that each new piece of legislation introduced into Parliament be accompanied by a statement which assesses its compatibility with the seven core UN human rights treaties to which Australia is a party. The statements will be publicly available along with other explanatory materials which accompany legislation. Government Cabinet and Legislation Handbooks will be updated to include guidance on the need to address consistency with Australia's human rights obligations in developing policies and legislation.
45. The Australian Government has also introduced legislation to establish 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 UN human rights treaties to which Australia is a party. The legislation provides the Joint Committee with the ability to examine proposed and existing legislation, and the Attorney-

General will also be able to ask the Joint Committee to conduct broader inquiries into human rights matters.

46. A further key component of the Framework is the development of consolidated and harmonised Commonwealth anti-discrimination laws (see paragraph 52).
47. As part of the Framework, the Australian Government will develop a new National Action Plan on Human Rights, working with States and Territories to outline future action for the promotion and protection of human rights.

B. Equality and non-discrimination

48. Australian society has long valued equality of opportunity, mutual respect, tolerance and fairness. Everyone should be able to participate in the Australian community free from discrimination or harassment on grounds including their race, sex, disability and age. Australia recognises that intersecting forms of discrimination can have a compounding effect. A range of legislative, policy and program measures have been put in place to protect and promote equality and non-discrimination in Australia.
49. Commonwealth anti-discrimination legislation is primarily located in four Acts. The *Racial Discrimination Act 1975* makes it unlawful to discriminate on the basis of race, colour, descent, or national or ethnic origin and prohibits offensive behaviour based on racial hatred. The Act is directed to implementing obligations under the CERD. The *Sex Discrimination Act 1984* prohibits sexual harassment and makes it unlawful to discriminate on the basis of sex, marital status, pregnancy or potential pregnancy and, in relation to termination of employment, family responsibilities. The Act is directed to implementing obligations under the CEDAW and certain aspects of ILO Convention 156. The *Disability Discrimination Act 1992* makes it unlawful to discriminate against persons with disabilities. The *Age Discrimination Act 2004* makes it unlawful to discriminate against people on the basis of age. Additionally, the AHRC Act enables the AHRC to inquire into and conciliate complaints of discrimination in employment on the basis of sexual preference, criminal record, trade union activity, political opinion, religion or social origin, implementing obligations under ILO111.
50. In September 2010, the Australian Government introduced legislation to strengthen the *Sex Discrimination Act* to provide for protection from discrimination on the grounds of family responsibilities to both women and men in all areas of employment; provide greater protection from sexual harassment; ensure that protections from sex discrimination apply equally to women and men; and establish breastfeeding as a separate ground of discrimination.
51. Complaints about discrimination can be made in relation to broad areas of public life. The application of anti-discrimination laws extends to non-government (private) individuals and organisations.
52. The Australian Government is currently harmonising and consolidating Commonwealth anti-discrimination laws by removing unnecessary regulatory overlap, addressing

inconsistencies across laws and making the system more user-friendly. The development of a consolidated Act provides an opportunity to examine gaps at the federal level, and review the complaints handling process and the related role and functions of the AHRC. As part of its review and consolidation of federal anti-discrimination laws, the Australian Government has committed to introducing legislation to protect against discrimination on the basis of a person's sexual orientation or gender status.

53. In addition to the legislation described above, the *Fair Work Act 2009* prohibits an employer from taking adverse action against an employee or prospective employee for a range of discriminatory reasons. The Fair Work Ombudsman can assist individuals by investigating suspected breaches of the *Fair Work Act*.

1. Indigenous Australians

54. Australia values the rich contribution Aboriginal and Torres Strait Islander peoples continue to make to its development and unique identity as a nation. Indigenous peoples in Australia are the proud custodians of the oldest continuing cultures in human history.
55. In February 2008, the Australian Government made an historic formal Apology to Australia's Indigenous Peoples and in particular the Stolen Generations, who were removed from their families. The Apology recognised the laws and policies of successive Parliaments and governments that have inflicted profound grief, suffering and loss on Australia's First Peoples. The Apology was followed by a significant commitment to invest in housing, health, early childhood development, education and remote service delivery to advance the fundamental social and economic rights of Indigenous peoples.
56. The Australian Government has supported the establishment of a Healing Foundation to support Aboriginal and Torres Strait Islander community-based healing initiatives, with a strong focus on the Stolen Generations.
57. Many Indigenous peoples in Australia face significant disadvantage. Indigenous peoples experience poorer education, employment, income and home ownership outcomes than other Australians. They also experience higher rates of family violence, child abuse, representation in prisons and representation in child protection. In the past, health, education and community services provided to many Indigenous people in regional and urban areas have been inadequate. The gap between Indigenous and non-Indigenous life expectancy at birth is currently estimated at 11.5 years for males and 9.7 years for females. The Indigenous infant mortality is twice the rate of non-Indigenous infants. These statistics present substantial challenges.
58. The Council of Australian Governments (COAG) has agreed to a partnership between all levels of government to work towards closing the gap in opportunities and life outcomes between Indigenous and non-Indigenous Australians. Critical to this agenda are six clear and specific targets to: reduce significantly the gap in life expectancy within a generation; halve the gap in mortality rates for Indigenous children under five by 2018; ensure access to early childhood education for Indigenous four-year-olds in remote communities by 2013; halve

the gap in reading, writing and numeracy for Indigenous children by 2018; halve the gap for Indigenous students in Year 12 or equivalent attainment by 2020; and halve the gap in employment outcomes between Indigenous and non-Indigenous Australians by 2018.

59. In April 2009, Australia gave its support to the Declaration on the Rights of Indigenous Peoples (see paragraph 145) reaffirming the entitlement of Australia's Indigenous peoples to all human rights and fundamental freedoms. The Government has subsequently taken a number of steps to re-set its relationship with Indigenous peoples, including the establishment of the National Congress of Australia's First Peoples (see paragraph 34).
60. The Australian Government recognises that ongoing high rates of family violence and victimisation experienced by Indigenous women continue to be a significant human rights concern. In addition to funding community responses to family violence, the Australian Government has supported the establishment of a new National Aboriginal and Torres Strait Islander Women's Alliance for Indigenous women to bring forward their issues and solutions in their own terms (see also discussion of Australia's National Plan to Reduce Violence against Women and their Children at paragraph 106).
61. Indigenous women, men and youth are more likely to enter the criminal justice system earlier than non-Indigenous Australians, and are incarcerated at higher rates than non-Indigenous Australians. Indigenous prisoners are more likely to have had a prior period of imprisonment than non-Indigenous Australians. In November 2009, the Commonwealth and State and Territory Governments endorsed a National Indigenous Law and Justice Framework to tackle Indigenous law and justice issues. The framework represents the first nationally-agreed approach to Indigenous law and justice. It will work to prevent deaths in custody, reduce over representation in jails and recidivism, and provide full and equitable justice to Indigenous communities.
62. The Northern Territory Emergency Response (NTER) is a set of measures designed to protect children, make communities safe and build a better future for people living in Indigenous communities and town camps in the Northern Territory. The NTER was announced by a former Australian Government in June 2007 in response to an independent report which brought national attention to evidence of child abuse in some of the Northern Territory's Indigenous communities. Measures introduced included provision of additional policing, child health checks, repairs to community infrastructure, alcohol and pornography restrictions and income management. The legislation introducing these measures stated that they were special measures for the purposes of the *Racial Discrimination Act 1975* and were excluded from the operation of Part II of that Act (which prohibits racial discrimination).
63. The current Australian Government initiated a comprehensive and independent review of the NTER measures in June 2008, involving extensive consultation with those affected by the measures. The review's overarching recommendations were:
 - that the Federal and Northern Territory Governments recognise as a matter of urgent national significance the continuing need to address the unacceptably high level of

disadvantage and social dislocation being experienced by Aboriginal Australians living in remote communities throughout the Northern Territory;

- in addressing these needs both Governments acknowledge the requirement to re-set their relationship with Indigenous people based on genuine consultation, engagement and partnership; and
- that Government actions affecting Indigenous communities respect Australia's human rights obligations and conform with the *Racial Discrimination Act 1975*.

64. The Australian Government accepted the review's overarching recommendations and commenced action to give effect to them. In June 2010, the Parliament passed legislation to reinstate the *Racial Discrimination Act 1975* in relation to the NTER and make necessary changes to the NTER laws.
65. The Australian Government acknowledges the importance of culture to reconciliation between Indigenous and non-Indigenous Australians. The Australian Government supports the unconditional repatriation of all Australian Indigenous human remains from overseas collections to their traditional lands or communities of origin.
66. The importance of land to Indigenous peoples has been formally recognised in Australian legislation.¹² In 1993, following the High Court's decision in the *Mabo* case, the *Native Title Act 1993* was enacted, establishing a legislative framework for recognition of Indigenous native title to land, derived from traditional laws and customs.
67. The Australian Government nominated Megan Davis, an Indigenous human rights scholar and advocate for women's rights, to serve as an independent expert to the UN Permanent Forum on Indigenous Issues. Ms Davis is the first Indigenous Australian woman to be elected to a UN forum.

2. Gender equality

68. The Australian Government recognises that women and men have an equal role to play in all aspects of society and is committed to promoting and protecting women's human rights and to realising gender equality, both domestically and internationally.
69. The *Sex Discrimination Act 1984* prohibits sexual harassment and makes it unlawful to discriminate on the basis of sex, marital status, pregnancy or potential pregnancy and, in relation to termination of employment, family responsibilities, as described at paragraph 49.
70. Australia recognises the importance of strengthening women's leadership, including in national parliaments, to advance gender equality. Australia has a framework of legislative and policy measures in place to recognise the equality of men and women and to increase women's leadership in every aspect of Australian society.
71. Considerable progress has been made in recent years in relation to the political participation of women in Australia. In 2010, approximately thirty per cent of all Commonwealth Parliamentarians are women.¹³ There are six female ministers, including for the first time

the Prime Minister, six female Parliamentary Secretaries and the Deputy Opposition Leader. A woman occupies the position of Governor-General. Three of the seven current members of the High Court of Australia are female. At the State level there are two female Premiers and two female Governors.

72. The Australian Government recognises that further efforts are needed to encourage increased participation of women in the higher echelons of the corporate sector and continues to pursue a variety of initiatives to support increasing the representation of women on public sector boards.
73. Improving women's economic outcomes is critical to gender equality. In Australia, women's earnings are still, on average, below those of men. A major factor impacting on women's economic security is the fact that women still bear major responsibility for unpaid caring and household work. Measures that facilitate better pay equity outcomes, increase women's workforce participation and encourage more balanced sharing between women and men of caring and household work responsibilities are key to improving women's economic security.
74. In recent years, the Australian Government has delivered a range of such measures. The *Fair Work Act 2009* includes improved equal remuneration provisions to help deliver better pay equity outcomes. The new National Employment Standards deliver increased workplace flexibility, giving parents the right to request flexible working arrangements when returning to work after the birth of a child and effectively doubling the amount of unpaid parental leave available to families.
75. Another substantive initiative is the introduction of Australia's first comprehensive Paid Parental Leave scheme from January 2011. This scheme will be instrumental in giving parents more options in balancing their work and family responsibilities while also helping women to maintain their connection with the workforce.
76. In March 2009, the AHRC released the concluding paper of its sex and gender diversity project. The Australian Government has committed to considering the issues highlighted in this paper, including current requirements for the recording of sex and gender in federal government documents and records.

3. Persons with disabilities

77. Persons with disabilities are highly valued members of Australian communities and workplaces and make a positive contribution to Australian society. However, persons with disabilities face a range of challenges in enjoying their rights on an equal basis with others. Australia is in the process of developing a comprehensive policy framework that aims to bring about change in all mainstream services and programs so that persons with disabilities have the same opportunities as other Australians.
78. The *Disability Discrimination Act 1992* prohibits discrimination on the ground of a person's disability in many areas of public life, as described at paragraph 49.

79. One recent development in this area is the tabling in Parliament of the *Disability (Access to Premises — Buildings) Standards 2010* in March 2010. The Premises Standards provide minimum national standards for accessibility requirements to ensure dignified access to, and use of, buildings for persons with disabilities.
80. The Australian Government, together with State, Territory and Local Governments, has developed a draft National Disability Strategy to provide a national framework to drive future reforms in mainstream systems and the disability services system in order to improve outcomes for persons with disabilities, their families and carers. The draft Strategy has been developed in consultation with the Australian community, disability organisations and peak bodies, carer organisations, employers, and industry experts. The Strategy will be an important mechanism in ensuring that the principles underpinning the CRPD are integrated into policies and programs affecting persons with disabilities, their families and carers.
81. Informal carers provide support and assistance to persons with disabilities so that they can live at home and remain connected with their communities. The Australian Government will place the needs of carers at the centre of government policy through the development of a National Carer Recognition Framework including Commonwealth carer recognition legislation and a national carer strategy.
82. In 2008, the Australian aid program produced a disability-inclusive strategy called *Development for All: Towards a Disability Inclusive Australian Aid Program 2009-14*. The strategy guides Australia's aid program towards development that includes, and deliberately focuses on, persons with disabilities in developing countries and ensures that such persons benefit equally from international co-operation. The strategy is based on the CRPD and contributes to meeting Australia's obligations under Article 32 and commitments in our domestic Human Rights Framework to engage with the international community to improve the protection and promotion of human rights within our region and around the world.
83. The Australian Government nominated Professor Ron McCallum, a leading Australian law academic, to serve as an independent expert on the Committee on the Rights of Persons with Disabilities. In 2008 Professor McCallum was elected to the Committee for a 2-year term and appointed as Chair in 2010. Recently, Professor McCallum was re-elected to the Committee for a 4-year term.

4. Children

84. Australia recognises that children and young persons have particular interests and vulnerabilities which require special protection. The Commonwealth and States and Territories have a broad range of legislation in place to protect children relating to issues such as guardianship, child protection, adoption and young offenders.
85. Australia is committed to improving outcomes for, and tackling violence against, children. In April 2009, the Australian Government endorsed a National Framework for Protecting Australia's Children. The National Framework aims to ensure that Australia's children and young people are safe and well, and that there is a substantial and sustained reduction in

child abuse and neglect in Australia over time. The National Framework was developed through a strong partnership between governments and the non-government sector and extensive consultation. It will operate through a series of three-year implementation plans and will explore ways to address the specific needs of Indigenous and other vulnerable children.

86. The rights of children play an important part in the development and application of family law. In 2006, the Australian Government introduced a series of changes to the family law system. These included changes to the *Family Law Act 1975* and to the family relationship services system. The aim of the reforms was to bring about generational change in family law and a cultural shift in the management of parental separation, away from litigation and towards co-operative parenting. In January 2010, the Australian Government released an evaluation of the impact of the 2006 changes to the *Family Law Act*, prepared by the Australian Institute of Family Studies, which examines the impact of the legal changes and the new services introduced as part of the reforms.
87. Early childhood development, care and education has been established as a key national reform area by the Council of Australian Governments (COAG). Through an overarching National Early Childhood Development Strategy and a series of national partnership agreements, COAG has initiated a range of reforms, including universal access to early childhood education, providing integrated child and family services to Indigenous Australians, and a new National Quality Framework for early childhood education and care and school age care.
88. In November 2009, the Australian Government made a formal apology to child migrants who arrived under historical child migration schemes and who were often subsequently placed in homes and orphanages. This apology acknowledged that many former child migrants and other children who were in institutions, their families and the wider community suffered from a system that did not adequately provide for, or protect, children in its care.

5. *Sexual orientation*

89. People in Australia are entitled to respect, dignity and the opportunity to participate in society and receive the protection of the law regardless of their sexuality. Homosexual activity has been decriminalised in all Australian States and Territories. Recent policy developments focus on ensuring that same-sex couples and their families are recognised and have the same entitlements as opposite-sex de facto couples.
90. As part of its review and consolidation of federal anti-discrimination laws, the Australian Government has committed to introducing legislation to protect against discrimination on the basis of a person's sexual orientation.
91. Extensive legislative reforms were introduced in 2009 to enable same-sex couples and their children to be recognised by Commonwealth law. The reforms affected 85 Commonwealth laws, eliminating discrimination against same-sex couples and their children in a wide range

of areas including social security, taxation, health care, veterans' affairs, workers' compensation, educational assistance, superannuation, family law and child support.

92. The Australian Government supports a nationally consistent State-based framework for relationship recognition. A number of States and Territories have established schemes which allow same-sex and opposite-sex de facto couples to register their relationships formally.

6. Age discrimination

93. Australia is committed to ensuring that its citizens are not prevented from making a contribution to society due to their age. The *Age Discrimination Act 2004* prohibits discrimination in many areas of public life, as described at paragraph 49.
94. In 2009, the *Age Discrimination Act* was amended to remove the 'dominant reason' test, which stated that a person's age must have been the dominant reason underlying the alleged discriminatory behaviour for the Act to apply. The removal strengthened protections against age discrimination and brought the Act into line with other Commonwealth anti-discrimination laws.
95. The Australian Government has committed funding for a dedicated Age Discrimination Commissioner in the AHRC. In September 2010, the Australian Government introduced legislation to establish the new Commissioner office. The Age Discrimination Commissioner will advocate for those who experience age discrimination and assist in breaking down stereotypes that contribute to age discrimination in the community and workplace.

7. Multiculturalism and combating racism

96. Australia strives towards being a tolerant and inclusive society made up of people from many different cultural, linguistic and religious backgrounds. Cultural diversity is a central feature of our national identity. Almost one in four of Australia's estimated resident population of 22 million was born overseas.¹⁴ Government funding supports the teaching of foreign languages in most mainstream Australian schools and universities, as well as in community ethnic schools.
97. The Australian Government is committed to ensuring that all Australians have the opportunity to be active and equal members of our society, free to maintain their cultural traditions, subject to Australian law. The Australian Multicultural Advisory Council was established in 2008. In April 2010, it provided the Australian Government with advice on cultural diversity policy to which the Government is currently responding.
98. The Government's Diversity and Social Cohesion Program undertakes projects that address cultural, racial and religious intolerance by promoting respect, fairness and a sense of belonging for everyone. Similarly, through the Community Liaison Officer network, the Government maintains contact with a wide variety of ethnic community organisations and individuals across Australia, to provide advice on community relations issues, disseminate

information about Government services and programs, and to hear directly from migrant community groups.

99. Under the *Racial Discrimination Act 1975*, discrimination against a person on the grounds of race, colour, descent or national or ethnic origin is unlawful. Offensive behaviour based on racial hatred (vilification) is also unlawful. In addition, under the *Commonwealth Criminal Code Act 1995*, it is an offence to urge violence against a group on the basis of race, religion, nationality or political opinion. The AHRC has the ability to investigate and conciliate complaints of racial discrimination.
100. Concerns have been raised about the safety of Indian students in Australia. Australia has below-average rates of assault in comparison with other Organisation for Economic Co-operation and Development countries. As in other countries, some assaults in Australia have been racially motivated. All Australian Governments take attacks on Indians in Australia very seriously. The Australian Prime Minister and other Ministers have condemned attacks on Indians and any attack which is racially motivated. Australia's States and Territories have taken strong law enforcement action, with offenders pursued with vigour and brought to justice. The Australian Government recognises the need for credible data and has commissioned the Australian Institute of Criminology to conduct a study on crimes against international students.

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

1. Abolition of death penalty and prohibition of torture

101. The Commonwealth Government abolished the death penalty in Australia, including in the Territories, in 1973. All States abolished the death penalty by 1985. In March 2010, legislation was passed by the Commonwealth Parliament to ensure the death penalty cannot be reintroduced anywhere in Australia. In addition, the *Criminal Code Act 1995* was amended to include a specific torture offence at the Commonwealth level. This is intended to better fulfil Australia's obligations under the CAT to ban all acts of torture, wherever they occur.
102. In December 2009, the Australian Government announced a new policy to govern law enforcement co-operation with countries that may apply the death penalty. New guidelines require the Australian Federal Police to consider a set of prescribed factors before providing police-to-police assistance in matters with possible death penalty implications. In addition, Ministerial approval of assistance is required in any case in which a person has been arrested for, detained in relation to, charged with, or convicted of an offence which carries the death penalty.

2. Combating violence

103. Violence against women is unacceptable and causes significant personal, social and economic costs for all in the Australian community.¹⁵ Aboriginal and Torres Strait Islander women report higher levels of physical violence during their lifetime than non-Aboriginal and non-Torres Strait Islander Australian women, and are much more likely to experience

sexual violence and to sustain injury. Research suggests that women with a disability are more likely to experience partner or sexual violence, more severely and over a longer period of time, than women without a disability.

104. Rape, including spousal rape, and sexual assault are criminal offences in all States and Territories. Legislation in force in all States and Territories empowers courts to make apprehended violence orders to protect victims of domestic violence, or persons at risk of domestic violence.
105. One of the objects of the *Family Law Act 1975* is to ensure that the best interests of children are met by protecting children from physical or psychological harm caused by subjection or exposure to abuse, neglect or family violence. In deciding whether to make a particular parenting order in relation to a child under the *Family Law Act* the court must regard the best interests of the child as the paramount consideration. The Australian Law Reform Commission recently completed an inquiry into the interaction between State and Territory domestic violence laws and the *Family Law Act* which will be tabled in the Parliament by the end of November 2010.
106. The Australian Government has taken significant measures to reduce violence against women and their children. The Australian Government is collaborating with State and Territory Governments to develop a national strategy which applies best practices in the fields of legislation, prevention, law enforcement, services and research in order to reduce violence against women. The National Plan to Reduce Violence against Women and their Children will be a series of four three-year action plans to coordinate the effort to reduce violence against women and their children. The National Plan will enable all levels of government and the community to better support victims of violence, strengthen and streamline domestic violence and sexual assault legislation, and reduce violence in future generations.

3. Trafficking in persons

107. Australia is a destination country for trafficking victims, but the number of trafficking victims in Australia remains low due to border control and Australia's geographic isolation. Nonetheless, Australia has a legislative and policy framework to combat trafficking in all its forms and ensure that Australia's anti-people trafficking strategy remains relevant and responsive to emerging trends and issues.
108. Trafficking in persons (including child trafficking) and trafficking related offences (such as sexual servitude, slavery, deceptive recruitment, and debt bondage) are criminal offences under the *Criminal Code Act 1995*. To date, nine people have been convicted of people trafficking related offences.¹⁶
109. The Australian Government's strategy to combat trafficking in persons includes measures to address the full trafficking cycle, from recruitment to reintegration, and gives equal weight to the critical areas of prevention, detection and investigation, prosecution and victim support.

110. Australia has ratified the Trafficking Protocol to the UN Convention against Transnational Organised Crime (UNTOC) and, together with Indonesia, co-chairs the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime.¹⁷ The Australian Government also participates actively in international fora such as the UN Commission on Crime Prevention and Criminal Justice and the UNTOC Conference of Parties to better address and prevent trafficking.

4. Human rights and counter-terrorism measures

111. Following the events of 11 September 2001 and the Bali Bombings in 2002, Australia strengthened anti-terrorism measures to meet international counter-terrorism obligations and to protect Australians. Some concerns have been raised regarding the extent to which anti-terrorism measures comply with Australia's international human rights obligations in international and domestic dialogues.
112. The Australian Government is committed to ensuring that its national security laws and powers contain appropriate safeguards and are accountable in their operation. Following extensive public consultation to review Australia's national security legislation, in September 2010, the Australian Government introduced the National Security Legislation Amendment Bill, which will implement the recommendations of several independent and bipartisan parliamentary committee reviews of Australian national security and counter-terrorism legislation.
113. The Australian Government also introduced the Parliamentary Joint Committee on Law Enforcement Bill in September 2010 to establish the Parliamentary Joint Committee on Law Enforcement which will replace and extend the functions of the current Parliamentary Joint Committee on the Australian Crime Commission to also include broad oversight of the Australian Federal Police.
114. Human rights obligations will also be taken into account as part of a further review of counter-terrorism laws, which is expected to commence in December 2010.
115. In March 2010, the Australian Parliament legislated to establish a new Independent National Security Legislation Monitor to review the operation and effectiveness of counter-terrorism and national security legislation. The Monitor will also assist in ensuring that the legislation is consistent with Australia's international obligations, including human rights, counter-terrorism and international security obligations, and contains safeguards for protecting the rights of individuals.

D. Freedom of religion and belief

116. Australia is home to a diversity of faiths, united by tolerance, mutual respect and a commitment to democratic traditions.¹⁸ Australians are free to choose their religion, and are able to express and practise their religion and their beliefs, without intimidation and without interference. Australia condemns religious discrimination, and is committed to protecting the right of all people to practise their religion without intimidation or harassment, provided those practices are within the framework of Australian law.

117. The Australian Government is committed to increasing social inclusion and countering discrimination and intolerance towards Muslim Australian communities. The ‘Community Partnerships for Human Rights Program — Working with and for Muslim Communities’ is delivered by the Australian Human Rights Commission and is based on a community engagement and social inclusion framework. The program aims to develop greater awareness and understanding of human rights issues, tackle stereotypes and increase Muslim Australians’ sense of social inclusion and participation in Australia’s social, economic, cultural and political life.

E. Administration of justice

118. The Australian Government recognises that access to justice is an essential element of the rule of law and therefore of democracy. Justice institutions enable people to protect their rights against infringement by other people or bodies in society, and allow parties to bring actions against government to limit executive power and ensure government is accountable. If people are unable to access these institutions to protect their rights, respect for the rule of law is diminished.
119. To better coordinate reform of the justice system nationally, all State and Territory Attorneys-General have endorsed the Australian Government’s Access to Justice Framework, comprising five key principles: accessibility, appropriateness, equity, efficiency and effectiveness, together with a methodology for translating the principles into practice. The Framework is intended to guide future decisions about the federal civil justice system, with a particular focus on overcoming barriers to justice.
120. Australia provides a system of public funding — ‘legal aid’ — to enable people who would otherwise not be able to afford legal services to obtain those services. Under the National Partnership Agreement on Legal Assistance Services which came into effect in July 2010, the Australian Government, in partnership with State and Territory Governments, funds legal aid commissions in each State and Territory to provide legal assistance to disadvantaged persons. The Australian Government also funds 138 Community Legal Centres and a range of Indigenous legal services across Australia.
121. A number of States and Territories have established specialist courts to contribute to better justice outcomes. Specialist Indigenous courts aim to make court processes more culturally appropriate and to allow a more informal exchange of information about defendants and their cases. Family violence courts focus on the safety of victims and aim to address the reasons for an offender’s violent behaviour. Drug courts aim to divert illicit drug users from incarceration into treatment programs for their addiction.

F. Right to work

122. Efforts to secure the right to work and to ensure fair working conditions have played an important part in Australia’s history. Today, a national system of workplace relations, established under the *Fair Work Act 2009*, covers the majority of employers and employees in Australia. The Act establishes a set of ten minimum National Employment Standards (including maximum weekly hours and annual leave entitlements); modern awards that

apply nationally on an industry or occupational basis; a national minimum wage order; a good faith enterprise bargaining framework; and protection from unfair dismissal.

123. The Act also establishes Fair Work Australia, a national independent statutory agency with responsibility for a range of functions including providing a safety net of minimum wages and conditions in awards, reviewing and setting the national minimum wage order, overseeing the bargaining and agreement-making framework, and resolving workplace disputes through conciliation, mediation and arbitration. In addition, the Fair Work Ombudsman promotes, monitors, investigates and enforces compliance with the Act, fair work instruments and safety net contractual entitlements. Complaints about workplace discrimination and harassment can also be made to the AHRC or human rights and anti-discrimination bodies in each State and Territory.

G. Right to social security

124. Australia has developed a comprehensive system of social security to assist those in need. Social security payments and other benefits are currently made available under a range of Commonwealth legislation.¹⁹ Under this legislation, Centrelink, an Australian Government statutory agency, provides a range of government payments and services to Australians, including retirees, the unemployed, families, carers, parents, persons with disabilities, students, and Indigenous people.

H. Right to health

125. Australia has had a universal public health system, Medicare, since 1984. It ensures that all Australian permanent residents have access to a broad range of quality health services, including hospital care, that are either free at the point of care or subject to substantial government rebates. Medicare is financed through progressive income tax and an income-related levy. A private health sector complements this public system.²⁰
126. The Commonwealth and State and Territory governments currently share financial and policy responsibility for government-provided health services, including public hospitals, public health and mental health. State and Territory governments are largely responsible for the direct provision of such services. Access to privately-provided medical and pharmaceutical care is largely funded by the Commonwealth and provided by privately practising health professionals.
127. In April 2010, the COAG agreed to implement a package of major structural reforms to Australia's health and hospitals system.²¹ The Commonwealth will become the majority funder of public hospital services.

I. Right to adequate housing

128. In Australia, around 105 000 people are homeless on any given night, with around 16 000 sleeping without shelter. While the overall rate of homelessness has been relatively stable over the last 12 years, increasing numbers of children, families and older people are experiencing homelessness. The causes of homelessness include a shortage of affordable housing, unemployment, poverty, discrimination, structural inequalities and family violence,

as well as physical and mental health issues. Australia has a range of legislative and policy measures in place to address homelessness.

129. In December 2008, the Australian Government released a 'White Paper on Homelessness: The Road Home', which sets the strategic agenda for reducing homelessness. The goals are to halve overall homelessness and to offer supported accommodation to all those sleeping without shelter who need it by 2020. Existing targeted programs include the National Affordable Housing Agreement which aims to help people who are homeless or at risk of homelessness achieve sustainable housing and social inclusion.
130. The National Partnership Agreement on Homelessness (a joint agreement between the Commonwealth and States and Territories) includes a target of reducing the number of Indigenous people who are homeless by one third by 2013. A National Partnership Agreement on Remote Indigenous Housing reflects a ten-year funding strategy.
131. The Australian Government is implementing a joint initiative with the State and Territory Governments to construct over 19 300 new social housing dwellings and provide for repairs and maintenance to existing public housing. These dwellings are primarily for people who are homeless or at risk of homelessness.
132. A Homeless Delivery Review Board, consisting of senior Australian Government officials, is monitoring the progress and performance of agencies accountable for implementing the Government's homelessness agenda and will ensure there are effective links between areas within and across the responsible areas of government. The Australian Government has also appointed a Council on Homelessness to provide an independent overview on implementation of targets and provide advice on emerging issues.

J. Rights of migrants, refugees and asylum-seekers

133. Australia recognises its international human rights obligations towards all persons in Australia, including migrants, refugees and asylum-seekers. Australia has benefited profoundly from the 6.9 million migrants from around the world who have made Australia their home since 1945. Their contribution to Australian society, culture and prosperity has been an important factor in shaping Australia.
134. Since the end of the Second World War, around 750 000 refugees and people in humanitarian need have been resettled in Australia. In 1954, Australia became a party to the UN Convention relating to the Status of Refugees (Refugees Convention). The Government's Humanitarian Program is an important part of Australia's contribution to the international protection of refugees. In 2009–10, the Humanitarian Program was increased from 13 500 to 13 750 places and in 2010–11 it is being maintained at that level. The Humanitarian Program includes an onshore component for people who arrive in Australia and engage Australia's obligations under the Refugees Convention and an offshore component for people residing outside Australia who are assessed as being in need of resettlement.

135. Migrants under the offshore component of the Humanitarian Program are people who have been assessed as refugees by the UN High Commissioner for Refugees (UNHCR), and other people who are in humanitarian need. This can include people who have suffered persecution or substantial discrimination amounting to gross violations of their human rights in their home country, who are outside their home country, and who have close links to Australia.
136. Following the 2007 election, the Australian Government closed processing centres on Nauru and Manus Island for persons arriving by sea who do not have a visa ('irregular maritime arrivals') and abolished Temporary Protection Visas. In July 2008, the then Minister for Immigration and Citizenship announced the *New Directions in Detention* policy, which outlines substantial changes to Australia's detention system. These changes are encapsulated in seven Immigration Detention Values that focus on a risk-based approach to immigration detention.
137. Immigration detention of unlawful non-citizens in Australia is required by the *Migration Act 1958* and is intended to support the integrity of Australia's immigration program. This detention is administrative in nature and is not used for punitive or correctional purposes. Under the Immigration Detention Values, detention in immigration detention centres is only to be used as a last resort and for the shortest practicable time. Detention that is indefinite or otherwise arbitrary is not acceptable and the length and conditions of immigration detention, including the appropriateness of both the accommodation and the services provided, is subject to regular review. The Values also provide that children and, where possible, their families, will not be detained in an immigration detention centre.
138. Irregular maritime arrivals are processed in the Australian territory of Christmas Island and, where necessary, at facilities on the Australian mainland. Irregular maritime arrivals who raise protection issues receive publicly-funded independent assistance and advice, access to independent merits review of unfavourable decisions and external scrutiny by the Immigration Ombudsman and the AHRC. There is a range of immigration detention facilities that provide the flexibility to manage individuals and groups (including families and vulnerable groups) with different needs.
139. In April 2010, the Australian Government announced a suspension of the processing of new asylum claims from Sri Lankan nationals for three months, and a suspension of the processing of new asylum claims from Afghan nationals for six months, due to the changing circumstances in the two countries. In July 2010, the Government lifted the suspension of the processing of asylum claims from Sri Lankan nationals and in September 2010 the suspension of processing was lifted for Afghan nationals. All the asylum seekers affected by the suspension will have their claims assessed on a case-by-case basis, in line with the Refugees Convention and with reference to updated country information.
140. In July 2010 the Australian Government announced its intention to pursue the establishment of a sustainable regional protection framework and regional processing centre to address irregular migration. The framework, of which the processing centre is a key component,

reflects the Government's focus on a comprehensive and sustainable approach to the management of irregular migration through cooperation with countries of transit, destination and origin as well as relevant UN agencies and international organisations. This initiative will also be pursued through relevant regional dialogues, principally the Bali Process.

K. Overseas aid and development

141. The Australian Government's aid program assists developing countries to reduce poverty and achieve sustainable development, in line with Australia's national interest. It is a whole-of government program managed principally by the Australian Agency for International Development (AusAID) but involving several other Australian Government agencies. In 2010-11 Australia's official development assistance is estimated to increase to approximately \$4.35 billion, which represents 0.33 per cent of GNI. This is an increase of approximately \$528 million from 2009-10. The aid program is guided by the Millennium Development Goals. It focuses on the Asia Pacific region, particularly in Papua New Guinea and the Pacific, has expanded engagement in Africa and Afghanistan, and has commenced new programs in Latin America and the Caribbean.

IV. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

A. International instruments — recent developments

142. Australia is proud of its historical role in the drafting and development of international human rights instruments. Actions taken by the Australian Government since 2007 demonstrate its commitment to engaging with the UN and affirm Australia's longstanding commitment to the international protection of human rights.
143. The Australian Government became a party to the CRPD in July 2008, and to the Optional Protocol to the CRPD in September 2009.
144. The Australian Government became a party to Optional Protocol to the CEDAW in March 2009. The Australian Government recognises that the Optional Protocol strengthens the rights of Australian women and provides a further measure to protect them against discrimination.
145. In April 2009, the Australian Government gave its support to the Declaration on the Rights of Indigenous Peoples. The Australian Government did this in the spirit of re-setting the relationship between Indigenous and non-Indigenous Australians and building trust. The Declaration gives the Australian Government new impetus to work together in trust and good faith to advance human rights and close the gap between Indigenous and non-Indigenous Australians.
146. The Australian Government signed the Optional Protocol to the CAT in May 2009. The Australian Government is currently working towards ensuring that Australia's domestic legal system complies with the Optional Protocol, prior to ratification.

147. The Workplace Relations Ministerial Council, a non-statutory body comprising Commonwealth, State and Territory ministers for workplace relations, agreed in April 2009 to a process to prioritise the consideration of further ILO Conventions for ratification.

B. Treaty bodies

148. Australia adopts a positive and constructive approach to its relationship with UN human rights treaty bodies. Australia is committed to lodging periodic reports, engaging in constructive dialogue with the treaty bodies on treaty appearances, and responding to individual communications made under human rights treaties.

C. Standing invitation — Special Procedures

149. In August 2008, the Australian Government issued a standing invitation to Special Procedures of the UN Human Rights Council to visit Australia, demonstrating its willingness to engage positively with the international community to implement human rights obligations.
150. Since this date, Australia has received visits from the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People (August 2009) and the Special Rapporteur on the Right to Health (November–December 2009).

D. Challenges and constraints

151. Australia recognises the challenge of implementing human rights in a meaningful way across all sections of Australian society. This Report identifies practical human rights challenges, together with laws, policies and programs Australia has put in place to address these challenges. Australia's commitment to achieving full respect for human rights is reflected in the list of priorities set out in the following section.

V. KEY NATIONAL PRIORITIES

A. Domestic implementation of human rights

- Human rights education: enhance support for human rights education across the community, including primary and secondary schools and the public sector.
- Statements of human rights compatibility: introduce a requirement that each new piece of legislation introduced into Parliament be accompanied by a statement which assesses its compatibility with the seven core UN human rights treaties to which Australia is a party.
- Joint Standing Committee on human rights: establish 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 UN human rights treaties to which Australia is a party.
- Anti-discrimination legislation: consolidate and harmonise Commonwealth anti-discrimination laws, examine gaps in protections at the federal level and review the complaints handling process and the related roles and functions of the AHRC.

- Age discrimination: establish a dedicated Age Discrimination Commissioner in the AHRC.
- Indigenous recognition: advance the recognition of Aboriginal and Torres Strait Islander peoples in the Australian Constitution.
- National Action Plan: work with States and Territories to outline a National Action Plan for the promotion and protection of human rights.
- Access to Premises Standards: finalise the *Disability (Access to Premises — Buildings) Standards 2010* which are due to commence in May 2011.

B. International priorities

- Continue to work towards ensuring that Australia's domestic legal system complies with the Optional Protocol to the CAT, with a view to ratification.
- Continue to promote and protect human rights internationally through bilateral representations, human rights dialogues and multilateral fora.
- Strengthen and improve UN human rights bodies, including the UN Human Rights Council, the UN General Assembly Third Committee and the Office of the High Commissioner for Human Rights.
- Build human rights capacity regionally across the Asia-Pacific and globally through our aid activities and through the Human Rights Grants Scheme.

¹ The estimated resident population is 22 million people. Of this population, almost one quarter was born overseas. The estimated Indigenous population is 2.5%. The total number of children aged 0–14 years is approximately 4.1 million.

² New South Wales, Victoria, Queensland, Western Australia, South Australia and Tasmania.

³ The Australian Capital Territory, the Northern Territory and the Territory of Norfolk Island.

⁴ All references to legislation in this Report are to Commonwealth legislation, unless otherwise specified.

⁵ The International Covenant on Civil and Political Rights (ICCPR); the Convention Concerning Discrimination in Respect of Employment and Occupation (ILO111); the Convention on the Rights of Persons with Disabilities (CRPD); the Convention on the Rights of the Child (CRC); the Declaration of the Rights of the Child; the Declaration on the Rights of Disabled Persons; the Declaration on the Rights of Mentally Retarded Persons; and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

⁶ *Mabo v Queensland [No 2]* (1992) 175 CLR 1.

⁷ *Administrative Decisions (Judicial Review) Act 1977*.

⁸ These bodies are the ACT Human Rights Commission, the Anti-Discrimination Board of New South Wales, the Anti-Discrimination Commission of Queensland, the Equal Opportunity Commission Western Australia, the Northern Territory Anti-Discrimination Commission, the Office of the Anti-Discrimination Commission (Tasmania), the South Australia Equal Opportunity Commission and the Victorian Equal Opportunity and Human Rights Commission.

⁹ Standing Order of the Senate 24 (Scrutiny of Bills).

¹⁰ Standing Order of the Senate 23 (Regulations and Ordinances).

¹¹ Dr HV Evatt, Australia's Minister for External Affairs, was president of the United Nations General Assembly and chaired the session at which the Universal Declaration of Human Rights was adopted on 10 December 1948.

¹² Land rights legislation established in the States and Territories during the 1980s and 1990s provided a legislative framework for Indigenous peoples to regain control of land.

¹³ As of September 2010, 28.3% of all Commonwealth parliamentarians were women (24.7% in the House of Representatives and 35.5% in the Senate).

¹⁴ In the 1960s, around 45% of all new settler arrivals were born in the United Kingdom and Ireland. By 2007-2008, this had fallen to around 15% with settlers and long-term visitors increasing from countries in the Asia Pacific region, Africa and the Middle East. Around 10% of settler arrivals in 2008-09 were born in China, and since 1995, more than 250 000 people have come from Africa and the Middle East.

¹⁵ The 2005 Personal Safety Survey reported that over the age of 15 years, around one in three Australian women experience physical violence and almost one in five experience sexual violence.

¹⁶ Five defendants were convicted of slavery offences, three were convicted of sexual servitude offences and one was convicted of trafficking in persons for sexual servitude with deceptive recruitment. At the end of September 2010, there were five people trafficking matters before the courts.

¹⁷ Australia also funds the Asia Regional Trafficking in Persons project, which is helping to facilitate a more effective and coordinated approach to combating people trafficking in the region.

¹⁸ Stated religious affiliations at the last census were: 26% Catholic, 19% Anglican, 19% other Christian denominations and 6% non-Christian religions. The number of Australian residents stating they have no religious affiliation continues to grow.

¹⁹ Including the *Social Security Act 1991* and *A New Tax System (Family Assistance) Act 1999*.

²⁰ The Royal Flying Doctor Service provides aeromedical evacuation and primary health care to people who live, travel or work in rural and remote Australian communities where the normal medical infrastructure does not exist.

²¹ Under the reforms, local hospital networks will be established to run hospitals on a day-to-day basis, hospital funding will be based on activity undertaken, an independent pricing umpire will be established and targets for emergency department and elective surgery waiting times will be set.

Annex – English only

List of acronyms used in Australia’s National Report

AHRC	Australian Human Rights Commission
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
COAG	Council of Australian Governments
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO111	Convention Concerning Discrimination in Respect of Employment and Occupation
NGOs	Non-government organisations
NTER	Northern Territory Emergency Response
UNTOC	United Nations Convention against Transnational Organised Crime