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Australia

Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the outcome of the previous review.[1] It is a compilation of information contained in relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with human rights mechanisms

2. The United Nations Educational, Scientific and Cultural Organization (UNESCO) recommended that Australia ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.[2] The Special Rapporteur on contemporary forms of slavery, including its causes and consequences, recommended that Australia ratify the remaining international instruments to which it was not yet a Party, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.[3]

3. The Special Rapporteur on the sale, sexual exploitation and sexual abuse of children recommended that Australia sign the Optional Protocol to Convention on the Rights of the Child on a communications procedure.[4]

4. The Special Rapporteur on slavery also recommended that Australia ratify the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and the Domestic Workers Convention, 2011 (No. 189), among other International Labour Organization conventions.[5]

5. The Committee against Torture recommended that Australia, taking into account the legal responsibility of the federal Government in the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, effectively ensure the coherent and consistent implementation of the Convention across all state and territory jurisdictions.[6]

6. The same Committee expressed deep regret that, due to the insufficient cooperation of Australia with the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Subcommittee had been compelled to suspend its visit to Australia on 23 October 2022, as it had been prevented from visiting several places of detention. The Subcommittee had also experienced difficulties in carrying out a full visit

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at other locations and had not been given all the relevant information and documentation that it had requested.[7]

7. Australia made financial contributions to the Office of the United Nations High Commissioner for Human Rights (OHCHR).[8]

III. National human rights framework

1. Constitutional and legislative framework

8. The Special Rapporteur on slavery recommended that Australia establish a federal human rights law in line with the recommendations of the Parliamentary Joint Committee on Human Rights, to provide a comprehensive and coherent framework for the protection of fundamental rights in the country.[9]

9. The Special Rapporteur on the right to privacy urged Australia to expedite the implementation of the remaining recommendations in the Privacy Act review to update, strengthen and better align federal privacy law with other international frameworks, based on the experience of other regions (Europe and the General Data Protection Regulation and the Ibero-American system and its associated standards and guidelines), and harmonize the legal framework at the state level, which remained fragmented.[10]

10. The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes recommended that Australia guarantee the right to a clean, healthy and sustainable environment in the Constitution and the national and subnational legislative framework, allowing for its justiciability in domestic courts.[11]

11. The Special Rapporteur on the sale of children recommended that Australia encourage states and territories to adopt harmonized child protection legislation and to monitor, in that regard, the implementation of legislation on the sale, sexual exploitation and sexual abuse of children at the federal and the state and territory levels in order to ensure that different laws did not create gaps or weaken investigatory or prosecutorial capacity.[12]

2. Institutional infrastructure and policy measures

12. The Committee against Torture stated that it remained concerned that the Australian Human Rights Commission did not yet have explicit statutory powers to monitor the implementation of the country's obligations under the Convention against Torture, as well as about the reductions in the financial resources allocated to the Commission in recent years.[13]

13. The same Committee recommended that Australia take all measures necessary to promptly establish its network of national preventive mechanisms across all states and territories and ensure that each of its member bodies had the resources and functional and operational independence necessary to fulfil its preventive mandate in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[14]

14. The same Committee regretted the lack of training on the contents of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and the lack of information on mechanisms for evaluating the effectiveness of training programmes, as well as the absence of regular and specific training for the intelligence agencies, forensic doctors and relevant medical personnel.[15]

IV. Promotion and protection of human rights

A. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

15. The Working Group of Experts on People of African Descent stated that people of African descent experienced significant structural racial discrimination and anti-Black racism, which had serious impacts on their economic, social, cultural, civil and political rights. Australia did not maintain racially disaggregated data and did not routinely keep data on national origin or ancestry in every field. That lack of data increased risk and diminished social protection during the early phases of the coronavirus disease (COVID-19) pandemic. It was a fundamental barrier to recognizing and addressing ongoing and serious racial discrimination and injustice in education, health, employment, housing, criminal and immigration detention, the administration of justice and more.[16]

2. Right to life, liberty and security of person, and freedom from torture

16. The Committee against Torture recommended that Australia ensure that all fundamental legal safeguards were guaranteed, both in law and in practice, for all detained persons from the outset of their deprivation of liberty. It stated that Australia should take all measures necessary to end the use of spit hoods in all circumstances across all jurisdictions and to provide adequate and regular training for those involved in detention activities on legal safeguards and monitor compliance and penalize any failure on the part of officials to comply.[17]

17. The same Committee expressed concern about the almost constant increase in the number of persons being held in pretrial detention, with a reported increase of 16 per cent from June 2020 to December 2021, which had been largely driven by increases in the rate of pretrial detention of Indigenous Peoples. It recommended that Australia ensure that the regulations governing pretrial detention were scrupulously respected and that such detention was resorted to only in exceptional circumstances and for limited periods, taking into account the principles of necessity and proportionality; and intensify efforts to significantly reduce the number of pretrial detainees by making more use of alternatives to detention, in particular with regard to Aboriginal and Torres Strait Islander adults and children in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).[18]

18. The same Committee also expressed concern that, in a number of places of deprivation of liberty, healthcare services, in particular mental health services, remained inadequate, and that recreational and educational activities to foster rehabilitation of detainees remained extremely limited. It also expressed concern about reported arbitrary practices, in particular the continued use of prolonged and indefinite solitary confinement, which disproportionately affected Indigenous Peoples and inmates with intellectual or psychosocial disabilities, abusive strip-searches, and excessive use of various means of physical or chemical restraint. It further expressed concern about reports indicating a high rate of incarceration of inmates with disabilities, in particular intellectual or psychosocial disabilities, and that correctional institutions lacked the appropriate capacity, resources and infrastructure to manage serious mental health conditions.[19]

19. The same Committee recommended that Australia ensure that all deaths in custody were promptly, effectively and impartially investigated by an independent entity, including by means of independent forensic examinations, and, where appropriate, apply the corresponding sanctions, in line with the Minnesota Protocol on the Investigation of Potentially Unlawful Death; and assess and evaluate the existing programmes for the prevention, detection and treatment of chronic, degenerative and infectious diseases in prisons, and review the effectiveness of strategies for the prevention of suicide and self-harm.[20]

20. The same Committee recommended that Australia ensure that no one could be expelled, returned or extradited to another State where there were substantial grounds for

believing that the individual concerned would run a personal and foreseeable risk of being subjected to torture.[21]

21. The same Committee recommended that Australia adopt the measures necessary to effectively ensure that, in all jurisdictions, the use of electrical discharge weapons (tasers) was strictly compliant with the principles of necessity, subsidiarity, proportionality, advance warning (where feasible) and precaution and that they were used exclusively in extreme and limited situations – in which there was a real and immediate threat to life or risk of serious injury – as a substitute for lethal weapons and by trained law enforcement personnel only. In that respect, the Committee stated that Australia should expressly prohibit their use on children and pregnant women. Australia was also recommended to ensure that all allegations of excessive or inappropriate use of these weapons were promptly, impartially and thoroughly investigated.[22]

3. Human rights and counter-terrorism

22. The same Committee expressed concern that the counter-terrorism legislation, policies and practices of Australia still provided for excessive restrictions on the rights of persons suspected or accused of involvement in terrorist acts, including the right to due process and a fair trial and the right to liberty and security of person. In this regard, it remained concerned about the broad interpretation of terrorist acts, as well as the reports concerning the need to further restrict the warrant powers provided to the Australian Security Intelligence Organisation to detain a person for the purpose of questioning with the possibility of restricting access to a lawyer of choice. It further expressed concern that certain counter-terrorism powers, including control orders, stop, search and seizure powers, compulsory questioning warrants, preventive and post-sentence detention order regimes and "declared areas" offences were reportedly not in conformity with the provisions of the Convention against Torture.[23]

4. Administration of justice, including impunity, and the rule of law

23. The same Committee recommended that Australia carry out prompt, impartial and effective investigations into allegations of human rights violations, including acts of torture and ill-treatment, committed in the context of counter-terrorism operations, prosecute and punish those responsible and ensure that victims had access to effective remedies and full reparation.[24]

24. The same Committee recommended that Australia ensure, in law and in practice, that all victims of torture and ill-treatment obtained redress, including an enforceable right to fair and adequate compensation and the means for as full rehabilitation as possible; and ensure that victims could, inter alia, seek and obtain prompt, fair and adequate compensation, including in cases in which the civil liability of Australia was involved.[25]

5. Fundamental freedoms

25. UNESCO recommended that Australia decriminalize defamation and place it within civil defamation legislation in accordance with international standards.[26]

6. Right to privacy

26. The Special Rapporteur on privacy emphasized that, to ensure that the legal framework remained resilient, policies and regulations must be sufficiently flexible to align with rapidly advancing technological developments and contain robust legal safeguards that were harmonized with international norms. She also encouraged Australia to take up a leadership role in promoting international cooperation to implement the General Assembly resolution on seizing the opportunities of safe, secure and trustworthy artificial intelligence systems for sustainable development.[27]

27. The same Special Rapporteur recommended that law enforcement personnel, prosecutors and judges receive adequate training to enable them to conduct privacy impact assessments and evaluate the quality of the data so that they better understood the possible consequences of the use of the emerging technologies that they were regulating.[28]

28. The same Special Rapporteur emphasized that, as medical services were administered at the state level, the Department of Health and Aged Care must ensure that health

professionals and personnel respected patients' right to privacy and dignity by taking measures to guarantee that all systems, procedures, records and data collection securely protected the confidentiality of all medical or other treatments; and ensure that policies and regulations were consistent across the country.[29]

29. The same Special Rapporteur further emphasized that it was critical to build trust and elevate digital literacy among marginalized groups by organizing workshops to enhance understanding of safety and privacy when accessing various online services, to close the digital divide, since increased reliance on emerging technologies would continue to evolve.[30]

7. Prohibition of all forms of slavery, including trafficking in persons

30. The Committee against Torture expressed concern about the low rates of prosecutions and convictions in trafficking cases; the high vulnerability threshold, which prevented victims of trafficking from gaining access to status resolution support services and put them at risk of re-trafficking; access to visas and compensation schemes still being based on the condition that the victim cooperated with the prosecution authorities; the insufficient compensation schemes for victims of trafficking and the lack of harmonization among jurisdictions in that regard; and prevailing attitudes among members of the judiciary, law enforcement officials, and immigration and border control officers regarding victims of trafficking as offenders and migrants with irregular migration status, rather than as victims, which constituted an obstacle to reporting and to the early identification and referral of victims of trafficking to the appropriate social and legal services.[31]

31. The Special Rapporteur on slavery also recommended that Australia ensure victims' access to support without discrimination and mandatory engagement or cooperation with law enforcement; coordinate the Support for Trafficked People Programme more effectively with full and meaningful consultation with those with lived experience, as well as public and private service providers at the local, state and territory levels; address the shortage and suitability of accommodation for survivors by expanding safe housing options outside metropolitan areas and ensuring that housing policies did not replicate conditions of control or traumatization; establish a national compensation scheme for persons who had experienced contemporary forms of slavery; establish an independent and impartial grievance mechanism for all victims of contemporary forms of slavery; regularly collect and analyse disaggregated data on contemporary forms of slavery in order to strengthen identification of those practices and protection of victims and survivors; and increase funding and support for outreach programmes implemented by community service providers.[32]

32. The same Special Rapporteur further recommended that Australia ensure that anti-trafficking measures did not target or penalize migrant sex workers who had not been trafficked; and ensure that enforcement practices did not involve discriminatory raids or profiling, particularly that might disproportionately affect Asian women, and review past enforcement practices, including Operation Inglenook, for lessons learned.[33]

8. Right to work and to just and favourable conditions of work

33. The same Special Rapporteur recommended that Australia provide a clear and time-bound commitment and national plans to phase out segregated employment and subminimum wages and actively promote the employment of persons with disabilities in the open market.[34]

34. The same Special Rapporteur also recommended that Australian businesses cooperate fully with local, regional and federal authorities in facilitating regular labour, health and safety inspections; and establish a fair and independent grievance mechanism to address labour exploitation and other forms of human rights abuses at work, and provide or enable appropriate remedies.[35]

9. Right to social security

35. The same Special Rapporteur recommended that Australia expand eligibility for the National Disability Insurance Scheme or establish other measures to include migrants on temporary visas and asylum-seekers who met the disability criteria, ensuring that they had access to essential disability support.[36]

10. Right to an adequate standard of living

36. The Special Rapporteur on hazardous substances and wastes recommended that Australia enact enforceable and legally binding standards for perfluoroalkyl and polyfluoroalkyl substances, including for drinking water, industrial use, and point source emissions, at the state and territory levels; and invest in advanced treatment technologies to remove perfluoroalkyl and polyfluoroalkyl substances from drinking water sources and wastewater.[37]

11. Right to health

37. The same Special Rapporteur recommended that Australia stop spraying agrochemicals over schools, day-care areas, hospitals, aged-care facilities, medical clinics and residential areas; and carry out studies on the impacts of pesticide use on workers, communities and the environment and the impacts of pesticide residue on consumer health.[38]

12. Right to education

38. UNESCO recommended that Australia explicitly enshrine the right to education for all within the legislation of all states and legally proscribe discrimination in education.[39]

39. UNESCO also recommended that Australia continue efforts to ensure the right to inclusive education for refugees, Indigenous Peoples and persons with disabilities.[40]

13. Cultural rights

40. The Special Rapporteur on hazardous substances and wastes recommended that Australia ban mining in environmentally and culturally significant areas, such as Kakadu National Park.[41]

14. Environment and business and human rights

41. In the context of Views adopted under the Optional Protocol to the International Covenant on Civil and Political Rights, the Human Rights Committee found that the climate change policies of Australia breached its human rights obligations, including to implement adequate adaptation measures to protect the home, private life and family.[42]

42. The Special Rapporteur on hazardous substances and wastes recommended that Australia reduce and eliminate the release of unintended persistent organic pollutants, such as from waste incinerators; introduce and implement a comprehensive control system to regulate and reduce mercury emissions from coal-fired power plants, in line with the objectives of the Minamata Convention on Mercury; and prioritize the development and implementation of a substitution plan for methyl bromide, in accordance with the principles of the Montreal Protocol on Substances that Deplete the Ozone Layer.[43]

43. The same Special Rapporteur also recommended that Australia align national and subnational air quality standards with the air quality standards of the World Health Organization, and ensure their adequate enforcement; require businesses to implement comprehensive pollution control systems to reduce carbon dioxide and mercury emissions, among others, from coal-fired power plants; and ensure that communities were protected from cumulative impacts of pollution.[44]

44. The same Special Rapporteur recommended that Australia prepare a National Action Plan on Business and Human Rights through informed consultation with all rights holders and stakeholders, including groups in vulnerable situations and local communities. He also recommended that Australia ensure access to an effective remedy for harm caused by hazardous substances and waste released by mining operations; implement legal requirements for robust mandatory human rights due diligence of business enterprises, including in respect of overseas operations; and ensure meaningful and informed participation, including of the most vulnerable, in environmental impact assessments of mining projects.[45]

45. The Special Rapporteur on slavery recommended that Australia expand the Modern Slavery Act framework to integrate mandatory human rights due diligence legislation aligned with the Guiding Principles on Business and Human Rights, covering broader human rights issues beyond contemporary forms of slavery, and develop sector-specific human rights

guidelines and embed the human rights criteria into national product certification standards; and broaden trade-related responses by considering an import ban on goods produced by forced and child labour and improve supply chain transparency through public access to customs and trade data.[46]

B. Rights of specific persons or groups

1. Women

46. The Committee against Torture expressed serious concern about continued and consistent reports of high levels of violence against women and girls, including domestic violence, which disproportionately affected Indigenous women and women with disabilities; high levels of underreporting by victims in cases of domestic and sexual violence; and the insufficient and uneven geographical distribution of shelters for survivors of gender-based violence throughout the country. It recommended that Australia ensure that all cases of gender-based violence, in particular against Indigenous women and girls and women and girls with disabilities, were thoroughly investigated, that the alleged perpetrators were prosecuted and, if convicted, punished appropriately and that the victims received redress, including adequate compensation.[47]

2. Children

47. The Special Rapporteur on slavery recommended that Australia raise the minimum age for marriage to 18 without exception; enhance capacity-building and training for front-line responders in domestic violence, health, education, migrant and multicultural services to identify and respond to forced and child marriage in culturally appropriate and trauma-informed ways; support and promote community-led prevention approaches that engaged members with shared culture, language and contexts; increase access to specialized psychological trauma recovery services and child-focused case management for victims and survivors; and develop specialized housing solutions for victims and survivors of forced and child marriage.[48]

48. The Special Rapporteur on the sale of children recommended that Australia prioritize the implementation of key preventive measures and responses to violence against children of all ages, including sexual violence, in particular against girls, with specific safeguards responsive to the needs of migrant and refugee children, Aboriginal and Torres Strait Islander children, children of asylum-seeking parents and other minority children, including by providing culturally sensitive and confidential sexual and reproductive health education and services. She also recommended that Australia allocate adequate resources to address the investigation of new and emerging risks of sexual abuse and exploitation of children in the digital environment.[49] Regarding the proposed minimum age (16 years) for social media use, the Special Rapporteur on privacy urged Australia to consult further with the eSafety Commissioner and civil society advocating for children's rights to find solutions to ensure that there was a balance between monitoring social media use and protecting the safety and mental health of children.[50]

49. The Committee against Torture expressed concern that corporal punishment remained lawful under the label of so-called reasonable chastisement in the home throughout Australia, as well as in day-care and alternative care settings, public and private schools and detention centres in some states and territories.[51]

50. The same Committee expressed serious concerns about the very low age of criminal responsibility (10 years); the persistent overrepresentation of Indigenous children and children with disabilities in the juvenile justice system; reports that children in detention were frequently subjected to verbal abuse and racist remarks and restrained in ways that were potentially dangerous; the practice of keeping children in solitary confinement, in particular at the Banksia Hill youth detention centre in Western Australia, the Don Dale youth detention centre in the Northern Territory and the Ashley youth detention centre in Tasmania; the high number of children in detention, both on remand and after sentencing; children in detention not always being separated from adults; and children's lack of awareness about their rights and how to report abuses.[52]

3. Older persons

51. The same Committee commended Australia for the adoption of the National Plan to Respond to the Abuse of Older Australians (2019–2023).[53]

4. Persons with disabilities

52. The Special Rapporteur on slavery recommended that Australia strengthen efforts to investigate instances of contemporary forms of slavery experienced by persons with disabilities and hold perpetrators accountable; ensure that crisis accommodation and other support services were accessible for persons with disabilities, including those with intersectional needs; and conduct research and collect disaggregated data on contemporary forms of slavery that affected persons with disabilities.[54]

5. Indigenous Peoples and minorities

53. The same Special Rapporteur recommended that Australia consult Aboriginal and Torres Strait Islander peoples meaningfully, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples and the principle of free, prior and informed consent, on programmes and policies affecting them; and proactively involve them in the co-design and implementation of policies and programmes aimed at enhancing Indigenous Peoples' access to education, housing, decent work and essential public and healthcare services; and encourage all states and territories to incorporate the provisions of the Declaration into binding legislation.[55]

54. The Committee against Torture recommended that Australia increase its efforts to address the overrepresentation of Indigenous Peoples in prisons, including by identifying its underlying causes, by revising regulations and policies leading to their high rates of incarceration, such as the mandatory sentencing laws and imprisonment for fine defaults, and by enhancing the use of non-custodial measures and diverting programmes; take all measures necessary to give judges the discretion necessary to determine relevant individual circumstances; and ensure that adequate, culturally sensitive, qualified and accessible legal services were available to Aboriginals and Torres Strait Islanders.[56]

55. The Working Group of Experts on People of African Descent recommended that Australia devote the same care and commitment to unravelling the systemic racism in its institutions as it had in implementing the "White Australia" policy historically, including by acknowledging that the persistent downgrading of people of African descent implicated mindsets and legacies of racial hierarchy, which was evident in barriers in access to and equity in education, housing, employment and elsewhere.[57]

6. Lesbian, gay, bisexual, transgender and intersex persons

56. The Special Rapporteur on privacy urged Australia to ensure that personal information relating to sex and gender was protected through regular vulnerability assessments of information management systems and regular training for staff on data privacy and data security.[58]

57. The Working Group of Experts on People of African Descent stated that a commitment to human rights for lesbian, gay, bisexual, transgender, questioning and intersex persons must be intersectional and confront particular challenges facing those of African descent, who had intersectional identities as immigrants, refugees, youth, religious persons and more. Australia should support sustainable mechanisms to ensure safe affordable housing, safe houses for at-risk persons and culturally competent counsellors and mental health services.[59]

7. Migrants, refugees and asylum-seekers

58. The Special Rapporteur on slavery recommended that Australia explore reforms of migration systems to redress power imbalances between employees and employers in certain schemes, in consultation with businesses, local government, civil society, unions and community members, including possible measures such as ensuring the ability of all temporary migrant workers to change their employer without any form of discrimination or retaliation; implementing a fair, transparent, non-random and achievable pathway to permanent residency; abolishing the 48 hours of work a fortnight visa condition for Student

visa holders and the condition that required Working Holiday visa holders to remain with any one employer for specified periods of time in specified sectors; and tightening the regulation or policy towards domestic work, particularly in diplomatic households.[60]

59. The Office of the United Nations High Commissioner for Refugees (UNHCR) stated that asylum-seekers who arrived by sea without authorization were arbitrarily detained and liable under Australian law to transfer to a "regional processing country" (formerly either Nauru or Papua New Guinea, and currently only Nauru) for the processing of their asylum claims and, if found to be refugees or in need of international protection, settlement in a country other than Australia. There was no prescribed maximum period for immigration detention. Australian law did not provide for periodic or systematic review, whether by the competent minister, officials or a court or independent administrative authority, to assess whether continued detention was necessary, reasonable and proportionate to a legitimate aim. Nor could a person in immigration detention bring legal action on those grounds.[61]

60. The Committee against Torture recommended that Australia end its policy of offshore processing of asylum claims, transfer all migrants, asylum-seekers and refugees to mainland Australia and process any remaining asylum claims while guaranteeing all procedural safeguards; adopt the measures necessary to guarantee that all asylum-seekers or persons in need of international protection who were under its effective control were afforded the same standards of protection against violations of the Convention against Torture regardless of their mode and/or date of arrival; take all the measures necessary to protect the rights of refugees and asylum-seekers affected by the closure of regional processing centres, including against refoulement, ensure their transfer to mainland Australia or their relocation to other appropriate safe countries and closely monitor their situation after the closure of the centres; ensure that all international standards were complied with by private companies running immigration detention centres and provide them with appropriate training; investigate human rights violations in the regional processing centres, prosecute the alleged perpetrators, punish them appropriately if convicted and provide full reparation to the victims; and consider closing down the Christmas Island detention centre.[62]

61. The same Committee recommended that Australia take the measures necessary to repeal the legal provisions establishing the mandatory detention of persons entering its territory irregularly; ensure that detention was only applied as a last resort, when determined to be strictly necessary and proportionate in the light of the individual's circumstances, and for as short a period as possible; ensure that children and families with children were not detained solely because of their immigration status; establish statutory time limits for immigration detention and ensure access to an effective judicial remedy to review the necessity of the detention; intensify its efforts to expand the use of alternatives to closed immigration detention; guarantee that refugees with adverse security or character assessments and stateless persons whose asylum claims were refused were not held in detention indefinitely, including by resorting to non-custodial measures and alternatives to closed immigration detention and by providing for a meaningful right to appeal against such indefinite detention; and improve the conditions of detention in immigration facilities, including by guaranteeing access to adequate social, educational, mental and physical health services, refraining from applying force or physical restraint against migrants, refugees and asylum-seekers.[63]

62. In the context of Views adopted under the Optional Protocol to the International Covenant on Civil and Political Rights, the Human Rights Committee found in two cases that Australia remained responsible for the arbitrary detention of asylum-seekers redirected or transferred to offshore detention facilities in Nauru, recommending that Australia provide adequate compensation to the victims and take steps to ensure that similar violations did not recur.[64] The Committee against Torture made similar recommendations.[65]

8. Stateless persons

63. UNHCR recommended that Australia cease involuntary transfers of forcibly displaced and stateless persons through third country reception arrangements, and amend national laws to prevent removal of forcibly displaced or stateless persons contrary to international law and ensure adherence to non-refoulement obligations.[66]

Notes

[1] A/HRC/47/8, A/HRC/47/8/Add.1 and A/HRC/47/2.
[2] UNESCO submission for the universal periodic review of Australia, para. 41 (v).
[3] A/HRC/60/28/Add.1, para. 61 (a). See also A/HRC/58/52/Add.1, para. 69 (l).
[4] A/HRC/58/52/Add.1, para. 69 (k).
[5] A/HRC/60/28/Add.1, para. 61 (a).
[6] CAT/C/AUS/CO/6, para. 9.
[7] Ibid., para. 43.
[8] See OHCHR, *United Nations Human Rights Report 2024*, *United Nations Human Rights Report 2023*, *United Nations Human Rights Report 2022* and *United Nations Human Rights Report 2021*.
[9] A/HRC/60/28/Add.1, para. 61 (c).
[10] A/HRC/58/58/Add.2, para. 95.
[11] A/HRC/57/52/Add.2, para. 109 (a).
[12] A/HRC/58/52/Add.1, para. 69 (a).
[13] CAT/C/AUS/CO/6, para. 17.
[14] Ibid., para. 42 (a).
[15] Ibid., para. 51.
[16] A/HRC/54/67/Add.2, paras. 41 and 42.
[17] CAT/C/AUS/CO/6, paras. 13 and 14.
[18] Ibid., paras. 15 and 16.
[19] Ibid., para. 31.
[20] Ibid., para. 36 (a) and (b).
[21] Ibid., para. 26 (a).
[22] Ibid., para. 50.
[23] Ibid., para. 19.
[24] Ibid., para. 20.
[25] Ibid., para. 46.
[26] UNESCO submission, para. 37.
[27] A/HRC/58/58/Add.2, paras. 105 and 106.
[28] Ibid., para. 109.
[29] Ibid., para. 102.
[30] Ibid., para. 128.
[31] CAT/C/AUS/CO/6, para. 23.
[32] A/HRC/60/28/Add.1, para. 61 (h)–(j), (m), (n) and (p).
[33] Ibid., para. 69 (c) and (d).
[34] Ibid., para. 67 (b).
[35] Ibid., para. 70 (e) and (f).
[36] Ibid., para. 67 (f).
[37] A/HRC/57/52/Add.2, para. 115 (a) and (c).
[38] Ibid., para. 114 (e) and (g).
[39] UNESCO submission, para. 36 (ii).
[40] Ibid., para. 36 (iv).
[41] A/HRC/57/52/Add.2, para. 112 (i).
[42] See CCPR/C/135/D/3624/2019.
[43] A/HRC/57/52/Add.2, para. 109 (j)–(l).
[44] Ibid., para. 111 (a)–(c).
[45] Ibid., paras. 109 (o) and 112 (c)–(e).
[46] A/HRC/60/28/Add.1, para. 63 (c) and (d).
[47] CAT/C/AUS/CO/6, paras. 21 and 22 (a).
[48] A/HRC/60/28/Add.1, para. 62 (a), (b) and (d)–(f).
[49] A/HRC/58/52/Add.1, paras. 70 (b) and 71 (d).
[50] A/HRC/58/58/Add.2, para. 125.
[51] CAT/C/AUS/CO/6, para. 47.
[52] Ibid., para. 37. See also https://www.ohchr.org/en/media-advisories/2025/05/youth-justice-systems-across-australia-crisis-un-experts.
[53] CAT/C/AUS/CO/6, para. 6 (g).
[54] A/HRC/60/28/Add.1, para. 67 (a), (c) and (d).
[55] Ibid., para. 68 (g) and (h).
[56] CAT/C/AUS/CO/6, para. 34.
[57] A/HRC/54/67/Add.2, para. 82.
[58] A/HRC/58/58/Add.2, para. 116.
[59] A/HRC/54/67/Add.2, para. 104.

[60] A/HRC/60/28/Add.1, para. 65 (c).
[61] UNHCR submission for the universal periodic review of Australia, pp. 2–4.
[62] CAT/C/AUS/CO/6, para. 30. See also UNHCR submission, pp. 7 and 8.
[63] CAT/C/AUS/CO/6, para. 28. See also UNHCR submission, pp. 5 and 7; and A/HRC/60/28/Add.1, para. 66 (b).
[64] See CCPR/C/142/D/2749/2016 and CCPR/C/142/D/3663/2019. See also https://www.ohchr.org/en/press-releases/2025/01/australia-responsible-arbitrary-detention-asylum-seekers-offshore-facilities.
[65] CAT/C/AUS/CO/6, para. 26 (b) and (d)–(f). See also paras. 29 and 30.
[66] UNHCR submission, pp. 4 and 7.