| **Recommendation** | **Position** | **Full list of themes** | **Assessment/comments on level of implementation** | **Australian Human Rights Commission Recommendation for 3rd cycle (from submission)** |
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| Theme: A22 Cooperation with treaty bodies | | | | |
| 136.60 Submit overdue reports to the Committee on the Elimination of Racial Discrimination, the Committee on Economic, Social and Cultural Rights, the Human Rights Committee and the Committee on the Elimination of Discrimination against Women (Sierra Leone);  **Source of position:** A/HRC/31/14/Add.1 - Para. 13 | Supported | A22 Cooperation with treaty bodies  E1 Economic, social & cultural rights - general measures of implementation  B32 Racial discrimination  D1 Civil & political rights - general measures of implementation  G1 Members of minorities  F12 Discrimination against women  **Affected persons:**  - general  - women  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Implemented**  Australia submitted all reports that were overdue as of the 2nd UPR cycle.[[1]](#footnote-2) |  |
| Theme: A24 Cooperation with special procedures | | | |  |
| 136.63 Cooperate fully with the Special Procedures of the Human Rights Council and ensure everyone enjoys the right to unhindered access to and communication with the United Nations, its representatives and mechanisms, including by preventing and ensuring adequate protection against reprisals (Ireland);  **Source of position:** A/HRC/31/14/Add.1 - Para. 13 | Supported | A24 Cooperation with special procedures  H1 Human rights defenders  A27 Follow-up to Universal Periodic Review (UPR)  A6 Context, statistics, budget, civil society  **Affected persons:**  - human rights defenders | **Implemented**  The Commission commends Australia’s standing invitation to all thematic special procedures, and for hosting 5 special procedure visits since its second-cycle UPR, with further visits planned for 2020.[[2]](#footnote-3) |  |
| Theme: A3 Inter-State cooperation & development assistance | | | |  |
| 136.218 Enhance bilateral cooperation with other countries in the field of human rights especially through dialogue and technical assistance (Viet Nam);  **Source of position:** A/HRC/31/14/Add.1 - Para. 13 | Supported | A3 Inter-State cooperation & development assistance  A27 Follow-up to Universal Periodic Review (UPR)  **Affected persons:**  - general | **Implemented**  The Australian Government conducts bilateral cooperation programs and supports human rights activities in a number of countries and with regional bodies.    The Australian Human Rights Commission currently implements bilateral human rights programs with the Governments of Vietnam and Lao PDR. These programs are funded by the Australian Department of Foreign Affairs and Trade and provide technical assistance.  In Vietnam the program focuses on human rights education across various settings, using blended training approaches. Key actors include Vietnamese government officials, business leaders and teachers. In Lao PDR, the program aims to assist the Lao PDR Government to meet its human rights responsibilities and obligations through engagement, collaboration and training with key government officials. This includes strengthening the government’s Universal Periodic Review. |  |
| Theme: A41 Constitutional and legislative framework | | | |  |
| 136.74 Advance efforts towards the recognition of Indigenous Australians as Australia’s First People in Australia’s Constitution (Georgia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | A41 Constitutional and legislative framework  G3 Indigenous peoples  **Affected persons:**  - Indigenous peoples | **Not implemented**  Notwithstanding the voluntary commitment made by Australia during its second UPR cycle, a referendum has not yet taken place to recognise Aboriginal and Torres Strait Islander peoples in the Constitution.[[3]](#footnote-4) At the present time, the government has indicated that it does not intend to entrench recognition in the Constitution.  The Commission acknowledges steps taken towards recognition, [[4]](#footnote-5) including the current co-design process to develop an ‘Indigenous Voice’.[[5]](#footnote-6) We are concerned that support for a model for recognition is yet to be finalised despite many years focusing on this issue. The Government has also rejected the recommendations of independent advisory bodies commissioned on entrenching recognition in the Constitution. | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination. |
| Theme: A42 Institutions & policies - General | | | |  |
| 136.64 Analyse the possibility of creating a follow-up system to the international recommendations (Paraguay);  **Source of position:** A/HRC/31/14/Add.1 - Para. 17 | Supported | A42 Institutions & policies - General  A25 Follow-up to special procedures  A23 Follow-up to treaty bodies  A27 Follow-up to Universal Periodic Review (UPR)  **Affected persons:**  - general | **Implemented**  Following Australia’s second cycle UPR, the Government made a voluntary commitment to designate a standing national mechanism to strengthen Australia’s engagement with UN human rights reporting known as the Standing National Human Rights Mechanism (SNHRM).[[6]](#footnote-7)  Under the SNHRM, in 2017 the Government published a monitoring website for UPR recommendations made during the second cycle where the Government outlines its position on each of the 290 recommendations.  The SNHRM also holds regular meetings between Commonwealth Government departments, with the Australian Human Rights Commission also participating. NGOs are invited for certain thematic discussions.  The SNHRM meets 3 to 4 times annually and has improved coordination across departments inputting into human rights treaty review processes over the past 4 years or so. However, to date, the SNHRM has not played a role in implementation or monitoring processes to ‘follow up’ on international recommendations. It does not have a forward looking or agenda setting role.  The SNHRM could have the potential to better follow up on recommendations if it were given a broadened mandate in the future. | Recommendation: Government commits to formally replying to all treaty body recommendations within 12 months, with civil society engagement. All responses include targets and identify responsible agencies for implementation. |
| Theme: A5 Human rights education, trainings and awareness raising | | | |  |
| 136.203 Continue efforts to train authorities involved in the administration and handling of justice in cases that affect indigenous peoples on the human rights of this group of society and review the cases of indigenous detainees, in particular children and women, with a view to providing them adequate assistance (Mexico);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | A5 Human rights education, trainings and awareness raising  F34 Children: Juvenile justice  D51 Administration of justice & fair trial  F31 Children: definition; general principles; protection  B51 Right to an effective remedy  D26 Conditions of detention  F12 Discrimination against women  G3 Indigenous peoples  **Affected persons:**  - general  - children  - Indigenous peoples  - women  - judges, lawyers and prosecutors  - persons deprived of their liberty | **Partly implemented**  Human rights education in the public sector remains limited, especially in the administration of justice and places of detention, and for those officials with legislative responsibilities to develop statements of compatibility with human rights for bills or legislative instruments.  Regarding the public service, public servants should receive education and training on how human rights are relevant to their roles, and how to best protect human rights.[[7]](#footnote-8)  A human rights education training program was included in the Australian Human Rights Framework in 2010 but was not continued when that framework expired. | Recommendation: Government expand human rights education in all areas of the public sector, particularly for those working with children and in the administration of justice and places of detention; and incorporate human rights more fully in the national school curriculum.  Recommendation: Government train public servants to ensure that statements of compatibility are of a consistently high standard and that the views of the PJCHR are fully considered prior to enacting legislation. |
| 136.150 Continue conducting awareness-raising activities on human rights, especially rights of women, children, minorities and migrants, to law enforcement officers (Viet Nam);  **Source of position:** A/HRC/31/14/Add.1 - Para. 53 | Supported | A5 Human rights education, trainings and awareness raising  G4 Migrants  D51 Administration of justice & fair trial  F31 Children: definition; general principles; protection  G1 Members of minorities  F12 Discrimination against women  **Affected persons:**  - general  - children  - migrants  - women  - judges, lawyers and prosecutors  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See above recommendation (136.203)  In 2018 and 2019, the Commission worked with the Australia New Zealand Policing Advisory Agency (ANZPAA) to develop ‘Anti-Racism and Cultural Diversity Principles’ and ‘Education and Training Guidelines’ relating to anti-racism for police. The Commission provided expert advice and assistance to ANZPAA on human rights, anti-racism and cultural diversity over the course of the projects. The Principles are publicly available and the Education and Training Guidelines are available to all ANZPAA members.  While these guidelines and principles are a significant step for institutional anti-racism training in Australia, they are yet to be fully implemented. The Commission continues to hold concerns about allegations of systemic racially-discriminatory policing practices, including against Aboriginal and Torres Strait Islander peoples, and allegations of profiling, excessive force and harassment.[[8]](#footnote-9) The Commission notes the decision of the Federal Court of Australia in 2018 that Queensland, through the Queensland Police Service, had breached the *Racial Discrimination Act 1975* (Cth) in regard to the conduct of police officers towards the Aboriginal community on Palm Island.[[9]](#footnote-10)  The Commission continues to encourage all Australian governments to ensure that police receive human rights training, as well as specific training in cultural competency and anti-racism. | Recommendation: Government expand human rights education in all areas of the public sector, particularly for those working with children and in the administration of justice and places of detention; and incorporate human rights more fully in the national school curriculum. |
| 136.234 Expand support to human rights education and training initiatives, particularly for law enforcement officials handling migration issues (Philippines);  **Source of position:** A/HRC/31/14/Add.1 - Para. 53 | Supported | A5 Human rights education, trainings and awareness raising  G4 Migrants  E51 Right to education - General  **Affected persons:**  - general  - migrants  - judges, lawyers and prosecutors | **Partly implemented**  See recommendation 136.203  Human rights education and training for public officials, including law enforcement officials, remains limited. | Recommendation: Government expand human rights education in all areas of the public sector, particularly for those working with children and in the administration of justice and places of detention; and incorporate human rights more fully in the national school curriculum. |
| Theme: A6 Context, statistics, budget, civil society | | | |  |
| 136.66 Engage closely with civil society in the follow-up on the recommendations of the Human Rights Council (Trinidad and Tobago);  **Source of position:** A/HRC/31/14/Add.1 - Para. 17 | Supported | A6 Context, statistics, budget, civil society  H1 Human rights defenders  A25 Follow-up to special procedures  A27 Follow-up to Universal Periodic Review (UPR)  **Affected persons:**  - human rights defenders  - general | **Partly implemented**  The Department of Foreign Affairs and Trade runs an annual NGO Forum as well as pre-sessional briefings with NGOs on the Human Rights Council. These do not focus on implementation or follow up of recommendations, and there is no national framework or mechanism for implementing recommendations from the Human Rights Council, treaty bodies or special procedures.  See recommendation 136.64 in relation to the Standing National Human Rights Mechanism and the role of civil society. | Recommendation: Government commits to formally replying to all treaty body recommendations within 12 months with civil society engagement, targets and identifying responsible government agencies for implementation. |
| Theme: B11 International humanitarian law | | | |  |
| 136.58 Continue its efforts at the international level towards the prevention of crimes against humanity (Armenia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 13 | Supported | B11 International humanitarian law  A28 Cooperation with other international mechanisms and institutions  **Affected persons:**  - general | **Implemented**  Australia supports the International Law Commission’s Draft Articles on Crimes Against Humanity as the basis for a convention on the prevention and punishment of crimes against humanity, and has contributed to development of the draft article through sessions of the International Law Commission.[[10]](#footnote-11)  As a member of the Human Rights Council, Australia has supported resolutions towards prevention and accountability for crimes against humanity.[[11]](#footnote-12)  At the 18th session of the Assembly of States Parties to the International Criminal Court (ICC), Australia reiterated its commitment to accountability, the ICC and the Rome Statute.[[12]](#footnote-13) | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay.  Recommendation: Government establish an Anti-Slavery Commissioner with oversight of modern slavery statements; introduce financial penalties for non-compliance with reporting requirements; and fully implement the National Action Plan. |
| ***Theme: B31 Equality & non-discrimination*** | | | |  |
| 136.117 Enact comprehensive legislation that fully guarantees the application of the principle of non-discrimination and ensure the full enjoyment of all human rights by every member of society (South Africa);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B31 Equality & non-discrimination  A41 Constitutional and legislative framework  **Affected persons:**  - general | **Partly implemented**  Three jurisdictions – Victoria, Queensland and the Australian Capital Territory – each have a human rights statute,[[13]](#footnote-14) and other states are considering similar legislation.[[14]](#footnote-15) However, there are gaps and inconsistencies in the protection and promotion of human rights across Australia as a result of the absence of comprehensive human rights protections at the federal level.  As a result of this incomplete human rights architecture, there is an overreliance in Australia on anti-discrimination laws to protect human rights. Federal discrimination laws make discrimination on the grounds of race,[[15]](#footnote-16) sex,[[16]](#footnote-17) disability,[[17]](#footnote-18) age,[[18]](#footnote-19) and sexual orientation, gender identity and intersex status[[19]](#footnote-20) unlawful.[[20]](#footnote-21) Complaints of unlawful discrimination under these laws can be brought to the Commission,[[21]](#footnote-22) which will investigate and attempt to seek a resolution through conciliation. If a complaint cannot be resolved in this way, a person may be able to bring their matter to court.[[22]](#footnote-23) A court can award remedies including damages in cases of unlawful discrimination.[[23]](#footnote-24) Complaints can also be made to the Commission in relation to discrimination in employment (the Commission’s ILO 111 jurisdiction) and alleged breaches of human rights against the Commonwealth or one of its agencies. While these complaints can be investigated and conciliated, a complainant does not have a right to go to court if this process is unsuccessful. Rather, if the Commission finds a breach of human rights, it can report to the Attorney-General.[[24]](#footnote-25) Any recommendations made by the Commission are non-binding and are not enforceable by the courts There is no justifiable reason for this more limited process to exist.  Since 2011, new bills and certain legislative instruments must also be accompanied by a ‘Statement of Compatibility with Human Rights’. This is an important mechanism, which helps Parliament consider the human rights impacts of a law before it is passed. However, there is variable quality in the drafting of statements and they can inadequately justify a breach of human rights. They are also largely educative, cannot be challenged and do not bind a court or tribunal. Statements of compatibility therefore do not affect the validity, operation or enforcement of a Bill. The Commission encourages the Federal Government to ensure that all statements of compatibility are consistently of a high standard and are supported by evidence and analysis.  The Commonwealth Parliamentary Joint Committee on Human Rights (PJCHR) is also empowered to examine Bills and legislative instruments for compatibility with human rights.[[25]](#footnote-26) In exercising these functions, the PJCHR must report its findings to both Houses of Parliament.[[26]](#footnote-27) The PJCHR process can assist Parliament to consider the human rights impact of a Bill in more depth.[[27]](#footnote-28) However, the PJCHR cannot compel Parliament to alter or abandon a Bill, law or policy even if it is incompatible with human rights. | Recommendation: Government ensure that Australia’s international human rights obligations are comprehensively incorporated into law.  Recommendation: Government reform federal discrimination laws to ensure comprehensive protection and improve effectiveness. |
| 136.221 Ensure that states’ legislation is consistent with the amended Sex Discrimination Act 1984 (Israel);  **Source of position:** A/HRC/31/14/Add.1 - Para. 42 | Supported | B31 Equality & non-discrimination  A41 Constitutional and legislative framework  A27 Follow-up to Universal Periodic Review (UPR)  G2 Lesbian, gay, bisexual and transgender and intersex persons (LGBTI)  **Affected persons:**  - general  - lesbian, gay, bisexual, transgender and intersex persons (LGBTI) | **Implemented**  The [*Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013* (Cth)](http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r5026)introduced wider protections, such as including the new ground of intersex status. The time-bound exemption provided to the states and territories at the introduction of the 2013 amendment to allow them to reach full compliance has since lapsed. |  |
| 136.118 Strengthen further already existing anti-discriminatory measures and laws (Morocco);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B31 Equality & non-discrimination  A42 Institutions & policies - General  A41 Constitutional and legislative framework  **Affected persons:**  - general | **Not implemented**  For discussion on recent reforms to legislative protections against religious discrimination, see recommendation 136.121.  Australia has not undertaken comprehensive reforms to federal discrimination laws since its second cycle UPR. These laws remain a dispute-focused model, which is remedial rather than proactive. They also do not fully incorporate into domestic law all of Australia’s human rights obligations, as set out in the seven core international human rights treaties to which Australia is a party.[[28]](#footnote-29) Key issues impeding the effectiveness of the laws include:[[29]](#footnote-30)   1. The mix of discrimination laws is complex and similar concepts operate differently across the laws. 2. The discrimination laws have not been updated to reflect best practice approaches or to address identified concerns. 3. There is an unnecessary level of difference and complexity between federal, state and territory laws. 4. Court decisions have limited the scope of certain provisions in the federal discrimination acts 5. Discrimination laws are not comprehensive in their protection and gaps in protection have been identified. 6. Some grounds of discrimination do not provide for an enforceable remedy.   Federal discrimination laws can be improved and made more effective in their operation and is one of the priorities identified in the Commission’s *Free and equal: An Australian conversation on human rights* project.[[30]](#footnote-31) | Recommendation: Government ensure that Australia’s international human rights obligations are comprehensively incorporated into law.  Recommendation: Government reform federal discrimination laws to ensure comprehensive protection and improve effectiveness. |
| 136.119 Scale up its efforts to ensure equal protection against all forms of discrimination (Trinidad and Tobago);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B31 Equality & non-discrimination  A42 Institutions & policies - General  A41 Constitutional and legislative framework  **Affected persons:**  - general | **Not implemented**  See above, and recommendations 136.117 and 136.118. | Recommendation: Government ensure that Australia’s international human rights obligations are comprehensively incorporated into law.  Recommendation: Government reform federal discrimination laws to ensure comprehensive protection and improve effectiveness. |
| 136.131 Continue supporting the Multicultural Policy and National Anti-Racism Partnership and Strategy including by enacting comprehensive equality legislation (Ukraine);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B31 Equality & non-discrimination  A42 Institutions & policies - General  B32 Racial discrimination  A41 Constitutional and legislative framework  G1 Members of minorities  **Affected persons:**  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  Regarding the enactment of comprehensive equality legislation, see recommendations 136.117 and 136.118.  The Australian Government committed during its second UPR to supporting the National Anti-Racism Partnership Strategy (2015-2019) and its related public awareness campaign, *Racism. It Stops With Me*.[[31]](#footnote-32) However, the Commission received no additional Government funding after 2015 for the National Anti-Racism Strategy (2015-2019).[[32]](#footnote-33) Notwithstanding this lack of funding, the Commission nonetheless implemented the second phase of the Strategy.  The Commission, however, commends the Government’s creation of the Australian Multicultural Council[[33]](#footnote-34) and the 2017 multicultural policy statement, ‘Multicultural Australia: United, Strong, Successful’. The statement rejects racism, affirms the value of mutual respect, and emphasises the safety and productivity of Australia.[[34]](#footnote-35) These are important initiatives to promote social cohesion, cultural harmony and national unity.  In 2016, the Prime Minister Prime Minister moved a statement on racial tolerance in the Australian Parliament's House of Representatives.[[35]](#footnote-36) The Commission notes that Parliament may be well positioned to clarify the meaning of multiculturalism in Australia and that an annual parliamentary statement of multicultural principles may be an appropriate mechanism for a regular re-commitment to multicultural values and cultural diversity.[[36]](#footnote-37)  The Commission also considers that the Government can strengthen the policy machinery for multiculturalism. An Office of Multicultural Affairs functioned in the 1980s and 1990s. Such an office would ensure coordinated leadership on multicultural affairs and, if established in an appropriate departmental home (such as the Department of Prime Minister and Cabinet), would send a strong message about multiculturalism being a policy priority.[[37]](#footnote-38) | Recommendation: Government reform federal discrimination laws to ensure comprehensive protection and improve effectiveness.  Recommendation: Government support social cohesion, community harmony and national unity initiatives underpinned by accurate data. Government fund a new national anti-racism strategy. |
| 136.120 Enact comprehensive equality legislation that will provide effective remedies and address discrimination on all grounds (Serbia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B31 Equality & non-discrimination  A42 Institutions & policies - General  B51 Right to an effective remedy  A41 Constitutional and legislative framework  **Affected persons:**  - general | **Not implemented**  See recommendations 136.117 and 136.118. | Recommendation: Government reform federal discrimination laws to ensure comprehensive protection and improve effectiveness. |
| 136.121 Strengthen anti-discrimination legislation in order to prevent racial, religious and social discrimination (Uzbekistan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B31 Equality & non-discrimination  B32 Racial discrimination  A41 Constitutional and legislative framework  G1 Members of minorities  **Affected persons:**  - general  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Not implemented**  For general federal discrimination law reform, see recommendations 136.117 and 136.118.  Regarding religion, freedom of religion or belief is not fully protected under federal anti-discrimination law. The Commission has supported the introduction of enforceable protections against religious discrimination for all people in Australia for more than 20 years.[[38]](#footnote-39) While there are some protections against religious discrimination in Commonwealth, State and Territory law, these protections are incomplete. In some scenarios, such as complaints to the Commission of religious discrimination in employment, existing legal protections do not provide for enforceable remedies where discrimination is established.  On 29 August 2019, the Attorney-General released exposure drafts of three draft bills,[[39]](#footnote-40) which the Attorney-General’s Department described as the ‘Religious Freedom Bills’.[[40]](#footnote-41) On 10 December 2019, the Attorney-General’s Department published a second exposure draft of the Religious Freedom Bills.[[41]](#footnote-42)  While the Commission endorses some aspects of the Religious Discrimination Bill 2019 (“the Bill”), it is concerned that elements of the Bill are inconsistent with international human rights law. The Bill prohibits direct and indirect discrimination on the ground of religious belief or activity in areas of public life covered by other Commonwealth discrimination laws. The Bill also provides for general and specific exemptions. The Commission endorses these elements of the Bill. However, the Commission is concerned that, in other respects, the Bill would provide protection to religious belief or activity at the expense of other rights. The Commission considers that those provisions of the Bill need to be amended or removed, because they limit other human rights in a way that is unnecessary and disproportionate, or are otherwise inconsistent with international human rights law. For example, the Commission is particularly concerned that exemptions for ‘statements of belief’ in the Bill would override existing federal, state and territory discrimination laws on grounds such as race, sex, disability and sexual orientation. This undermines the principle that human rights are universal and indivisible. An exemption for discriminatory statements of belief sets a dangerous precedent.  The Commission is also concerned that the Bill increases the risk that some patients may lose the ability to obtain medical information, prescriptions or referrals, or to have procedures related to services – such as abortion or contraception – even where it would be reasonable to require health practitioners to provide those services or to make referrals to another health practitioner who is willing to do so.[[42]](#footnote-43) | Recommendation: Government reform federal discrimination laws to ensure comprehensive protection and improve effectiveness.  Recommendation: Government introduce a religious discrimination law that protects all people in Australia consistently with international human rights law and other Commonwealth discrimination laws. |
| 136.129 Continue further with its initiative to promote community cohesion and social harmony (Mauritius);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B31 Equality & non-discrimination  B32 Racial discrimination  A5 Human rights education, trainings and awareness raising  G1 Members of minorities  **Affected persons:**  - general  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendations 136.131 and 136.135. | Recommendation: Government reform federal discrimination laws to ensure comprehensive protection and improve effectiveness.  Recommendation: Government support social cohesion, community harmony and national unity initiatives underpinned by accurate data. Government fund a new national anti-racism strategy. |
| 136.135 Continue to promote among Australians a comprehensive campaign of tolerance and non-discrimination (Nicaragua);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B31 Equality & non-discrimination  B32 Racial discrimination  A5 Human rights education, trainings and awareness raising  G1 Members of minorities  **Affected persons:**  - general  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  Notwithstanding the efforts referred to in recommendation 136.131 around multiculturalism and Australia’s general success as a multicultural nation, racial discrimination continues to be present in Australian society. Racial discrimination continues to affect migrants and Australian-born people of many cultural backgrounds. The 2019 Scanlon Survey revealed that people experiencing discrimination based on skin colour, ethnicity or religion was markedly higher between 2014-19 (18%) than between 2007-2013 (13%), and more than doubled, from 9% in 2007 to 20% in 2017. [[43]](#footnote-44) In a 2017 study, about one-third of surveyed Australians reported they had experienced racism in the workplace.[[44]](#footnote-45)  The Commission is concerned about reports of increased racism during the COVID-19 pandemic. In February 2020, the Commission recorded more complaints under the *Racial Discrimination Act 1975* (Cth) than at any time over the last 12 months.[[45]](#footnote-46) During the pandemic, the Commission has called on the government to invest in comprehensive data collection and analysis on racism in Australia.[[46]](#footnote-47)  In 2018-2019, 16% of all complaints received by the Commission were lodged under the *Racial Discrimination Act* *1975* (Cth).[[47]](#footnote-48)  Aboriginal and Torres Strait Islander peoples are particularly affected by racial discrimination, including institutional racism. In 2018, 43% of Aboriginal or Torres Strait Islander respondents experienced at least one form of racism in the past six months.[[48]](#footnote-49) 21% of all complaints to the Commission under the *Racial Discrimination Act 1975* (Cth) were lodged by Aboriginal people.[[49]](#footnote-50)  In recent years, African Australian communities have experienced elevated levels of racial discrimination.[[50]](#footnote-51) African-Australian communities, particularly Sudanese-Australian communities in Melbourne, have experienced heightened public attention in response to concerns about youth crime. Political and media debates about crime have contributed to racial fear and anxiety towards African-Australians.[[51]](#footnote-52) This has exacerbated the high levels of discrimination and racial profiling experienced by people from African backgrounds.[[52]](#footnote-53) The 2019 Scanlon Survey asked respondents if feelings were positive, negative or neutral towards specific national groups. The highest negative sentiment at 16% was towards a specified African country (Ethiopia).[[53]](#footnote-54) | Recommendation: Government reform federal discrimination laws to ensure comprehensive protection and improve effectiveness.  Recommendation: Government support social cohesion, community harmony and national unity initiatives underpinned by accurate data. Government fund a new national anti-racism strategy. |
| 136.139 Prevent religiously motivated incidents against Muslims and promote multiculturalism and tolerance (Azerbaijan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B31 Equality & non-discrimination  D42 Freedom of thought, conscience and religion  B32 Racial discrimination  A5 Human rights education, trainings and awareness raising  G1 Members of minorities  **Affected persons:**  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendation 136.121 in relation to religious discrimination, as well as recommendations 136.135 and 136.131 in relation to multiculturalism and anti-racism policies, as well as initiatives to promote social cohesion and cultural harmony.  The Commission is concerned about the continuing prevalence of negative attitudes towards Muslim Australians and the increase in Islamophobia and severe Islamophobic attacks.[[54]](#footnote-55) The results of the Commission’s ‘Sharing the stories of Australian Muslims’ survey of over 1,000 Australian Muslims indicate that personal safety and online racism, and systemic and institutionalised discrimination are among the top issues for the Australian Muslim community. Two incidents of public verbal and physical abuse of Muslim women received widespread news coverage in Australia in late 2019.[[55]](#footnote-56) These incidents correlate with the findings of the 2019 Islamophobia in Australia Report which reported on 349 incidents over a 24-month period and found that most incidents occur in public and 72% of victims are visibly Muslim women.[[56]](#footnote-57) | Recommendation: Government support social cohesion, community harmony and national unity initiatives underpinned by accurate data. Government fund a new national anti-racism strategy.  Recommendation: Government support pathways to improve the representation of cultural diversity within Australian leadership.  Recommendation: Government introduces a religious discrimination law that protects all people in Australia consistently with international human rights law and other Commonwealth discrimination laws. |
| 136.133 Continue raising public awareness to combat discrimination, particularly those stemming from Islamophobia and fears of terrorism (Thailand);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B31 Equality & non-discrimination  D42 Freedom of thought, conscience and religion  B8 Human rights & counter-terrorism  A5 Human rights education, trainings and awareness raising  G1 Members of minorities  **Affected persons:**  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendation 136.135 and 136.131. | Recommendation: Government reform federal discrimination laws to ensure comprehensive protection and improve effectiveness.  Recommendation: Government support social cohesion, community harmony and national unity initiatives underpinned by accurate data. Government fund a new national anti-racism strategy.  Recommendation: Government introduces a religious discrimination law that protects all people in Australia consistently with international human rights law and other Commonwealth discrimination laws. |
| 136.140 Protect the right to religious belief of all persons in Australia (Nigeria);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B31 Equality & non-discrimination  D42 Freedom of thought, conscience and religion  G1 Members of minorities  **Affected persons:**  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  While there are some protections against religious discrimination in Commonwealth, State and Territory law, these protections are incomplete. In some scenarios, such as complaints to the Commission of religious discrimination in employment, existing legal protections do not provide for enforceable remedies where discrimination is established.  Attempts to strengthen protections have not been achieved. See further recommendation 136.121 | Recommendation: Government introduces a religious discrimination law that protects all people in Australia consistently with international human rights law and other Commonwealth discrimination laws. |
| 136.209 Protect the rights of older persons and persons with disability to ensure their access to the labour market (Angola);  **Source of position:** A/HRC/31/14/Add.1 - Para. 34 | Supported | B31 Equality & non-discrimination  E31 Right to work  G9 Older persons  F4 Persons with disabilities  **Affected persons:**  - older persons  - persons with disabilities | **Partly implemented**   1. **People with a disability**   The Commission welcomes the Government’s commitment to boosting the employment rates of people with disability by developing a new National Disability Employment Framework. However, the status of this framework is unclear, and the Commission is concerned that the development of the Framework has halted. A central aspect of the National Disability Insurance Scheme is supporting the economic participation of people with disability,[[57]](#footnote-58) and the Commission encourages the NDIA to continue to focus on this area.  The Commission commends the steps taken by the Australian Government to implement the recommendations made in the Commission’s report, *Willing to Work—National Inquiry into Employment Discrimination against Older Australians and Australians with Disability* (*Willing to Work* report). However, the Commission remains concerned by the lack of substantial progress in improving the rates of labour force participation and employment for people with disability. Since 2015 labour force participation for people with disability between 15 and 64 years has remained at 53.4%, compared to an increase in the participation rate for people without disability (84.1%). [[58]](#footnote-59) As at 30 June 2019, the proportion of Australian Public Service employees with disability was 3.7%. This represents a decrease from 3.8% in the years 2016–2018 and only a 0.4 percentage point increase from a low of 3.3% in 2013.[[59]](#footnote-60)   1. **Older persons**   Age discrimination is a major barrier to the participation of older Australians in the labour force. The Commission’s *Willing to Work Inquiry* revealed that older Australians can feel ‘shut out’ of recruitment, be offered less professional development opportunities, or perceive that they are targeted for redundancy during periods of organisational restructure. There are negative assumptions and pervasive stereotypes about older people that contribute to discriminatory practices.[[60]](#footnote-61) A recent study completed by the Commission alongside the Australian HR Institute revealed that one in three organisations indicated there is an age over which they are reluctant to recruit – the majority of organisations nominated the age 50 as “too old”.[[61]](#footnote-62) | Recommendation: Government continue to implement the Willing to Work report recommendations and provide services to transition people with disability into open forms of employment.  Recommendation: Government reduce workplace discrimination against older Australians, and implement recommendations from the ALRC’s report *Elder Abuse—A National Legal Response* and the AHRC’s *Willing to Work* report. |
| 136.123 Continue paying special attention to the implementation of national policies for marginalized or vulnerable social groups, including migrant children, aboriginals and disabled persons (Nicaragua);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B31 Equality & non-discrimination  G4 Migrants  A42 Institutions & policies - General  F4 Persons with disabilities  B32 Racial discrimination  F31 Children: definition; general principles; protection  G1 Members of minorities  G3 Indigenous peoples  **Affected persons:**  - children  - Indigenous peoples  - migrants  - minorities/ racial, ethnic, linguistic, religious or descent-based groups  - persons with disabilities | **Partly implemented**   1. Migrant children   A lack of data on children in Australia, including migrant children, impedes Australia’s capacity to monitor and report on child wellbeing, and its ability to understand when and how best to intervene in ways that will support all children to thrive.[[62]](#footnote-63) This is compounded by the fact that there is no national level coordination of the many policy initiatives that exist across all governments relating to children. Nor is there a national plan of action for the realisation of the principles and provisions of the CRC for children in Australia.[[63]](#footnote-64)   1. Aboriginal and Torres Strait Islander peoples   See recommendation 136.96 in relation to the Closing the Gap strategy.   1. People with a disability   The Commission welcomes the commitment by the Australian Government to develop a new National Disability Strategy (NDS) for 2020 and beyond. The Commission encourages the Government to establish stronger mechanisms for the full and effective engagement of people with disability and their representative organisations in the policy development, implementation and monitoring of actions relating to national policies for people with a disability, such as the NDS and the National Disability Agreement. This includes appropriately funding independent advocacy support for people with disability and increasing resources and opportunities for representative and advocacy organisations to participate in the development and monitoring of actions under relevant national policies such as the NDS.  The Commission remains concerned that people with disability are treated inconsistently under the National Disability Insurance Scheme (NDIS).[[64]](#footnote-65) People who face social, cultural, educational or literacy barriers and/or experience intersectional discrimination are often disadvantaged in accessing the NDIS.[[65]](#footnote-66)  Access to the NDIS by Aboriginal and Torres Strait Islander peoples with disability and Culturally and Linguistically Diverse (CALD) people with disability is tracking below expected numbers.[[66]](#footnote-67) The Commission welcomes the National Disability Insurance Agency’s (NDIA) Aboriginal and Torres Strait Islander Engagement Strategy,[[67]](#footnote-68) the Rural and Remote Strategy[[68]](#footnote-69) and the Culturally and Linguistic Diversity Strategy.[[69]](#footnote-70) These strategies should be supported by action plans that address inequality in initial access to the NDIS and are developed in close consultation with people with disability from these community groups and their representative organisations.  The Commission is also concerned that, while 17.8% of women and 17.6% of men in Australia have disability,[[70]](#footnote-71) women and girls with disability comprise only 37% of NDIS participants.[[71]](#footnote-72) There is currently no policy, strategy or action plan focusing on gender inequality in the NDIS. The Commission encourages the NDIA to develop a specific strategy to ensure that women and girls have equal access to, and outcomes from, the NDIS. The Commission is also concerned about issues faced by children and young people with disability in accessing and using the NDIS, and encourages the NDIA to develop a dedicated strategy for children and young people | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government address the UNCRPD Committee’s recommendations in the new National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework.  Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention. |
| 136.124 Reinforce the measures to combat discrimination against minority groups, particularly towards persons with disabilities, older persons and religious minorities (Argentina);  **Source of position:** A/HRC/31/14/Add.1 - Para. 34 | Supported | B31 Equality & non-discrimination  G9 Older persons  F4 Persons with disabilities  G1 Members of minorities  **Affected persons:**  - older persons  - minorities/ racial, ethnic, linguistic, religious or descent-based groups  - persons with disabilities | **Partly implemented**  See recommendations 136.209, 136.121 and 136.139. | Recommendation: Government reduce workplace discrimination against older Australians, and implement recommendations from the ALRC’s report *Elder Abuse—A National Legal Response* and the AHRC’s *Willing to Work* report.  Recommendation: Government address the UNCRPD Committee’s recommendations in the new National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework.  Recommendation: Government introduces a religious discrimination law that protects all people in Australia consistently with international human rights law and other Commonwealth discrimination laws. |
| ***Theme: B32 Racial discrimination*** | | | |  |  |
| 136.138 Strengthen measures to combat racial discrimination, including against incitement of discrimination or violence on racial, ethnic or religious grounds (Botswana);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B32 Racial discrimination  A42 Institutions & policies - General  D42 Freedom of thought, conscience and religion  A41 Constitutional and legislative framework  A5 Human rights education, trainings and awareness raising  G1 Members of minorities  **Affected persons:**  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  In addition to recommendations 136.117, 136.118, 136.135 and 136.121, which discuss federal discrimination law reform and initiatives to promote social cohesion and cultural harmony, the Commission considers that there is a need for the Australian Government to collect better data on racial discrimination, racially motivated crimes and multiculturalism, including cultural diversity in Australian organisations and institutions.[[72]](#footnote-73)  The Commission is concerned that there is currently no comprehensive process in Australia for collecting data on crimes motivated by racial hatred or prejudice. The Commission refers to and endorses the recommendation of the Select Committee on Strengthening Multiculturalism that the Australian Government consider developing options for collecting more comprehensive data on issues concerning multiculturalism and racially motivated crimes.[[73]](#footnote-74)  In the context of discrimination, the distinction between religion and race is not always clear. For example, many Muslim Australians have described anti-Muslim sentiment in terms of racism. However, the RDA does not protect against discrimination based on religion rather than race. | Recommendation: Government support social cohesion, community harmony and national unity initiatives underpinned by accurate data. Government fund a new national anti-racism strategy.  Recommendation: Government introduces a religious discrimination law that protects all people in Australia consistently with international human rights law and other Commonwealth discrimination laws. |
| 136.132 Take more resolute measures in combating racial discrimination, xenophobia and prejudices against members of religious and ethnic minorities, including by actively promoting inter-cultural, inter-ethnic and inter-faith understanding and tolerance (Malaysia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B32 Racial discrimination  A42 Institutions & policies - General  D42 Freedom of thought, conscience and religion  A5 Human rights education, trainings and awareness raising  G1 Members of minorities  **Affected persons:**  - judges, lawyers and prosecutors  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendations 136.117, 136.118, 136.135 and 136.121. | Recommendation: Government support social cohesion, community harmony and national unity initiatives underpinned by accurate data. Government fund a new national anti-racism strategy.  Recommendation: Government introduces a religious discrimination law that protects all people in Australia consistently with international human rights law and other Commonwealth discrimination laws. |
| 136.128 Affirm their commitment to an inclusive society by continuing to support National Anti-Racism Strategies and programmes aimed at building social cohesion and community harmony (Namibia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B32 Racial discrimination  B31 Equality & non-discrimination  A42 Institutions & policies - General  A5 Human rights education, trainings and awareness raising  G1 Members of minorities  **Affected persons:**  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendations 136.135 and 136.131. | Recommendation: Government support social cohesion, community harmony and national unity initiatives underpinned by accurate data. Government fund a new national anti-racism strategy. |
| 136.137 Reinforce measures against acts of racism, discrimination, xenophobia and intolerance (Plurinational State of Bolivia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B32 Racial discrimination  B31 Equality & non-discrimination  A42 Institutions & policies - General  A5 Human rights education, trainings and awareness raising  G1 Members of minorities  **Affected persons:**  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendations 136.117, 136.118, 136.135 and 136.121. | Recommendation: Government reform federal discrimination laws to ensure comprehensive protection and improve effectiveness.  Recommendation: Government support social cohesion, community harmony and national unity initiatives underpinned by accurate data. Government fund a new national anti-racism strategy. |
| 136.130 Further promote multiculturalism including by taking measures against incitement of discrimination or violence, based on race or religions, and strengthening interfaith dialogue among communities (Indonesia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B32 Racial discrimination  B31 Equality & non-discrimination  A42 Institutions & policies - General  D42 Freedom of thought, conscience and religion  A41 Constitutional and legislative framework  A5 Human rights education, trainings and awareness raising  G1 Members of minorities  **Affected persons:**  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendations 136.135 and 136.131. | Recommendation: Government support social cohesion, community harmony and national unity initiatives underpinned by accurate data. Government fund a new national anti-racism strategy.  Recommendation: Government introduces a religious discrimination law that protects all people in Australia consistently with international human rights law and other Commonwealth discrimination laws. |
| 136.134 Implement public awareness campaigns to promote tolerance and respect for cultural diversity and to counter prejudice, stereotypes, discrimination, racism, and Islamophobia (United Arab Emirates);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | B32 Racial discrimination  B31 Equality & non-discrimination  D42 Freedom of thought, conscience and religion  A5 Human rights education, trainings and awareness raising  G1 Members of minorities  **Affected persons:**  - judges, lawyers and prosecutors  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendation 136.131 in relation to the National Anti-Racism Strategy, which is no longer funded by the Government, and other initiatives on social cohesion and cultural harmony. | Recommendation: Government support social cohesion, community harmony and national unity initiatives underpinned by accurate data. Government fund a new national anti-racism strategy. |
| ***Theme: B51 Right to an effective remedy*** | | | |  |
| 136.155 Penalize the ill-treatment of children, and adopt measures to investigate and punish the situations of vulnerability with regard to women and girls with disabilities (Chile);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | B51 Right to an effective remedy  F13 Violence against women  F19 Girls  F43 Persons with disabilities: protection against exploitation, violence and abuse  F31 Children: definition; general principles; protection  F32 Children: family environment and alternative care  D25 Prohibition of torture and cruel, inhuman or degrading treatment  F12 Discrimination against women  **Affected persons:**  - children  - girls  - women  - persons with disabilities | **Partly implemented**  While most children in Australia tell us they feel safe, many children experience unacceptable levels of violence, abuse and neglect.[[74]](#footnote-75) A significant and serious lack of disaggregated data on children across a range of wellbeing domains, including violence against children, impedes Australia’s ability to understand when and how best to intervene in ways that will support all children to thrive.[[75]](#footnote-76)  The Royal Commission into Institutional Responses to Child Sexual Abuse heard from thousands of people who experienced sexual abuse as children in institutions in Australia. The Royal Commission delivered its final report in 2017.[[76]](#footnote-77) Most of the recommendations directed at the Australian Government were accepted or accepted in principle.[[77]](#footnote-78) The Royal Commission also set out ten standards for making institutions child safe.[[78]](#footnote-79) Using these standards, with the support of the Australian Government, the National Children’s Commissioner developed the National Principles for Child Safe Organisations, which are rights-based and cover all forms of potential harms to children. However, to genuinely embed the cultural change required within the community, much more needs to be done to support the Commissioner and others to promote implementation of the National Principles in organisations working with and for children.  In regard to specific offences, in 2019 the Australian Parliament amended the *Crimes Act 2014* (Cth) and the Criminal Code to expand the definition of forced marriage to explicitly include all marriages involving children under 16 years.[[79]](#footnote-80) The Commission encourages the Government to consider reviewing the *Marriage Act 1961* (Cth) to eliminate any exception to the minimum age of marriage of 18.  In all jurisdictions in Australia, it is also still lawful for parents to use ‘reasonable’ corporal punishment to discipline children.[[80]](#footnote-81) There are particular concerns about the impact of a lack of prohibition of corporal punishment on children with disabilities. Australian Governments should remove legal defences for the use of corporal punishment across all education, care and private settings.  In July 2018, the Australian Government created the Office of the National Data Commissioner to oversee and monitor the integrity of Australia’s data system. The Commission welcomes this initiative.[[81]](#footnote-82) However, national disaggregated data on people with disability remains sparse and impedes Australia’s capacity to monitor and address situations of vulnerability with respect to women and girls with disability. Australian Governments also need to address the methodological restrictions in data collection instruments used to capture data on violence against women and girls with disabilities in particular.[[82]](#footnote-83) The Commission has encouraged the Australian Government to commission a comprehensive assessment on the situation of women and girls with disability in Australia, as part of the next National Disability Strategy.[[83]](#footnote-84)  The Commission remains deeply concerned that the non-therapeutic sterilisation of people with disability, particularly women and girls, continues to take place in Australia without their free, prior and informed consent.[[84]](#footnote-85) The Commission is also concerned by the forced administration of contraceptives and abortion procedures.[[85]](#footnote-86) The Commission encourages the Australian Government to work with State and Territory governments to adopt uniform legislation prohibiting, in the absence of the free, prior and informed consent of the person concerned:   * the administration of contraceptives and abortion procedures on women and girls with disability * the sterilisation of adults and children with disability | Recommendation: Government ensure that national policies to reduce violence against women and children also address all forms of violence perpetrated against women and children with disability and include prevention and early intervention initiatives. Government implement the *A Future Without Violence* report. Governments develop a national framework with a view to eliminating the use of restrictive practices.  Recommendation: Governments prohibit the use of isolation and force as punishment in juvenile justice facilities. |
| 136.163 Ensure that incidents of violence against women and children are thoroughly investigated and perpetrators of violence are brought to justice (Pakistan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | B51 Right to an effective remedy  F13 Violence against women  F31 Children: definition; general principles; protection  **Affected persons:**  - children  - women | **Implemented**  The Commission welcomes the voluntary commitment made by Australia during the second UPR cycle to address family violence.[[86]](#footnote-87) The Commission also welcomes the Fourth Action Plan of the National Plan to Reduce Violence Against Women and Their Children 2010-2020. However, violence against women in Australia,[[87]](#footnote-88) including family and domestic violence (FDV), sexual assault and sexual harassment, remains endemic.[[88]](#footnote-89) The intersection of gender with other forms of inequality results in women with disability, Indigenous women, LGBTI women, and women from culturally and linguistically diverse (CALD) backgrounds experiencing higher rates of violence, and additional barriers to seeking help and support.[[89]](#footnote-90)  The National Plan to Reduce Violence against Women and their Children (2010–2022) is also only targeted at achieving ‘a significant and sustained reduction in violence against women and their children’.[[90]](#footnote-91) While reducing the proportion of children exposed to domestic violence is one of the key indicators under the Plan, its critical focus is on women, not violence against children. The Commission has encouraged the Australian Government to increase prevention measures and responses to FDV that address the distinct impacts on children.[[91]](#footnote-92)  The Commission is particularly concerned about the strikingly high rates of FDV experienced by Indigenous women.[[92]](#footnote-93) This is a national crisis.[[93]](#footnote-94) FDV is also a primary driver behind the overrepresentation of Indigenous children in the out-of-home care system[[94]](#footnote-95) and of Indigenous women in the criminal justice system.[[95]](#footnote-96)  The Commission has expressed its concern about the lack of Australia-wide data on FDV deaths and highlighted the importance of the domestic and family violence death review process. | Recommendation: Government increase prevention and early intervention initiatives on DFV; tailored measures to address the needs of women experiencing intersectional discrimination; and commit to a further National Plan from 2022.  Recommendation: Government, in partnership with the business and community sectors, implement the recommendations of the National Inquiry into Sexual Harassment in Australian Workplaces.  Recommendation: Government ensure that national policies to reduce violence against women and children prioritise disability. Government implement the findings of the interim and final reports of the Royal Commission. Governments develop a national framework with a view to eliminating the use of restrictive practices. |
| ***Theme: B6 Business & Human Rights*** | | | |  |
| 136.213 Begin a consultative process towards adoption of a National Action Plan on business and human rights (Norway);  **Source of position:** A/HRC/31/14/Add.1 - Para. 65 | Supported | B6 Business & Human Rights  A42 Institutions & policies - General  A6 Context, statistics, budget, civil society  **Affected persons:**  - general | **Implemented**  Following its second cycle UPR, the Government commenced consultations to develop a National Action Plan on Business and Human Rights but ultimately decided to discontinue its development in 2017. Some proposed measures raised during the consultations were subsequently implemented, for example the *Modern Slavery Act 2018* (Cth). | Recommendations: Government develop a National Action Plan on Business and Human Rights; and legislate for large Australian companies and those operating in high risk sectors, including extraterritorially, to conduct human rights and environmental due diligence. |
| 136.214 Strengthen the normative framework for the protection of human rights, including the monitoring, investigation and reparation for human rights violations committed by Australian enterprises in their territories and in third States (Ecuador);  **Source of position:** A/HRC/31/14/Add.1 - Para. 65 | Supported | B6 Business & Human Rights  B51 Right to an effective remedy  A41 Constitutional and legislative framework  **Affected persons:**  - general | **Partly implemented**  See recommendation 136.213.  Australia has committed to implementing the UNGPs.[[96]](#footnote-97) The Commission also commends Australia for reforms to its national contact point for the OECD Guidelines for Multinational Enterprises.[[97]](#footnote-98)  Notwithstanding these positive developments, the Government commenced consultations to develop a National Action Plan on Business and Human Rights but withdrew its support in 2017. Although Australia passed the *Modern Slavery Act 2019* (Cth), this legislation creates a reporting requirement that is limited to existing actions taken by businesses and other entities to address modern slavery. The Commission therefore encourages the Government to develop a National Action Plan on Business and Human Rights, which implements its obligations under the UNGPs. In addition, there is increasing recognition of the adverse human rights impacts arising from climate change in Australia and globally, and the central role business has to play in mitigating climate impacts. The Commission therefore encourages any future National Action Plan on Business and Human Rights to also include consideration of the human rights impacts of climate change.  Lack of access to effective remedies for victims of corporate human rights violations is a significant issue. The Government should provide effective avenues to remedy for victims of corporate human rights violations, including in relation to the extraterritorial activities of Australian businesses operating abroad.  The Commission welcomes the recent Parliamentary Inquiry into whether Australia should examine the use of targeted sanctions to address human rights abuses as referred by Minister for Foreign Affairs, Senator the Hon Marise Payne. In our submission to the Inquiry, the Commission recommended that the Government enact legislation comparable to the United States’ Magnitsky Act 2012, subject to the implementation of procedural safeguards, such as the independent review of any executive decisions to impose sanctions.[[98]](#footnote-99) | Recommendations: Government develop a National Action Plan on Business and Human Rights; and legislate for large Australian companies and those operating in high risk sectors, including extraterritorially, to conduct human rights and environmental due diligence. |
| ***Theme: B8 Human rights & counter-terrorism*** | | | |  |
| 136.229 Continue increasing efforts to combat terrorism (Tajikistan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 53 | Supported | B8 Human rights & counter-terrorism  **Affected persons:**  - general | **Implemented**  Although the Commission acknowledges the critical importance of law enforcement and national security agencies having appropriate powers to carry out their functions, it is concerned that some of Australia’s counter-terrorism laws limit rights under the ICCPR where this is not reasonable, necessary and proportionate to a legitimate objective.  The Commission is particularly concerned about laws relating to: ‘declared areas’ offences,[[99]](#footnote-100) presumptions against bail and parole,[[100]](#footnote-101) control orders and preventive detention orders,[[101]](#footnote-102) continuing detention orders,[[102]](#footnote-103) ‘stop, search and seize’ powers,[[103]](#footnote-104) revocation of citizenship,[[104]](#footnote-105) measures which limit children’s rights such as the prosecution and sentencing of children for terrorism offences.[[105]](#footnote-106)  The Commission is also concerned that some national security laws and law enforcement powers limit the rights to freedom of expression and privacy in a manner that is not reasonable, necessary and proportionate to achieving a legitimate objective. For example, secrecy provisions in Division 122 of the *Criminal Code* (Cth);[[106]](#footnote-107) espionage offences in Division 91 of the *Criminal Code*;[[107]](#footnote-108) non-disclosure provisions linked to ‘special intelligence operations’ under the *Australian Security Intelligence Organisation Act 1979* (Cth);[[108]](#footnote-109) the mandatory metadata retention regime;[[109]](#footnote-110) and intrusive and covert powers introduced by the *Telecommunications and Other Legislation (Assistance and Access) Act 2018* (Cth) such as enabling agencies to access encrypted communications and devices.[[110]](#footnote-111) The Commission is particularly concerned about the broad application of these laws on journalists and whistleblowers.[[111]](#footnote-112) It is also concerned about restrictions on political speech by public servants.[[112]](#footnote-113) The rights to freedom of expression and privacy would be better protected if they were recognised as a positive right accruing to everyone. | Recommendation: Government amend existing counter-terrorism laws that unduly limit human rights.  Recommendation: Government amend national security laws so that they do not unduly limit human rights, particularly freedom of expression and the right to privacy. |
| 136.228 Ensure that an Australian cannot be deprived of citizenship other than in exceptional circumstances and within the framework of a specific legal procedure (France);  **Source of position:** A/HRC/31/14/Add.1 - Para. 53 | Supported | B8 Human rights & counter-terrorism  D6 Rights related to name, identity, nationality  **Affected persons:**  - general | **Partly implemented**  Since Australia’s second cycle UPR, the Government has extended the circumstances in which an Australian can be deprived of citizenship. The Commission is concerned that these laws are inconsistent with Australia’s human rights obligations.   1. ***Australian Citizenship Amendment (Allegiance to Australia) Act 2015* (Cth)**   Sections 33AA, 35, 35AA and 35A of the *Australian Citizenship Act 2007* (Cth) (the Citizenship Act) govern certain circumstances in which dual Australian citizens can lose their Australian citizenship for particular terrorism-related conduct.[[113]](#footnote-114)  The Commission is particularly concerned about the operation of ss 33AA and 35, which permit the automatic loss of citizenship based on conduct that has not been the subject of a criminal conviction.[[114]](#footnote-115) The threshold for losing citizenship under these provisions is much lower than under s 35A, which requires a conviction for a relevant offence and the imposition of a sentence of imprisonment of at least six years. By contrast, the conduct-based provisions do not have any relevant objective measure of gravity attaching to them. Further, the conduct-based provisions operate automatically without any requirement for an officer of the Commonwealth to consider whether loss of citizenship is warranted in all of the circumstances. They have the effect of automatically ceasing a person’s citizenship by operation of law. Because no formal decision is ever made that citizenship has been lost, let alone following a hearing before a court, there is a lack of certainty about if and when the provisions actually apply.  The Commission is also concerned about the lack of procedural safeguards in the conduct-based provisions. Unlike the conviction-based citizenship loss regime in s 35A, the conduct-based provisions do not require that the Minister make a decision or impose any obligation to provide procedural fairness or reasons when a person loses their citizenship. As a result, it appears on its face that the lawfulness and merits of the automatic loss of citizenship cannot be scrutinised as it is not an administrative decision. The Commission is further concerned about the application of the conviction-based provisions to children as young as ten years of age and the conduct-based provisions to children as young as 14 years of age.  In assessing the proportionality of these provisions, the conduct to which these provisions apply is already largely prohibited by the *Criminal Code Act 1995* (Cth), with provision for lengthy prison sentences. The Commission considers that prosecution of offences is a better way of addressing this conduct than removal of citizenship.  The Commission therefore considers that the current form of ss 33AA, 35 and 35A have not been demonstrated to be a proportionate or necessary response to the goal of reducing threats to national security, in light of the severe human rights impacts and the alternative means of addressing security concerns. Further, they do not contain appropriate safeguards to protect the rights of individuals.  The Commission urges reform of these citizenship loss provisions.   1. **Other bills**   In 2018 and 2019, the Government introduced two bills to amend the circumstances in which a dual citizen or national could have their citizenship removed.[[115]](#footnote-116) These bills still risk breaching a number of Australia’s obligations under international law, including: arbitrarily interfering with the right to enter and remain in one’s own country;[[116]](#footnote-117) rendering a person, including a child, stateless;[[117]](#footnote-118) and a child’s right to nationality.[[118]](#footnote-119)  The Commission acknowledges the critical importance of protecting Australia’s national security, and the Australian community from terrorism. Enacting appropriate measures that achieve these goals can protect human rights, including the right to life,[[119]](#footnote-120) and help fulfil our international law obligations.[[120]](#footnote-121)  However, the Commission considers that citizenship stripping should only occur in the most exceptional circumstances -  and as a last resort where the gravest criminal conduct also repudiates one’s allegiance to Australia – after careful consideration, reasonable justification and due process. The provisions should also be subject to robust review and adequate oversight mechanisms. | Recommendation: Government amend existing counter-terrorism laws that unduly limit human rights. |
| ***Theme: D25 Prohibition of torture and cruel, inhuman or degrading treatment*** | | | |  |
| 136.199 Prevent the excessive use of force by the police and investigate all complaints thoroughly (Azerbaijan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 53 | Supported | D25 Prohibition of torture and cruel, inhuman or degrading treatment  D21 Right to life  B51 Right to an effective remedy  **Affected persons:**  - general  - judges, lawyers and prosecutors | **Partly implemented**  Australia is in the process of developing its National Preventive Mechanism under OPCAT, which was ratified in 2017. Australia made a declaration to postpone its National Preventive Mechanism (NPM) obligations for three years. For more detailed discussion on the implementation of OPCAT, see recommendation 136.21. However, analysis undertaken by the Commonwealth Ombudsman to prepare for the implementation of OPCAT outlines that a number of Australian states and territories currently have limited or no oversight of police lock ups and police station cells, including New South Wales and South Australia.[[121]](#footnote-122)  The Commission recognises developments in some states to review or enhance police complaint handling mechanisms. This includes the development of the NSW Law Enforcement Conduct Commission which commenced operations in 2017,[[122]](#footnote-123) the introduction of the *Police Complaints and Discipline Act 2016* (SA) and the Parliamentary Committee for the Independent Broad-Based Anti-Corruption Commission Inquiry into police oversight in Victoria which reported in late 2018.[[123]](#footnote-124)  Despite these improvements, there remain significant concerns about police use of force and the effectiveness and independence of complaint handling mechanisms.[[124]](#footnote-125) As outlined in recommendation 136.200, there are particular concerns about the use of force by the police against Aboriginal and Torres Strait Islander peoples and about Aboriginal and Torres Strait Islander deaths in police custody and prison. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay.  Recommendation: Government expand human rights education in all areas of the public sector, particularly for those working with children and in the administration of justice and places of detention; and incorporate human rights more fully in the national school curriculum.  Recommendation: Governments prohibit the use of isolation and force as punishment in juvenile justice facilities. |
| ***Theme: D26 Conditions of detention*** | | | |  |
| 136.200 Intensify efforts to improve conditions in prisons, in particular to address the problem of overcrowding and the high mortality in prisons (Uzbekistan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 53 | Supported | D26 Conditions of detention  D21 Right to life  **Affected persons:**  - persons deprived of their liberty | **Partly implemented**  Australia has ratified OPCAT and is in the process of introducing National Preventive Mechanisms in each jurisdiction, which will provide oversight of conditions in detention. Some concerns remain about conditions and over-crowding in some facilities. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay.  Recommendation: Government implement the recommendations of the *Inquiry into indefinite detention of people with* cognitive *and psychiatric impairment in Australia*. Governments adopt a human rights-based approach to mental health laws and ensure that mental health services do not violate the human rights of people with disability.  Recommendation: Government ensure the availability of diversionary programs for Indigenous peoples and expand justice reinvestment trials. Government commit adequate, ongoing funding for Indigenous legal assistance programs.  Recommendation: Governments abolish mandatory sentencing laws and expand the use of non-custodial measures where appropriate.  Recommendation: Governments raise the minimum age of criminal responsibility from 10 years to at least 14 years.  Recommendation: Governments prohibit the use of isolation and force as punishment in juvenile justice facilities. |
| 136.193 Reinforce the measures to improve conditions of detention, especially for persons with disabilities and the young, as well as to eliminate corporal punishment (Holy See);  **Source of position:** A/HRC/31/14/Add.1 - Para. 48 | Supported | D26 Conditions of detention  F34 Children: Juvenile justice  F41 Persons with disabilities: definition, general principles  F31 Children: definition; general principles; protection  F32 Children: family environment and alternative care  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - children  - persons deprived of their liberty  - persons with disabilities | **Partly implemented**  The Commission is concerned about the treatment of children in, and the conditions of, juvenile justice detention across Australia, including the disproportionate use of force, isolation and restraints against children in juvenile detention facilities, and the lack of monitoring, reporting and accountability in relation to these practices. Despite legislation in most states and territories that prohibit the use of isolation and limit the use of force to certain circumstances, allegations of mistreatment of children in juvenile justice have arisen in several jurisdictions over recent years.[[125]](#footnote-126)  The Commission encourages the Government to explicitly prohibit the use of isolation practices and force as punishment in youth justice facilities. These practices should only be permitted when necessary to prevent an imminent and serious threat of injury to the child or others, and only when all other means of control have been exhausted.  The Commission welcomed the establishment of the Royal Commission into the Protection and Detention of Children in the Northern Territory, [[126]](#footnote-127) which found that the Northern Territory lacked strong oversight and complaints processes for its juvenile justice centres.[[127]](#footnote-128) The Northern Territory Government has indicated that it supports either in full or in principle all 227 of the recommendations of the NT Royal Commission and has prohibited the use of isolation for the purposes of discipline.  The importance of robust oversight of juvenile justice centres for protecting the rights of detainees was made clear by the NT Royal Commission.[[128]](#footnote-129) Across Australia, state and territory Children’s Commissioners/Guardians and Ombudsmen have independent monitoring powers within their own jurisdictions. These powers vary and can include oversight of child protection, out-of-home care, juvenile justice systems, and complaint handling.  Regarding corporal punishment, see recommendation 136.155. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay.  Recommendation: Governments raise the minimum age of criminal responsibility from 10 years to at least 14 years.  Recommendation: Governments prohibit the use of isolation and force as punishment in juvenile justice facilities.  Recommendation: Government implement the recommendations of the *Inquiry into indefinite detention of people with* cognitive *and psychiatric impairment in Australia*. Governments adopt a human rights-based approach to mental health laws and ensure that mental health services do not violate the human rights of people with disability. |
| ***Theme: D27 Prohibition of slavery, trafficking*** | | | |  |
| 136.232 Consider the elaboration of a national and regional strategy for the prevention of trafficking in human beings and further promote human rights based approach to victims of trafficking (Slovakia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 55 | Supported | D27 Prohibition of slavery, trafficking  A3 Inter-State cooperation & development assistance  A42 Institutions & policies - General  B51 Right to an effective remedy  **Affected persons:**  - general | **Partly Implemented**  In 2014, the Government released the National Action Plan to Combat Human Trafficking and Slavery 2015-19. [[129]](#footnote-130) The Commission has commended the Government’s development of this action plan and supporting initiatives[[130]](#footnote-131) as positive initiatives.[[131]](#footnote-132) The Government has commenced consultations to develop a new National Action Plan to Combat Modern Slavery 2020‑24.  The Consultation Paper for the new National Action Plan outlined 12 proposed goals to combat modern slavery and human trafficking. The Commission welcomes these goals but recommends they be strengthen by including the following measures: a monitoring and evaluation framework with timelines; a data collection framework; the provision of training and policy direction to public sector agencies; the development of localised strategies for identifying and responding to modern slavery and the establishment of an anti-slavery hotline.  The lack of avenues to access effective remedies for victims of trafficking in Australia is a significant issue. The *Modern Slavery Act 2018* (Cth) does not establish a national victims compensation scheme. For further details, see recommendation 136.233 below. | Recommendation: Government establish an Anti-Slavery Commissioner with oversight of modern slavery statements; introduce financial penalties for non-compliance with reporting requirements; and develop and implement a National Action Plan to Combat Modern Slavery 2020-2024. |
| 136.233 Continue to take comprehensive measures to effectively fight against human trafficking and stamp out the associated phenomenon of contemporary forms of slavery (China);  **Source of position:** A/HRC/31/14/Add.1 - Para. 55 | Supported | D27 Prohibition of slavery, trafficking  A42 Institutions & policies - General  **Affected persons:**  - general | **Partly implemented**  The Commission commends Australia for the *Modern Slavery Act 2018* (Cth), in particular for establishing a public, online register of annual Modern Slavery Statements and for including the Commonwealth Government as a reporting entity. The Commission notes that the legislation does not establish an independent oversight mechanism, financial penalties for entities that do not comply with reporting requirements, or a national victims compensation scheme for victims of slavery and human trafficking. It is essential that the Government address these gaps in order to ensure the effectiveness of the *Modern Slavery Act 2018* (Cth).[[132]](#footnote-133)  The Commission encourages the Government to leverage public spending to address modern slavery risks in its operations and supply chains, through updates to procurement policies and instruments and by providing training to procurement officers. The Commission also encourages the Government to provide adequate funding for review and oversight of modern slavery statements.  Although a commencement date is yet to be proclaimed, the Commission welcomes the enactment of the *Modern Slavery Act 2018* (NSW) and commends the NSW Government on the introduction of this legislation.[[133]](#footnote-134) In particular, the Commission welcomes the introduction of the modern slavery reporting requirement, penalties for non-compliance with reporting requirements and for providing false or misleading information, the establishment of an Independent Anti-Slavery Commissioner and the NSW Government procurement obligations. Notwithstanding these positive aspects, the Commission has expressed concern about the operation of s 26(1)(a) of the *Modern Slavery Act 2018* (NSW). Section 26(1)(a)requires the NSW Anti-Slavery Commissioner to keep a publicly available, online register that would identify any commercial organisation that has disclosed in a modern slavery statement that its goods and services are, or may be, a product of supply chains in which modern slavery may be taking place. The Commission[[134]](#footnote-135) and other stakeholders[[135]](#footnote-136) have expressed concerns that this practice is likely to discourage companies from taking proactive steps to identify or reveal their modern slavery risks for fear of being “named and shamed”. | Recommendation: Government establish an Anti-Slavery Commissioner with oversight of modern slavery statements; introduce financial penalties for non-compliance with reporting requirements; and develop and implement a National Action Plan to Combat Modern Slavery 2020-2024. |
| 136.231 Develop a National Plan to combat trafficking in human beings and protect its victims (Russian Federation);  **Source of position:** A/HRC/31/14/Add.1 - Para. 55 | Supported | D27 Prohibition of slavery, trafficking  A42 Institutions & policies - General  B51 Right to an effective remedy  **Affected persons:**  - general | **Implemented**  See recommendation 136.232 and 136.233. | Recommendation: Government establish an Anti-Slavery Commissioner with oversight of modern slavery statements; introduce financial penalties for non-compliance with reporting requirements; and develop and implement a National Action Plan to Combat Modern Slavery 2020-2024. |
| 136.230 Improve coordination on trafficking, the monitoring of the implementation of anti-trafficking legislation, ensure the rights of victims are protected, including the right to redress and economic and social support (Lithuania);  **Source of position:** A/HRC/31/14/Add.1 - Para. 55 | Supported | D27 Prohibition of slavery, trafficking  E1 Economic, social & cultural rights - general measures of implementation  A42 Institutions & policies - General  B51 Right to an effective remedy  A41 Constitutional and legislative framework  **Affected persons:**  - general | **Partly implemented**  See recommendation 136.233. | Recommendation: Government establish an Anti-Slavery Commissioner with oversight of modern slavery statements; introduce financial penalties for non-compliance with reporting requirements; and develop and implement a National Action Plan to Combat Modern Slavery 2020-2024. |
| ***Theme: D46 Right to private life, privacy*** | | | |  |
| 136.226 Review the extent and scope of laws governing secret surveillance and moderate the powers and discretion conferred on authorities in this regard (India);  **Source of position:** A/HRC/31/14/Add.1 - Para. 53 | Supported | D46 Right to private life, privacy  A41 Constitutional and legislative framework  **Affected persons:**  - general | **Partly implemented**  While there have been some reviews conducted, powers and discretions have not been moderated as a result.  Since 2015**,** there have been reviews of existing and new laws governing secrecy provisions and the workings of the intelligence community. These include reviews and inquiries of specific bills undertaken by the Parliamentary Joint Committee on Intelligence and Security (PJCIS) and the Independent National Security Legislation Monitor (INSLM)**.**  In 2017, the government released the Independent Intelligence Review which, while broader and more systematic in scope, placed minimal focus on the operation of secrecy provisions.[[136]](#footnote-137) A key recommendation of the 2017 Review was a further comprehensive review of the legal framework governing the National Intelligence Community announced by the government in mid-2018. The review presented a classified report to the government in December 2019, and the Commission awaits an unclassified version of the report.[[137]](#footnote-138)  The Commission continues to express significant concern about the operation of provisions governing secrecy and surveillance in Australia and their impact on the right to privacy. See below recommendation 136.227 for more on our position. | Recommendation: Government amend national security laws so that they do not unduly limit human rights, particularly freedom of expression and the right to privacy. |
| 136.227 Take concrete measures in order to ensure that any interference with the right to privacy comply with the principles of legality, proportionality and necessity, regardless of the nationality or location of the individuals affected (Brazil);  **Source of position:** A/HRC/31/14/Add.1 - Para. 53 | Supported | D46 Right to private life, privacy  A41 Constitutional and legislative framework  **Affected persons:**  - general | **Partly implemented**  Australia has a federal act that governs the protection of the privacy of Australians, the *Privacy Act 1988* (Cth).The Act contains 13 Australian privacy principles that apply to most government agencies and some private sector organisations.  Despite these protections, since 2015, the Commission has noted its concern over several Australian counter-terrorism laws and bills introduced by the Australian Government, which limit the right to privacy in ways not demonstrated to be necessary and proportionate to achieving a legitimate objective.[[138]](#footnote-139) The right to privacy is especially important in the context of these laws and bills, given the narrow conception of privacy in Australian law and limited protection against invasion of privacy in our common law. Further, some intelligence agencies, including the Australian Security Intelligence Organisation, are exempt from the operation of the *Privacy Act 1988* (Cth).  The Commission has also expressed serious concern over bills introduced by the Government,[[139]](#footnote-140) which would allow computerised comparisons between biometric data in order to verify the authenticity of certain ‘identity documents’, verifying individuals’ claimed identities, and identifying unknown individuals.[[140]](#footnote-141) These bills could limit a number of human rights in ways not demonstrated to be necessary and proportionate to achieving its objectives, in particular the right to privacy. For example, if passed, at least some of the identity-matching services in these bills could allow for very intrusive surveillance to be conducted in public places. These bills can also only operate through heavy reliance on biometric facial recognition technology. The Commission has noted that this technology is fallible in practice and there are potentially serious human rights implications of its use. The Commission welcomes the advisory report of the Parliamentary Joint Committee on Intelligence and Security on the Identity-matching Services Bill 2019 and the Australian Passports Amendment (Identity-matching Services) Bill 2019 which recommended the legislation be redrafted to ensure its alignment with the principles of privacy, transparency and being subject to robust safeguards.[[141]](#footnote-142) | Recommendation: Government amend national security laws so that they do not unduly limit human rights, particularly freedom of expression and the right to privacy. |
| ***Theme: E1 Economic, social & cultural rights - general measures of implementation*** | | | |  |
| 136.207 Put equal emphasis and commitment on the realization of economic, social and cultural rights (Portugal);  **Source of position:** A/HRC/31/14/Add.1 - Para. 65 | Supported | E1 Economic, social & cultural rights - general measures of implementation  A42 Institutions & policies - General  A41 Constitutional and legislative framework  **Affected persons:**  - general | **Partly implemented**  The definition of “human rights” in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth) includes both the ICCPR and the ICESCR. The PJCHR also frequently addresses economic, social and cultural rights in its scrutiny reports. See recommendation 136.117 for further details on the PJCHR.  However, economic, social and cultural rights are not protected in Australian law to the same extent as civil and political rights. State and territory human rights acts predominantly focus on civil and political rights.[[142]](#footnote-143) Australia has also not ratified the Optional Protocol to the ICESCR and the ICESCR has not been declared an international instrument relating to human rights and freedom for the purposes of the *Australian Human Rights Commission Act 1986* (Cth). | Recommendation: Government ensure JobSeeker allowance payments provide recipients with an adequate standard of living. Welfare support programs be reformed so they are not punitive and current models of income management be discontinued or redesigned as voluntary, opt in schemes that are used as a “last resort”*.*  Recommendation: Government expands and funds the delivery of child targeted mental health and support services.  Recommendation: Government provide support to implement the cross-curriculum priority on ‘Aboriginal and Torres Strait Islander histories and cultures’ and ensure the availability of bilingual education.    Recommendation: Government take urgent steps to implement the Paris Agreement and integrate a human rights-based approach into all disaster recovery policies. |
| 136.208 Consider treating economic, social and cultural rights on the same footing, and with the same emphasis as civil and political rights (South Africa);  **Source of position:** A/HRC/31/14/Add.1 - Para. 65 | Supported | E1 Economic, social & cultural rights - general measures of implementation  A42 Institutions & policies - General  A41 Constitutional and legislative framework  **Affected persons:**  - general | **Partly implemented**  See recommendation 136.207 |  |
| ***Theme: E41 Right to health - General*** | | | |  |
| 136.210 Take measures to ensure the universal access to healthcare services, paying particular attention to the needs of persons living in rural and remote areas (Portugal);  **Source of position:** A/HRC/31/14/Add.1 - Para. 65 | Supported | E41 Right to health - General  B31 Equality & non-discrimination  H4 Persons living in rural areas  G3 Indigenous peoples  **Affected persons:**  - Indigenous peoples  - persons living in rural areas | **Implemented**  Generally speaking, most Australians have good access to healthcare services. However, the Commission remains concerned about inequality of access to healthcare services, including mental health services,[[143]](#footnote-144) across regional Australia and the disparity in health outcomes between those living rurally and in major cities and between Aboriginal and Torres Strait Islander peoples, particularly those living in rural and remote areas, and their non-Indigenous counterparts.[[144]](#footnote-145) Through a series of consultations with children, the Commission also identified that access to adequate healthcare for children can vary significantly between cities, regional and remote areas.[[145]](#footnote-146)  Rural and remote Australians as a whole face poorer health and welfare outcomes compared with those living in major cities as a result of, among other things, their geographic isolation and associated difficulty accessing services, and disadvantage in education, employment opportunities and income.[[146]](#footnote-147)  This inequality is exacerbated for those living in remote and very remote areas.[[147]](#footnote-148) Life expectancy for Aboriginal and Torres Strait Islander peoples living in remote and very remote Australia remains up to 6.9 years lower than Indigenous people living in major cities and up to 14.3 years lower than the average life expectancy across Australia.[[148]](#footnote-149) The target to close the life expectancy gap between Indigenous and non-Indigenous peoples in Australia by 2031 is not on track.[[149]](#footnote-150)  The Commission welcomes the Partnership Agreement entered into in 2019 between Aboriginal and Torres Strait Islander peak bodies and COAG – the peak intergovernmental forum in Australia – to address power disparity in decision-making and work together as equal partners for the first time on Closing the Gap.  The Commission is also concerned that refugees and asylum seekers in regional processing countries are receiving inadequate physical or mental health care. The Commission considers the repeal of ‘Medevac legislation’, which established a framework for transferring refugees and asylum seekers from regional processing countries to Australia for medical treatment, is retrogressive in relation to the right to the highest attainable standard of physical and mental health. | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government expands and funds the delivery of child targeted mental health and support services.  Recommendation: Government ensure refugees and asylum seekers access timely and appropriate healthcare in Australia, unless there is a medical reason why another destination is more appropriate.  Recommendation: Government implement the recommendations of the *Inquiry into indefinite detention of people with cognitive and psychiatric impairment in Australia*. Governments adopt a human rights-based approach to mental health laws and ensure that mental health services do not violate the human rights of people with disability. |
| ***Theme: E51 Right to education - General*** | | | |  |
| 136.211 Improve the quality and coverage of its early childhood care and education for indigenous children and children living in remote areas and ensure adequate resources for implementing bilingual models of education (Republic of Moldova);  **Source of position:** A/HRC/31/14/Add.1 - Para. 48 | Supported | E51 Right to education - General  B31 Equality & non-discrimination  F31 Children: definition; general principles; protection  A6 Context, statistics, budget, civil society  G3 Indigenous peoples  **Affected persons:**  - children  - Indigenous peoples | **Partly implemented**  All states and territories have committed to universal access to quality early childhood education programs under the National Partnership Agreement on Universal Access to Early Childhood Education. In 2020, the target to ensure 95 per cent of all Aboriginal and Torres Strait Islander four year-olds are enrolled in early childhood education by 2025 was on track, with 86.4 per cent of children enrolled in 2018. However, children in rural and remote Australia are still less likely to engage in Early Childhood Education and Care.[[150]](#footnote-151) Four-year-old children living in very remote areas of Australia are more than twice as likely as those from major cities to be developmentally vulnerable (45.5% and 20.8% respectively) against Australian Early Childhood Development Index domains.[[151]](#footnote-152)  Educational disadvantage faced by children in remote areas of Australia also continues throughout primary and secondary school, for example:   * School attendance across years one to ten decreases as remoteness increases.[[152]](#footnote-153) * National reading and numeracy outcomes decline with remoteness. For example, in 2017 the proportion of year five students that achieved at or above the national minimum standard in reading was 95% in major city areas compared to 52.7% in very remote areas,[[153]](#footnote-154) and in numeracy was 96.2% in major cities compared to 60.7% in very remote areas.[[154]](#footnote-155)   Further, year 12 certificate attainment rates decline with remoteness, from 80 per cent in major cities to 74 per cent in remote areas, and 43 per cent in very remote areas.[[155]](#footnote-156) There is also a decreasing trend with increasing remoteness for tertiary education.[[156]](#footnote-157)  Aboriginal and Torres Strait Islander students in remote schools often experience significant educational disadvantage. The lack of services from early childhood through to secondary school, within a reasonable distance from home, and with suitable transportation options, poses a significant barrier to education for many Aboriginal and Torres Strait Islander children. In very remote areas, including the Torres Strait Islands, senior years of secondary schooling are often simply unavailable. Many of these communities also have a perception that the quality of education is sub-standard. These concerns were raised consistently in all remote areas visited during the Wiyi Yani U Thangani (Women’s Voices) project. Concerns around access to quality secondary schooling is the primary reason why Aboriginal and Torres Strait Islander students attend boarding schools.[[157]](#footnote-158) There exists serious unease in Aboriginal and Torres Strait Islander communities about the disruption to children’s cultural education as a result of being sent away from their traditional country to seek educational opportunities at boarding schools.[[158]](#footnote-159)  The most successful early childhood learning models identified during the Wiyi Yani U Thangani (Women's Voices) Project for Aboriginal and Torres Strait Islander children were community owned and controlled, holistic, employed Aboriginal and Torres Strait Islander personnel, and worked within an integrated western and cultural learning framework. Aboriginal and Torres Strait Islander children also consistently identified the need for stronger support for cultural identity, language and acknowledgment of Indigenous Australian history in primary and secondary education.[[159]](#footnote-160)  In regard to bilingual education, the Northern Territory is the only place in Australia where there has been a formal Australian Government policy to implement bilingual education. In 1998, the Northern Territory Government announced that bilingual education programs in Aboriginal communities would be phased out.[[160]](#footnote-161) | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government provide support to implement the cross-curriculum priority on ‘Aboriginal and Torres Strait Islander histories and cultures’ and ensure availability of bilingual education.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by developing a National Action Plan for Aboriginal and Torres Strait Islander women and girls. |
| 136.111 Ensure access to good-quality education, including postgraduate education and vocational training, for indigenous women (United Arab Emirates);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | E51 Right to education - General  F12 Discrimination against women  G3 Indigenous peoples  **Affected persons:**  - Indigenous peoples  - women | **Partly implemented**  As highlighted in Recommendation 136.211, Aboriginal and Torres Strait Islander students often experience significant educational disadvantage, with the impacts increasing by remoteness. The measures taken through the Closing the Gap strategy have failed to reach the targets on school attendance, retention rates and literacy and numeracy standards for Aboriginal and Torres Strait Islander children and young people.[[161]](#footnote-162) The recent concluding observations of the Committee on the Rights of the Child noted concerns that efforts to close the gap remain insufficient.[[162]](#footnote-163)  However, progress has been made on reducing the gap in Year 12 or equivalent attainment between Aboriginal and Torres Strait Islanders and non-Indigenous people and the target to halve the gap by 2020 is on track.[[163]](#footnote-164) The proportion of Aboriginal and Torres Strait Islanders attaining Year 12 or equivalent qualifications remains only 66% in 2018-19. There has also been improvement in the attainment of higher academic levels amongst Indigenous Women. In 2014-15, almost half of all Aboriginal and Torres Strait Islander women aged 15 years and over had achieved a Certificate, Diploma or Degree – a 45% increase from 2008.[[164]](#footnote-165)  The *Wiyi Yani U Thangani (Women’s Voices)* Project has identified that innovative models that are grounded in Aboriginal and Torres Strait Islander culture and learning methods are needed to create the best environments for Aboriginal and Torres Strait Islander students to thrive.[[165]](#footnote-166) Education should: be community engaged; include locally-relevant cultural programs; and employ local Aboriginal and Torres Strait Islander education support workers.  In remote and regional areas, there has been a significant increase in engagement in Certificate II and III courses.[[166]](#footnote-167) However, during the *Wiyi Yani U Thangani* Project, women shared their disappointment about the lack of opportunities to access traineeships and certificates that could improve employment prospects and the development of skills. In many remote communities, the most common entrance point to vocational and employment pathway training opportunities is through the Community Development Program which has seen many iterations over the years.[[167]](#footnote-168) Women who participated in the *Wiyi Yani U Thangani* Project expressed concerns that the current iteration of the program does not adequately meet the expectations of providing relevant training opportunities and job pathways. Many appealed for locally available traineeships and training courses that were relevant to the local industries and realistic local employment prospects.[[168]](#footnote-169) | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government provide support to implement the cross-curriculum priority on ‘Aboriginal and Torres Strait Islander histories and cultures’ and ensure availability of bilingual education.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by prioritising culturally safe, community controlled and holistic services. |
| ***Theme: F12 Discrimination against women*** | | | |  |
| 136.141 Continue to build on progress made in gender equality (Tajikistan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F12 Discrimination against women  B31 Equality & non-discrimination  **Affected persons:**  - women | **Partly implemented**  The Commission commends the voluntary commitment made by Australia to address family violence,[[169]](#footnote-170) as well as the following steps taken by the Government since Australia’s second cycle UPR to progress gender equality:   * Efforts made under the *National Plan to Reduce Violence against Women and their Children 2010–22* (the National Plan);[[170]](#footnote-171) * The removal of its reservation to CEDAW on women in defence combat roles; * Supporting the world-first inquiry conducted by the Commission into sexual harassment in Australian workplaces; * The allocation in 2017 of $1.25 million and of $1.7 million in 2019 for the *Wiyi Yani U Thangani (Women’s Voices)* project,[[171]](#footnote-172) which seeks to elevate the voices of Aboriginal and Torres Strait Islander women and girls about their needs, challenges and aspirations, so that they can lead happy, healthy and fulfilling lives.[[172]](#footnote-173)   Notwithstanding these positive developments, gender equality gaps continue to exist in Australia, which the Commission has encouraged the Australian Government to address, including:[[173]](#footnote-174)   * The need to accelerate action to address the key issues facing Aboriginal and Torres Strait Islander women and children, such as violence, the high rates of contact with the child protection system, and the high rates of Aboriginal and Torres Strait Islander women in the criminal justice system. * Violence against women in Australia, including family and domestic violence, sexual assault and sexual harassment, remains endemic and hinders the realisation of gender equality.[[174]](#footnote-175) * The Commission has identified the need for the Government to address existing barriers to women’s equal participation in the workforce and the gender gap in retirement savings as a matter of priority if Australia is to ensure the equality of men and women.   Australia was once at the forefront of tackling sexual harassment globally. However, it now lags behind other countries in preventing and responding to sexual harassment. The Commission’s fourth national survey on sexual harassment in Australian workplaces established that sexual harassment in Australian workplaces is widespread and pervasive, and that women are significantly more likely than men to have experienced sexual harassment over the course of their lifetime.[[175]](#footnote-176)   * The operation of the *Sex Discrimination Act 1984* (Cth) over the last 25 years also demonstrates the limitations which remain in the current form and content of Australia’s gender equality legislation.[[176]](#footnote-177) | Recommendation: Government implement targeted strategies to close the gender pay gap and ensure women’s economic security later in life.  Recommendation: Government, in partnership with the business and community sectors, implement the recommendations of the National Inquiry into Sexual Harassment in Australian Workplaces.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by developing a National Action Plan for Aboriginal and Torres Strait Islander women and girls.  Recommendation: Government implement evidence-based gender sensitive policies, including affordable access to childcare, equal investment in job creation efforts for men and women, and ensuring that women contribute to decisions affecting Australia’s COVID-19 recovery.  Recommendation: Government increase prevention and early intervention initiatives on DFV; tailored measures to address the needs of women experiencing intersectional discrimination; and commit to a further National Plan from 2022.  Recommendation: Government develop solutions to reduce women’s risk of homelessness.  Recommendation: Government ensure that national policies to reduce violence against women and children also address violence against women and children with disability. Government implement the findings of the interim and final reports of the Royal Commission.. Governments develop a national framework with a view to eliminating the use of restrictive practices. |
| 136.142 Develop and implement policies to ensure gender equality throughout society and strengthen the promotion and protection of the rights of women, especially women from indigenous communities (South Africa);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F12 Discrimination against women  B31 Equality & non-discrimination  A42 Institutions & policies - General  G3 Indigenous peoples  **Affected persons:**  - Indigenous peoples  - women | **Partly implemented**  See recommendation 136.141 above.  Indigenous women and girls continue to face systemic and structural barriers to the realisation of their human rights.  The Commission’s Wiyi Yani U Thangani Project has engaged with more than 2000 Aboriginal and Torres Strait Islander women and girls from over 40 communities.  Through the project, Indigenous women and girls have highlighted the ways that their human rights are not being protected or fulfilled.  Issues of particular concern include the high relative rate of incarceration of Indigenous women, punitive social security measures that have a disproportionate impact on Aboriginal and Torres Strait Islander people, concerns with the child protection system, and the lack of adequate and targeted services including housing.  Structural reform is needed to adequately protect, respect and fulfil the rights of Indigenous women. | Recommendation: Government increase prevention and early intervention initiatives on DFV; tailored measures to address the needs of women experiencing intersectional discrimination; and commit to a further National Plan from 2022.  Recommendations: Government implement the recommendations of the Wiyi Yani U Thangani report, including by prioritising culturally safe, community controlled and holistic services.  Recommendation: Government implement targeted strategies to close the gender pay gap and ensure women’s economic security later in life.  Recommendation: Government, in partnership with the business and community sectors, implement the recommendations of the National Inquiry into Sexual Harassment in Australian Workplaces.  Recommendation: Government implement evidence-based gender sensitive policies, including affordable access to childcare, equal investment in job creation efforts for men and women, and ensuring that women contribute to decisions affecting Australia’s COVID-19 recovery.    Recommendation: Government develop solutions to reduce women’s risk of homelessness. |
| 136.143 Continue to promote gender equality and increase representation of women in public services (Lao People’s Democratic Republic);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F12 Discrimination against women  D7 Right to participation in public affairs and right to vote  **Affected persons:**  - women | **Partly implemented**  The Commission commends the Australian Government’s commitment to a target of women holding 50% of Australian Government board positions overall, with at least 40% representation of women and 40% men on individual boards.[[177]](#footnote-178) As at 30 June 2019, women held 47.9 per cent of Government board positions, which is an increase of 2.1 percentage points since 30 June 2018, and the highest overall result since reporting began in 2009.[[178]](#footnote-179) However, as at 30 June 2019, women held only 35 per cent of Chair and Deputy Chair positions. This reflects no change since 30 June 2018.[[179]](#footnote-180)  Although the gender pay gap in the Australian Public Service (APS) is falling, it still sits at 7.8%. In 2018, the average Base Salary for males in the APS was $96,391 while the average Base Salary for females was $88,896. This gap is primarily due to females being underrepresented at higher staffing classification levels.[[180]](#footnote-181) |  |
| 136.149 Establish mechanisms that would allow the reduction of the gender gap in relation to wages and representation in the labour market (Chile);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F12 Discrimination against women  E31 Right to work  A42 Institutions & policies - General  E32 Right to just and favourable conditions of work  **Affected persons:**  - women | **Implemented**  The Workplace Gender Equality Agency (WGEA) was created by the Workplace Gender Equality Act 2012 (Cth). Since 2012, the Agency has undertaken research and educational programs to help promote gender equality in the workplace. The Agency works with employers to promote gender equality and highlight best practice. WGEA has also developed benchmarks in relation to gender equality indicators and issued guidelines to assist employers to achieve the purposes of the Workplace Gender Equality Act 2012 (Cth).[[181]](#footnote-182) | Recommendation: Government implement targeted strategies to close the gender pay gap and ensure women’s economic security later in life.  Recommendation: Government, in partnership with the business and community sectors, implement the recommendations of the National Inquiry into Sexual Harassment in Australian Workplaces.  Recommendation: Government implement evidence-based gender sensitive policies, including affordable access to childcare, equal investment in job creation efforts for men and women, and ensuring that women contribute to decisions affecting Australia’s COVID-19 recovery. |
| 136.146 Address the wage gender gaps and improve the status of women in the labour market (Serbia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F12 Discrimination against women  E31 Right to work  E32 Right to just and favourable conditions of work  **Affected persons:**  - women | **Partly implemented**  In Australia, gender inequality in the workplace and gender pay gaps persist across every industry and occupation.[[182]](#footnote-183) As at May 2019, Australia’s national gender pay gap is 14.0%. Since May 2018, the gender pay gap has decreased by 0.6 pp.[[183]](#footnote-184) The percent of organisations that conducted a gender pay gap analysis has increased by 17.6pp from 24.0% in 2013-14 to 41.6% in 2017-18.[[184]](#footnote-185)  The two leading factors that contribute to the gender pay gap in Australia are gender discrimination and years not spent working due to interruptions, part-time employment and unpaid care and work, followed by industrial and occupational gender segregation.[[185]](#footnote-186)  At every management tier the salaries available to men are higher than those available to women. The highest paid 10% of men earn at least $600K in total salary, whereas the highest paid 10% of women will earn $436K, which acts as a barrier to increasing the proportion of women in management.[[186]](#footnote-187) Gender pay gaps at different levels of management seniority combine to reduce the share of full-time managers by an average of 9.9pp and the share of part-time female managers by 7.9pp.[[187]](#footnote-188) | Recommendation: Government implement targeted strategies to close the gender pay gap and ensure women’s economic security later in life.  Recommendation: Government, in partnership with the business and community sectors, implement the recommendations of the National Inquiry into Sexual Harassment in Australian Workplaces.  Government implement evidence-based gender sensitive policies, including affordable access to childcare, equal investment in job creation efforts for men and women, and ensuring that women contribute to decisions affecting Australia’s COVID-19 recovery. |
| 136.152 Implement the Workplace Gender Equality Act 2013, in letter and spirit, to create socio-economic gender parity (Pakistan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F12 Discrimination against women  E31 Right to work  E32 Right to just and favourable conditions of work  **Affected persons:**  - women | **Implemented**  The Workplace Gender Equality Agency was created by the *Workplace Gender Equality Act* *2012* (Cth). This Agency has implemented the principle objects of the Act through its function to promote and improve gender equality in Australian workplaces. For example, the Agency undertakes research and educational programs to help promote gender equality in the workplace. The Agency works with employers to promote gender equality and highlight best practice. The Agency has developed benchmarks in relation to gender equality indicators and issued guidelines to assist employers to achieve the purposes of the *Workplace Gender Equality Act* *2012* (Cth).[[188]](#footnote-189) However, as noted in recommendation 136.141 and 136.149, challenges remain in Australia in terms of achieving gender equality in employment and in the workplace. |  |
| 136.151 Continue efforts to achieve further economic empowerment of women (Myanmar);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F12 Discrimination against women  E31 Right to work  E6 Rights to protection of property; financial credit  **Affected persons:**  - women | **Partly implemented**  The gender pay gap is a key factor in the significant gap in retirement savings for women.[[189]](#footnote-190) Men are more likely to have superannuation and, on average, their account balances are higher. In 2015-16 men held 61.2% of total account balances compared to approximately 38.7% for women.[[190]](#footnote-191) At retirement, single older women are more likely to rely on the age pension than single older men and about a third are living in income poverty.[[191]](#footnote-192) | Recommendation: Government implement targeted strategies to close the gender pay gap and ensure women’s economic security later in life.  Recommendation: Government implement evidence-based gender sensitive policies, including affordable access to childcare, equal investment in job creation efforts for men and women, and ensuring that women contribute to decisions affecting Australia’s COVID-19 recovery. |
| 136.145 Continue introducing measures needed to close the gender pay gap (Israel);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F12 Discrimination against women  E32 Right to just and favourable conditions of work  **Affected persons:**  - women | **Partly implemented**  See recommendation 136.149 | Recommendation: Government implement targeted strategies to close the gender pay gap and ensure women’s economic security later in life.  Recommendation: Government implement evidence-based gender sensitive policies, including affordable access to childcare, equal investment in job creation efforts for men and women, and ensuring that women contribute to decisions affecting Australia’s COVID-19 recovery. |
| 136.147 Implement further measures to close the gender pay gap (Sierra Leone);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F12 Discrimination against women  E32 Right to just and favourable conditions of work  **Affected persons:**  - women | **Partly implemented**  See recommendation 136.149 | Recommendation: Government implement targeted strategies to close the gender pay gap and ensure women’s economic security later in life.  Recommendation: Government implement evidence-based gender sensitive policies, including affordable access to childcare, equal investment in job creation efforts for men and women, and ensuring that women contribute to decisions affecting Australia’s COVID-19 recovery. |
| 136.148 Implement measures to bridge the gender pay gap (Algeria);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F12 Discrimination against women  E32 Right to just and favourable conditions of work  **Affected persons:**  - women | **Partly implemented**  See recommendation 136.149 | Recommendation: Government implement targeted strategies to close the gender pay gap and ensure women’s economic security later in life.  Recommendation: Government implement evidence-based gender sensitive policies, including affordable access to childcare, equal investment in job creation efforts for men and women, and ensuring that women contribute to decisions affecting Australia’s COVID-19 recovery. |
| 136.144 Implement measures to reduce the gender pay gap and strengthen women’s roles in leadership and managerial positions (India);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F12 Discrimination against women  E32 Right to just and favourable conditions of work  D7 Right to participation in public affairs and right to vote  **Affected persons:**  - women | **Partly implemented**  See recommendation 136.149 | Recommendation: Government implement targeted strategies to close the gender pay gap and ensure women’s economic security later in life.  Recommendation: Government implement evidence-based gender sensitive policies, including affordable access to childcare, equal investment in job creation efforts for men and women, and ensuring that women contribute to decisions affecting Australia’s COVID-19 recovery. |
| ***Theme: F13 Violence against women*** | | | |  |
| 136.156 Redouble its efforts to reduce violence against women and domestic violence (Azerbaijan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F13 Violence against women  A42 Institutions & policies - General  F31 Children: definition; general principles; protection  **Affected persons:**  - general  - women | **Implemented**  The Commission welcomes the Fourth Action Plan of the National Plan to Reduce Violence Against Women and Their Children 2010-22. However, violence against women in Australia, including family and domestic violence (FDV), remains endemic.[[192]](#footnote-193) The intersection of gender with other forms of inequality results in women with disability, Indigenous women, LGBTI women, and women from culturally and linguistically diverse (CALD) backgrounds experiencing higher rates of violence, and additional barriers to seeking help and support.[[193]](#footnote-194) | Recommendation: Government increase prevention and early intervention initiatives on DFV; tailored measures to address the needs of women experiencing intersectional discrimination; and commit to a further National Plan from 2022  Recommendation: Government, in partnership with the business and community sectors, implement the recommendations of the National Inquiry into Sexual Harassment in Australian Workplaces.  Recommendation: Government ensure that national policies to reduce violence against women and children prioritise disability. |
| 136.157 Step up efforts to combat domestic violence (Belarus);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F13 Violence against women  A42 Institutions & policies - General  F31 Children: definition; general principles; protection  **Affected persons:**  - general  - women | **Implemented**  Since the second cycle UPR, the Government has stepped up efforts to combat domestic violence through a number of measures such as those under the Third Action Plan (2016-19) under the National Plan to Reduce Violence against Women and their Children 2010–22 and funding to examine measures to ensure national coherence and collection of data on FDV deaths.[[194]](#footnote-195) However, as noted in recommendations 136.156 and 136.153, violence against women in Australia, including domestic violence, remains endemic. | Recommendation: Government increase prevention and early intervention initiatives on DFV; tailored measures to address the needs of women experiencing intersectional discrimination; and commit to a further National Plan from 2022.  Recommendation: Government, in partnership with the business and community sectors, implement the recommendations of the National Inquiry into Sexual Harassment in Australian Workplaces.  Recommendation: Government ensure that national policies to reduce violence against women and children prioritise disability. |
| 136.158 Continue strengthening the measures taken to reduce violence against women and their children (Libya);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F13 Violence against women  A42 Institutions & policies - General  F31 Children: definition; general principles; protection  F32 Children: family environment and alternative care  **Affected persons:**  - children  - women | **Implemented**  See recommendation 136.157 above. | Recommendation: Government increase prevention and early intervention initiatives on DFV; tailored measures to address the needs of women experiencing intersectional discrimination; and commit to a further National Plan from 2022.  Recommendation: Government, in partnership with the business and community sectors, implement the recommendations of the National Inquiry into Sexual Harassment in Australian Workplaces.  Recommendation: Government ensure that national policies to reduce violence against women and children prioritise disability. |
| 136.159 Further effectively fulfil the National plan to Reduce Violence against Women and their Children 2010-2022 by means of sustained funding, independent monitoring and evaluation (Lithuania);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F13 Violence against women  A42 Institutions & policies - General  F31 Children: definition; general principles; protection  F32 Children: family environment and alternative care  A6 Context, statistics, budget, civil society  **Affected persons:**  - children  - women | **Partly implemented**  As highlighted in recommendations 136.156 and 136.157, the Commission welcomes the Fourth Action Plan of the National Plan to Reduce Violence Against Women and their Children 2010-22. The Fourth Plan includes a stated commitment toevaluation and reporting against six national outcomes to be measured over time, using the best available data.  However, the Commission notes that the National Plan to Reduce Violence against Women and their Children 2010 – 2022 (National Plan) also includes a commitment to conduct an evaluation of each three-year Action Plan. Despite this, the Commission is not aware of an independent evaluation of the Third Action Plan since its release in October 2016. | Recommendation: Government increase prevention and early intervention initiatives on DFV; tailored measures to address the needs of women experiencing intersectional discrimination; and commit to a further National Plan from 2022.  Recommendation: Government ensure that national policies to reduce violence against women and children prioritise disability. |
| 136.153 Strengthen efforts to combat family violence against women and children, especially within indigenous communities (United States of America);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F13 Violence against women  A42 Institutions & policies - General  F32 Children: family environment and alternative care  G3 Indigenous peoples  **Affected persons:**  - children  - Indigenous peoples  - women | **Partly implemented**  The Commission is very concerned about the strikingly high rates of FDV experienced by Indigenous women.[[195]](#footnote-196) FDV is also a primary driver behind the overrepresentation of Indigenous children in the out-of-home care system[[196]](#footnote-197) and of Indigenous women in the criminal justice system.[[197]](#footnote-198) This is a national crisis, which can only be eliminated by addressing the underlying and interconnected factors that drive FDV against Indigenous women, such as homelessness, intergenerational trauma, poverty, and the lack of culturally safe and holistic services provided by Aboriginal and Torres Strait Islander community-controlled organisations.[[198]](#footnote-199) Investment in FDV response and prevention, with a key focus on ensuring the participation of Aboriginal and Torres Strait Islander organisations and communities, is needed in developing long-term solutions.[[199]](#footnote-200) | Recommendations: Government increase prevention and early intervention initiatives on DFV; tailored measures to address the needs of women experiencing intersectional discrimination; and commit to a further National Plan from 2022.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by prioritising culturally safe, community controlled and holistic services. |
| 136.161 Continue with implementation of the National Plan to Reduce Violence Against Women and their Children with a particular focus on support services and resources available to women living in more remote areas, and women from culturally and linguistically diverse backgrounds (Croatia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F13 Violence against women  B31 Equality & non-discrimination  A42 Institutions & policies - General  B32 Racial discrimination  F31 Children: definition; general principles; protection  B51 Right to an effective remedy  G1 Members of minorities  A6 Context, statistics, budget, civil society  H4 Persons living in rural areas  G3 Indigenous peoples  **Affected persons:**  - children  - Indigenous peoples  - persons living in rural areas  - women  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Implemented**  As noted in Recommendation 136.156 and 136.157 the Commission welcomes the Fourth Action Plan of the National Plan to Reduce Violence Against Women and Their Children. The Plan includes a National Priority to respect, listen and respond to the diverse lived experience and knowledge of women and their children affected by violence, including the experiences of women from culturally and linguistically diverse communities. It includes a focus on implementing culturally sensitive and community-led initiatives.[[200]](#footnote-201) However, as noted in recommendations 136.156 and 136.153, violence against women in Australia, including domestic violence, remains endemic.  There is limited data on the experiences of family and domestic violence among people from culturally and linguistically diverse backgrounds.[[201]](#footnote-202) However, the intersection of gender with other forms of inequality such as women from culturally and linguistically diverse (CALD) is acknowledged to increase the likelihood of them experiencing higher rates of violence, and additional barriers to seeking help and support.[[202]](#footnote-203)  Women living outside major cities are around 7% more likely to have experienced domestic or family violence compared with women living in major cities.[[203]](#footnote-204) People in remote and very remote Australia are 24 times as likely to be hospitalised for domestic violence than people in major cities.  As noted in Recommendation 136.162 below, the Commission made a number of recommendations to strengthen the Fourth Action Plan of the National Plan to Reduce Violence against Women and their Children 2010-2022.[[204]](#footnote-205) These included ensuring the plan accounted for intersectional inequality in the experiences of violence and enhancing data collection and research on the prevention of domestic and family violence amongst women who experience intersectional inequality. | Recommendation: Government increase prevention and early intervention initiatives on DFV; tailored measures to address the needs of women experiencing intersectional discrimination; and commit to a further National Plan from 2022.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by prioritising culturally safe, community controlled and holistic services.  Recommendation: Government ensure that national policies to reduce violence against women and children also address violence against women and children with disability. |
| 136.162 Effectively implement the National Plan to Reduce Violence Against Women and Their Children and strengthen its actions to reduce violence and sexual abuse of women with disabilities and indigenous women (Czech Republic);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F13 Violence against women  F43 Persons with disabilities: protection against exploitation, violence and abuse  A42 Institutions & policies - General  F31 Children: definition; general principles; protection  F32 Children: family environment and alternative care  G3 Indigenous peoples  **Affected persons:**  - children  - Indigenous peoples  - women  - persons with disabilities | **Partly implemented**  The Commission welcomes the Fourth Action Plan under the National Plan.  The Commission has made a number of recommendations to strengthen the National Plan to Reduce Violence Against Women and their Children 2010-2022 with respect to women with disabilities and Indigenous women, including that the plan:   * + - * + address all forms of violence         + ensure protections are in place to prevent involuntary or coerced sterilisation         + include targeted prevention and early intervention initiatives         + include measures to ensure information, resources and education are provided in a range of accessible formats         + expand research and data-collection measures to better understand the nature and prevalence of violence and to inform evidence-based policy responses.[[205]](#footnote-206) | Recommendation: Government increase prevention and early intervention initiatives on DFV; tailored measures to address the needs of women experiencing intersectional discrimination; and commit to a further National Plan from 2022.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by prioritising culturally safe, community controlled and holistic services.  Recommendation: Government ensure that national policies to reduce violence against women and children prioritise disability. |
| 136.160 Ensure the effective implementation of the National Plan to Reduce Violence against Women and their Children, in particular to protect Aboriginal and Torres Strait Islander women, culturally and linguistically diverse women, and women with disabilities (Singapore);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F13 Violence against women  F43 Persons with disabilities: protection against exploitation, violence and abuse  A42 Institutions & policies - General  F31 Children: definition; general principles; protection  G1 Members of minorities  G3 Indigenous peoples  **Affected persons:**  - children  - Indigenous peoples  - women  - minorities/ racial, ethnic, linguistic, religious or descent-based groups  - persons with disabilities | **Partly implemented**  See recommendations 136.162 and 136.161. | Recommendation: Government increase prevention and early intervention initiatives on DFV; tailored measures to address the needs of women experiencing intersectional discrimination; and commit to a further National Plan from 2022.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by prioritising culturally safe, community controlled and holistic services.  Recommendation: Government ensure that national policies to reduce violence against women and children prioritise disability. |
| 136.164 Make utmost efforts to protect women with disabilities and indigenous women from all forms of violence and discrimination (Republic of Korea);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Supported | F13 Violence against women  F43 Persons with disabilities: protection against exploitation, violence and abuse  F12 Discrimination against women  G3 Indigenous peoples  **Affected persons:**  - Indigenous peoples  - women  - persons with disabilities | **Partly implemented**  See recommendations 136.162 | Recommendation: Government increase prevention and early intervention initiatives on DFV; tailored measures to address the needs of women experiencing intersectional discrimination; and commit to a further National Plan from 2022.  Recommendations: Government implement the recommendations of the Wiyi Yani U Thangani report, including by prioritising culturally safe, community controlled and holistic services.  Recommendation: Government ensure that national policies to reduce violence against women and children prioritise disability. |
| ***Theme: F31 Children: definition; general principles; protection*** | | | |  |
| 136.169 Comprehensively improve the effectiveness of measures to protect the rights of the child (Tajikistan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 48 | Supported | F31 Children: definition; general principles; protection  **Affected persons:**  - children | **Partly implemented**  As stated in recommendation 136.123,there is no national level coordination of the many policy initiatives that exist across all governments relating to children. Nor is there a national plan of action for the realisation of the principles and provisions of the CRC for children in Australia.[[206]](#footnote-207) National initiatives instead concentrate on challenges facing specific groups of children. For example, the National Framework for Protecting Australia’s Children (2009–2020), which primarily focuses on child abuse and neglect. Other initiatives acknowledge children, such as the National Plan to Reduce Violence against Women and their Children (2010–2022)*,* but children are not the critical focus.  The Commission encourages the Government to develop a National Plan for Child Wellbeing, which incorporates the National Framework for Child Safety and uses the CRC as its foundation. Some of the key elements of a national framework committing to the wellbeing of children include the following:   * an enabling legislative and policy framework that puts children’s rights at the centre of law and policy makers’ minds when they are designing services for children * informed decision-making processes, with greater knowledge of children’s rights and scrutiny processes that genuinely examine the potential impact of different measures on children * participatory processes that engage children in the things that they have knowledge about—such as their own lives * partnership models that build consensus on key goals, provide an evidence base on what works and create common shared purpose across government and non-government settings * national accountability frameworks for children’s rights—with clear targets and accountability for outcomes.   No ministerial council has direct accountability for the wellbeing of Australia’s children. However, in 2018, the Australian Government created the role of Assistant Minister for Children and Families within the Social Services portfolio. The Commission is of the view that without a senior Minister equipped with relevant resources and mandate, nor a dedicated cross-jurisdictional council, children’s issues in Australia may not able to be advanced in a meaningful, coordinated way. The Commission has encouraged the Government to establish a formal Ministerial Council that has primary carriage for advancing the National Plan for Child Wellbeing as well as appointing a senior Minister with responsibility for children’s issues.[[207]](#footnote-208) | Recommendation: Government fully incorporate the CRC into Australian law; develop a National Plan for Child Wellbeing and a national children’s data framework; and create a Cabinet-level Minister for children’s rights.  Recommendation: Governments raise the minimum age of criminal responsibility from 10 years to at least 14 years.  Recommendation: Governments prohibit the use of isolation and force as punishment in juvenile justice facilities.  Recommendation: Government expands and funds the delivery of child targeted mental health and support services.  Recommendation: Government provide support to implement the cross-curriculum priority on ‘Aboriginal and Torres Strait Islander histories and cultures’ and ensure availability of bilingual education.  Recommendation: Governments urgently prioritise early intervention programs to prevent children entering child protection systems. Governments fully implement the Aboriginal and Torres Strait Islander Child Placement Principle. |
| 136.168 Build on the achievements of the National Framework for Protection of Australian children (2009-2020), (Morocco);  **Source of position:** A/HRC/31/14/Add.1 - Para. 48 | Supported | F31 Children: definition; general principles; protection  A42 Institutions & policies - General  **Affected persons:**  - children | **Partly implemented**  See recommendation 136.169 regarding the need to develop a National Plan for Child Wellbeing, which is broader in scope than current national plans that focus on specific groups of children or thematic areas, such as the National Framework for Protecting Australia’s Children. The Commission has recommended that the development of the next phase of the National Framework for Protecting Australia’s Children could provide a basis for the development of a National Plan for Child Wellbeing, which uses the CRC as its foundation.[[208]](#footnote-209)  The Australian Government accepted the recommendation of the Royal Commission into Institutional Responses to Child Sexual Abuse for a “National Framework for Child Safety” to commence after the expiration of the current National Framework for Protecting Australia’s Children, and no later than 2020.[[209]](#footnote-210) The Commission is of the view that it is critical that any future National Framework is informed by Australia’s obligations under the CRC and has a broad focus on child wellbeing.  The Royal Commission into Institutional Responses to Child Sexual Abuse also recommended that the proposed National Framework for Child Safety be endorsed by a ministerial council.[[210]](#footnote-211) However, no ministerial council has direct accountability for the wellbeing of Australia’s children. As noted in recommendation 136.169 above, the Commission has recommended that the Australian Government should commit to establishing a formal Ministerial Council that has primary carriage for advancing the National Plan for Child Wellbeing, as well as appointing a senior Minister with responsibility for children’s issues.[[211]](#footnote-212) | Recommendation: Government fully incorporate the CRC into Australian law; develop a National Plan for Child Wellbeing and a national children’s data framework; and create a Cabinet-level Minister for children’s rights. |
| 136.170 Continue with its efforts to protect all children, protect the rights and interests of children and provide vulnerable children with better access to childhood services (Bhutan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 48 | Supported | F31 Children: definition; general principles; protection  B31 Equality & non-discrimination  F32 Children: family environment and alternative care  E41 Right to health - General  E51 Right to education - General  **Affected persons:**  - children | **Partly implemented**  In regard to protecting the rights and interests of children, most children live in Australia live in safe and healthy environments. However, there are some groups of children whose rights are not adequately protected, which impacts their wellbeing. This includes Aboriginal and Torres Strait Islander children, children with disabilities, those from culturally and linguistically diverse backgrounds, and lesbian, gay, bisexual and intersex (LGBTI) children.[[212]](#footnote-213)  Regarding access to health services, generally, most Australian children have good health outcomes and access to health care. Infant mortality rates decreased between 2006 and 2016, and injury and deaths of children decreased between 2004 and 2016.[[213]](#footnote-214) However, some children are at greater risk of poorer health outcomes due to factors including geography, health literacy, culture, social and economic circumstances, and individual characteristics.[[214]](#footnote-215) The National Action Plan for the Health of Children and Young People 2020–2030 commits to improving health equity across populations through actions such as expanding telehealth services and scaling up effective programs that address health inequity.[[215]](#footnote-216) Notwithstanding this welcome initiative, challenges remain, including:   * Children who are supported by or applying to be supported by the NDIS face a range of challenges. the Australian Government aims to support approximately 160,000 children who have a significant and permanent disability.[[216]](#footnote-217) * Many people with disability, including children, will not be supported by the NDIS because they do not meet the eligibility criteria.[[217]](#footnote-218) The Government needs to make clear the eligibility criteria and types of support covered by the NDIS and ensure it has the necessary human, technical and financial resources for its optimal and timely implementation. An effective framework to deliver health rights to children with disability must also address the needs of children who are not covered by the NDIS. * Aboriginal and Torres Strait Islander infants are three times as likely as non-Indigenous infants to die between one and six months of age, and twice as likely to die for all other age categories except for one day to one week old, where the risks are equivalent.[[218]](#footnote-219) * Almost 1 in 7 4-17 year olds are assessed as having mental disorders (2103-14) and 4 in 10 15-19 year olds identified mental health as a top issue in 2018.[[219]](#footnote-220)   Educational outcomes for Aboriginal and Torres Islander children are poor when compared to their non-Indigenous peers. Children who are part of, or assumed to be part of, lesbian, gay, bisexual, transgender and gender diverse or intersex populations can face difficulties at school, and in the community generally. Children with a disability continue to face challenges in accessing education. A significant majority of complaints relating to children received by the Commission in 2018-19 were received under the *Disability Discrimination Act 1992* (Cth) in the area of education.[[220]](#footnote-221) The Government should strengthen its investments in improving education in early childhood, primary and secondary levels, paying particular attention to children in remote areas, Indigenous and Torres Strait Islander children, children with disabilities, children in alternative care, children from refugee and migrant backgrounds and children in marginalised and disadvantaged situations.  The Commission welcomes the creation of the National Office for Child Safety in 2018, and the commitment to the National Centre for the Prevention of Child Sexual Abuse in March 2019; the adoption of the National Framework for Protecting Australia’s Children (2009-2020), and the National Plan to Reduce Violence against Women and their Children (2010-2022).[[221]](#footnote-222) However, the Commision remains concerned about:   * The high rates of violence against children at home, the third action plan under the National Plan to Reduce Violence against Women and their Children focuses on young people aged 12-20 years, when violence affects children of all ages; * Aboriginal and Torres Strait Islander children continuing to be disproportionally affected by family and domestic violence, and sexual violence; * Children with disabilities being more vulnerable to violence, neglect and abuse. | Recommendation: Government fully incorporate the CRC into Australian law; develop a National Plan for Child Wellbeing and a national children’s data framework; and create a Cabinet-level Minister for children’s rights.  Recommendation: Governments urgently prioritise early intervention programs to prevent children entering child protection systems. Governments fully implement the Aboriginal and Torres Strait Islander Child Placement Principle.  Recommendation: Government expands and funds the delivery of child targeted mental health and support services.  Recommendation: Governments raise the minimum age of criminal responsibility from 10 years to at least 14 years.  Recommendation: Governments prohibit the use of isolation and force as punishment in juvenile justice facilities.  Recommendation: Government provide support to implement the priority on ‘Aboriginal and Torres Strait Islander histories and cultures’ and ensure availability of bilingual education. |
| 136.167 Take immediate measures to ensure that all children have access to all levels of education and quality health services (Maldives);  **Source of position:** A/HRC/31/14/Add.1 - Para. 48 | Supported | F31 Children: definition; general principles; protection  E41 Right to health - General  E51 Right to education - General  **Affected persons:**  - children  - media | **Partly implemented**  The Commission is concerned about the availability of mental health services to children.[[222]](#footnote-223)  The disparity in health outcomes between Aboriginal and Torres Strait Islander children and their non-Indigenous counterparts remains a crucial human rights issue.  See recommendation 136.170. | Recommendation: Government expands and funds the delivery of child targeted mental health and other necessary support services.  Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government fully incorporate the CRC into Australian law; develop a National Plan for Child Wellbeing and a national children’s data framework; and create a Cabinet-level Minister for children’s rights.  Recommendation: Government provide support to implement the cross-curriculum priority on ‘Aboriginal and Torres Strait Islander histories and cultures’ and ensure availability of bilingual education. |
| 136.166 Further promote protection of the rights of the child, giving emphasis to Indigenous Children (Greece);  **Source of position:** A/HRC/31/14/Add.1 - Para. 48 | Supported | F31 Children: definition; general principles; protection  G3 Indigenous peoples  **Affected persons:**  - children  - Indigenous peoples | **Partly implemented**  There are ongoing significant disparities between the realisation of the rights of Aboriginal and Torres Strait Islander children and non-Indigenous children in Australia.  Aboriginal and Torres Strait Islander children remain overrepresented in 122 and out-of-home care services with over-representation growing in every Australian jurisdiction.[[223]](#footnote-224) There is also increased evidence about the flow of children in the care and protection system into the juvenile justice or adult criminal justice systems. In June 2018, Aboriginal and Torres Strait Islander young people made up on average 59% of those aged 10–17 in detention, despite Indigenous young people making up only 5% of the general population aged 10–17.[[224]](#footnote-225)  There has been progress on some targets to close the gap for educational outcomes between Aboriginal and Torres Strait Islander children and non-Indigenous.[[225]](#footnote-226) The target on the enrolment of four-year olds in early childhood education and the target to halve the gap in Year 12, or equivalent, are both on track.  However, several targets regarding health and educational outcomes are not on track and have seen minimal improvement, including those regarding child mortality, school attendance and the gap in reading and numeracy.  Much more needs to be done to close the gaps for children and young people with greater input and decision-making roles for Aboriginal and Torres Strait Islander organisations and peoples. | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Governments urgently prioritise early intervention programs to prevent children entering child protection systems. Governments fully implement the Aboriginal and Torres Strait Islander Child Placement Principle.  Recommendation: Government ensure the availability of diversionary programs for Indigenous peoples and expand justice reinvestment trials. Government commit adequate, ongoing funding for Indigenous legal assistance programs.  Recommendation: Government fully incorporate the CRC into Australian law; develop a National Plan for Child Wellbeing and a national children’s data framework; and create a Cabinet-level Minister for children’s rights.  Recommendation: Governments raise the minimum age of criminal responsibility from 10 years to at least 14 years.  Recommendation: Governments prohibit the use of isolation and force as punishment in juvenile justice facilities.  Recommendation: Government expands and funds the delivery of child targeted mental health and support services.  Recommendation: Government provide support to implement the cross-curriculum priority on ‘Aboriginal and Torres Strait Islander histories and cultures’ and ensure availability of bilingual education. |
| ***Theme: F34 Children: Juvenile justice*** | | | |  |
| 136.175 Improve conditions in youth detention facilities, including through ensuring independent and effective investigation of all allegations of human rights violations therein (Czech Republic);  **Source of position:** A/HRC/31/14/Add.1 - Para. 48 | Supported | F34 Children: Juvenile justice  A42 Institutions & policies - General  B51 Right to an effective remedy  D26 Conditions of detention  **Affected persons:**  - children  - persons deprived of their liberty | **Partly implemented**  Despite legislation in most states and territories that prohibit the use of isolation and limit the use of force to certain circumstances, allegations of mistreatment of children in youth detention have arisen in several jurisdictions over recent years.[[226]](#footnote-227)  The Commission remains concerned about the conditions of detention for children, including excessive and punitive isolation practices. | Recommendation: Governments prohibit the use of isolation and force as punishment in juvenile justice facilities.  Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.173 Reform the juvenile justice system in conformity with the international standards and increase the protection of children involved in penal proceedings (Poland);  **Source of position:** A/HRC/31/14/Add.1 - Para. 48 | Supported | F34 Children: Juvenile justice  F31 Children: definition; general principles; protection  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - children | **Partly implemented**  Australia needs to do more to rehabilitate children, rather than use punitive approaches that have been shown to be less effective in reducing recidivism. Some laws and policies continue to run counter to the principle of detention as a ‘last resort’, diversion is underutilised, a large percentage of children are detained on remand, and mandatory sentencing still applies to children in some places.  The minimum age of criminal responsibility under federal law, as well as in all states and territories, is still 10 years of age.  Counter-terrorism laws apply similar presumptions against bail and parole for children as for adults, and do not sufficiently account for the specific vulnerability of children. | Recommendation: Governments raise the minimum age of criminal responsibility from 10 years to at least 14 years  Recommendation: Governments prohibit the use of isolation and force as punishment in juvenile justice facilities.  Recommendation: Government ensure the availability of diversionary programs for Indigenous peoples and expand justice reinvestment trials. Government commit adequate, ongoing funding for Indigenous legal assistance programs.  Recommendation: Governments abolish mandatory sentencing laws and expand the use of non-custodial measures where appropriate. |
| ***Theme: F4 Persons with disabilities*** | | | |  |
| 136.186 Continue its efforts for a full implementation, in all levels, of the National Disability Strategy (Israel);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Supported | F4 Persons with disabilities  A42 Institutions & policies - General  **Affected persons:**  - persons with disabilities | **Partly implemented**  The Commission has significant concerns about the lack of focus and outcomes under the National Disability Strategy. Action plans developed for its implementation have been significantly overdue.    Implementation and effective monitoring of the actions in the NDS have been hampered by the lack of dedicated resources and programs. The third and final implementation plan of the current NDS has not yet been released. | Recommendation: Governments fully implement the National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework**.** |
| 136.188 Strengthen measures concerning people with disabilities (Libya);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Supported | F4 Persons with disabilities  A42 Institutions & policies - General  A41 Constitutional and legislative framework  **Affected persons:**  - persons with disabilities | **Partly implemented**  As outlined in the Commission’s recent submission to the Committee on the Rights of Persons with Disabilities, there remain many rights in the CRPD which have not been incorporated into domestic laws.[[227]](#footnote-228)  Key areas where urgent action is needed include:   * The development of a legal framework that recognises the equal legal capacity of people with disability and enables the implementation of supports for the exercise of legal capacity. See recommendation 136.195 for more detail. * Steps to ensure people with disability are not unlawfully or arbitrarily deprived of their liberty on the basis of disability, including in the criminal justice system. See recommendation 136.194 for more detail. * The prohibition of the practice of sterilisation of children with disability, and adults with disability without their free, prior and informed consent. See recommendation 136.181 for more detail   The current gaps and inconsistencies in the legal protection of the rights of people with disability will continue in the absence of comprehensive human rights laws in Australia.[[228]](#footnote-229)  See recommendations 136.117 and 136.118. | Recommendation: Governments fully implement the National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework.  Recommendation: Government implement the *Willing to Work* report recommendations and provide services to transition people with disability into open forms of employment.  Recommendation: Government ensure that national policies to reduce violence against women and children prioritise disability. Government implement the findings of the interim and final reports of the Royal Commission. Governments develop a national framework with a view to eliminating the use of restrictive practices.  Recommendation: Government implement the recommendations of the *Inquiry into indefinite detention of people with cognitive and psychiatric impairment in Australia*. Governments adopt a human rights-based approach to mental health laws and ensure that mental health services do not violate the human rights of people with disability. |
| 136.189 Continue implementing legislation to address the multiple forms of discrimination on the basis of disability (Panama);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Supported | F4 Persons with disabilities  B31 Equality & non-discrimination  A41 Constitutional and legislative framework  **Affected persons:**  - persons with disabilities | **Partly implemented**  See recommendation 136.188. | Recommendation: Governments fully implement the National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework.  Recommendation: Government reform federal discrimination laws to ensure comprehensive protection and improve effectiveness.  Recommendation: Government implement the *Willing to Work* report recommendations and provide services to transition people with disability into open forms of employment.  Recommendation: Government ensure that national policies to reduce violence against women and children also address violence against women and children with disability. Government implement the findings of the interim and final reports of the Royal Commission. Governments develop a national framework with a view to eliminating the use of restrictive practices.  Recommendation: Government implement the recommendations of the *Inquiry into indefinite detention of people with cognitive and psychiatric impairment in Australia*. Governments adopt a human rights-based approach to mental health laws and ensure that mental health services do not violate the human rights of people with disability. |
| 136.192 Address on a priority basis to, at the administrative and legislative level, the issue of the detention of persons with disabilities who have not been convicted (Costa Rica);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Supported | F4 Persons with disabilities  D33 Arbitrary arrest and detention  D51 Administration of justice & fair trial  A42 Institutions & policies - General  A41 Constitutional and legislative framework  D26 Conditions of detention  **Affected persons:**  - persons deprived of their liberty  - persons with disabilities | **Partly implemented**  The Commission continues to be concerned by the Government’s lack of action in repealing legislation and withdrawing policies and practices that can lead to the indefinite detention of un-convicted people with disability.[[229]](#footnote-230)  Although the Commission welcomes the recent endorsement of the *National Statement of Principles Relating to Persons Unfit to Plead or Found Not Guilty By Reason of Cognitive or Mental Health Impairment* by Australian states and territories in August 2019, with the exception of South Australia, the National Principles are not implemented in state and territory legislation, policy and procedures. | Recommendation: Government implement the recommendations of the *Inquiry into indefinite detention of people with cognitive and psychiatric impairment in Australia*.Governments adopt a human rights-based approach to mental health laws and ensure that mental health services do not violate the human rights of people with disability. |
| ***Theme: F41 Persons with disabilities: definition, general principles*** | | | |  |
| 136.191 Strengthen measures to prevent all forms of discrimination, ill-treatment or violence against persons with disabilities (Colombia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Supported | F41 Persons with disabilities: definition, general principles  F43 Persons with disabilities: protection against exploitation, violence and abuse  A42 Institutions & policies - General  A41 Constitutional and legislative framework  **Affected persons:**  - persons with disabilities | **Partly implemented**  As outlined in the Commission’s recent submission to the Committee on the Rights of Persons with Disabilities, there remain many rights in the CRPD which have not been incorporated into domestic laws.[[230]](#footnote-231)  Regarding discrimination on the grounds of disability, the *Disability Discrimination Act 1992* (Cth) (DDA) is the primary mechanism through which people with disabilities are protected from discrimination in employment, education, getting or using services, renting or buying a house or unit, and accessing public places.  The duty to make reasonable adjustments under the DDA is narrower than the reasonable accommodation duty provided by the CRPD and some judicial decisions have limited the scope of the legislation by confining the operation of key provisions.[[231]](#footnote-232)  As a priority, amendments should be made to enhance the operation of the DDA. However, the current gaps and inconsistencies in the legal protection of the rights of people with disability will continue in the absence of comprehensive human rights laws in Australia.[[232]](#footnote-233)  The Commission welcomes the establishment of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. There remain high rates of violence against people with disability,[[233]](#footnote-234) in particular women and girls.[[234]](#footnote-235) The Commission also has significant concerns about the lack of a nationally consistent approach to eliminating the use of restrictive practices. For further detail, see recommendations 136.197 and 136.198. | Recommendation: Governments fully implement the National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework**.**  Recommendation: Government ensure that national policies to reduce violence against women and children also address all forms of violence perpetrated against women and children with disability and include prevention and early intervention initiatives. Government implement the *A Future Without Violence* report. Governments develop a national framework with a view to eliminating the use of restrictive practices.  Recommendation: Government implement the recommendations of the *Inquiry into indefinite detention of people with cognitive and psychiatric impairment in Australia*.Governments adopt a human rights-based approach to mental health laws and ensure that mental health services do not violate the human rights of people with disability.  Recommendation: Government implement the *Willing to Work* report recommendations and provide services to transition people with disability into open forms of employment.  Recommendation: Government implement the recommendations of the *Inquiry into indefinite detention of people with cognitive and psychiatric impairment in Australia*. Governments adopt a human rights-based approach to mental health laws and ensure that mental health services do not violate the human rights of people with disability |
| 136.185 Provide comprehensive disability protection, with particular attention to the rights of children, while avoiding medical and political practices that affect the freedom and dignity of persons with disabilities (Holy See);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Supported | F41 Persons with disabilities: definition, general principles  F43 Persons with disabilities: protection against exploitation, violence and abuse  F31 Children: definition; general principles; protection  E41 Right to health - General  F44 Persons with disabilities: protecting the integrity of the person  **Affected persons:**  - children  - persons with disabilities | **Partly implemented**  See recommendations 136.198, 136.194, 136.181. | Recommendation: Governments fully implement the National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework.  Recommendation: Government ensure that national policies to reduce violence against women and children prioritise disability. Government implement the findings of the interim and final reports of the Royal Commission. Governments develop a national framework with a view to eliminating the use of restrictive practices.  Recommendation: Government implement the recommendations of the *Inquiry into indefinite detention of people with cognitive and psychiatric impairment in Australia*. Governments adopt a human rights-based approach to mental health laws and ensure that mental health services do not violate the human rights of people with disability.  Recommendation: Government reform federal discrimination laws to ensure comprehensive protection and improve effectiveness. |
| ***Theme: F45 Persons with disabilities: independence, inclusion*** | | | |  |
| 136.190 Continue to promote and support programmes such as the Jobs Access Gateway to equip persons with disabilities with the appropriate skills to secure gainful employment (Singapore);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Supported | F45 Persons with disabilities: independence, inclusion  E31 Right to work  A42 Institutions & policies - General  **Affected persons:**  - persons with disabilities | **Partly implemented**  The Commission is concerned by the lack of substantial progress in improving the rates of labour force participation and employment for people with disability.[[235]](#footnote-236) | Recommendation: Government implement the *Willing to Work* report recommendations and provide services to transition people with disability into open forms of employment.  Recommendation: Governments fully implement the National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework. |
| ***Theme: G1 Members of minorities*** | | | |  |
| 136.126 Revise laws and policies to recognize and protect the rights of the minorities, including Indigenous People (Islamic Republic of Iran);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22 | Supported | G1 Members of minorities  B31 Equality & non-discrimination  A42 Institutions & policies - General  B32 Racial discrimination  A41 Constitutional and legislative framework  G3 Indigenous peoples  **Affected persons:**  - Indigenous peoples  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  Minority groups and indigenous peoples are often a priority area for action in various national frameworks and action plans. However, there is concern that there is insufficient engagement and participation of Indigenous peoples in designing services that relate to their circumstances. Minority groups such as Muslim communities also experience distinct challenges with insufficient supports from the government to address these. | Recommendation: Government support social cohesion, community harmony and national unity initiatives underpinned by accurate data. Government fund a new national anti-racism strategy.  Recommendation: Government develop a national program to implement UNDRIP and schedule it to the definition of human rights in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth). |
| ***Theme: G3 Indigenous peoples*** | | | |  |
| 136.78 Continue to promote and strengthen the rights of Indigenous peoples (Djibouti);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  **Affected persons:**  - Indigenous peoples | **Partly implemented**  Aboriginal and Torres Strait Islander peoples continue to face systemic and structural barriers to the realisation of their human rights. Significant inequalities exist in many areas including health, education, housing and justice.  Indigenous peoples enjoy similar legal protections of human rights (for example from racial discrimination) to other Australians. However, the Commission remains concerned that there are significant additional measures required to ensure equitable outcomes and strengthen the rights of Aboriginal and Torres Strait Islander peoples, including:   * Participatory processes to involve Aboriginal and Torres Strait Islander peoples in decision making about issues that affect them * Restitution, truth telling and treaty-based processes to address the historic inequities created through the colonisation of Indigenous lands * Structural reform to service delivery to ensure services are accessible, suitable, culturally appropriate and take a wholistic approach * Removal of discriminatory provisions in the Australian Constitution   More agency must be afforded to Aboriginal and Torres Strait Islander peoples to take part in decision making processes and to design the type and quality of services they need. | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by developing a National Action Plan for Aboriginal and Torres Strait Islander women and girls.  Recommendation: The Government implement the recommendations of the ALRC’s *Connection to Country* report.  Recommendation: Governments urgently prioritise early intervention programs to prevent children entering child protection systems. Governments fully implement the Aboriginal and Torres Strait Islander Child Placement Principle.  Recommendation: Government provide support to implement the cross-curriculum priority on ‘Aboriginal and Torres Strait Islander histories and cultures’ and ensure availability of bilingual education.  Recommendation: Government ensure the availability of diversionary programs for Indigenous peoples and expand justice reinvestment trials. Government commit adequate, ongoing funding for Indigenous legal assistance programs. |
| 136.79 Continue its efforts to guarantee the human rights of Indigenous peoples (Holy See);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  **Affected persons:**  - Indigenous peoples | **Partly implemented**  See recommendation 136.78 | See recommendations above at 136.78 |
| 136.125 Continue to address the problem associated with racial discrimination and policy disparities against indigenous persons (Nigeria);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  A42 Institutions & policies - General  B32 Racial discrimination  G1 Members of minorities  **Affected persons:**  - Indigenous peoples  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  Aboriginal and Torres Strait Islander peoples enjoy similar legal protections of their rights as other Australians, including under the *Racial Discrimination Act 1975* (Cth).  However the Commission remains concerned that there has not been a concerted effort to implement UNDRIP, discriminatory provisions against Aboriginal and Torres Strait Islander peoples remain in the constitution and legislative processes to enable the participation of Aboriginal and Torres Strait Islander peoples in decisions affecting them remain slow.  As highlighted in recommendations 136.78 and 136.103, more needs to be done to ensure policies are designed in partnership with Aboriginal and Torres Strait Islander peoples to ensure they contribute to equitable outcomes. | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by developing a National Action Plan for Aboriginal and Torres Strait Islander women and girls. |
| 136.87 Continue to support indigenous institutions that bring cohesion to communities, such as the National Congress of the First Peoples of Australia (Peru);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  A42 Institutions & policies - General  D7 Right to participation in public affairs and right to vote  **Affected persons:**  - Indigenous peoples | **Partly implemented**  The Commission acknowledges the partnership agreement between the Coalition of Peaks, the Commonwealth Government, state and territory governments and the Australian Local Government Association in 2019 to form the Joint Council on Closing the Gap. For more detail on Closing the Gap see recommendation 136.103.  There are currently consultations about better engagement with Indigenous peoples at the national and regional levels, however these are yet to be implemented.  Funding has ceased for the National Congress of Australia’s First Peoples. The Uluru Declaration from the heart proposes a new National Voice to Parliament, which the government has not supported to date. | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031. |
| 136.88 Take necessary measures to ensure consultation and participation of indigenous peoples in the processes of the elaboration of public policies that is of interest to them (Paraguay);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  A42 Institutions & policies - General  D7 Right to participation in public affairs and right to vote  **Affected persons:**  - Indigenous peoples | **Partly implemented**  The Commission has significant concerns about the limited engagement with Indigenous peoples in policy development, service delivery and the making of laws, especially through their freely chosen representatives.  Though there have been limited developments to increasing the participation of Aboriginal and Torres Strait Islander peoples in relevant policy making processes, including through the co-design process for the Indigenous ‘voice’ and the ‘Closing the Gap’ partnership with the Coalition of Peaks, much more must be done. | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031. |
| 136.89 Ensure adequate consultations with indigenous peoples in the formulation of policies affecting them (India);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  A42 Institutions & policies - General  D7 Right to participation in public affairs and right to vote  **Affected persons:**  - Indigenous peoples | **Partly implemented**  See recommendation 136.88 above. | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government support pathways to improve the representation of cultural diversity within Australian leadership. |
| 136.136 Protect the rights of indigenous peoples, peasants and other people working in rural areas (Plurinational State of Bolivia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  B31 Equality & non-discrimination  B32 Racial discrimination  G1 Members of minorities  H4 Persons living in rural areas  **Affected persons:**  - Indigenous peoples  - persons living in rural areas  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  People living in rural and remote communities, including Aboriginal and Torres Strait Islander people, experience disparities in the enjoyment of rights and access to services.  Various strategies are in place to address this disparity, however more must be done to focus on issues of concern such as mental health, physical health and access to education. The design of these strategies should be done in meaningful partnership with those accessing the services. | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by developing a National Action Plan for Aboriginal and Torres Strait Islander women and girls. |
| 136.106 Take legislative measures to continue to guarantee rights and equal treatment for the indigenous people in order to ensure national cohesion and social harmony (Angola);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  B32 Racial discrimination  A41 Constitutional and legislative framework  G1 Members of minorities  **Affected persons:**  - Indigenous peoples  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendation 136.125 | Recommendation: Government develop a national program to implement UNDRIP and schedule it to the definition of human rights in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).  Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: The Government implement the recommendations of the ALRC’s *Connection to Country* report. |
| 136.81 Strengthen measures to eliminate discrimination against persons belonging to indigenous populations (France);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  B32 Racial discrimination  G1 Members of minorities  **Affected persons:**  - Indigenous peoples  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  Aboriginal and Torres Strait Islander peoples enjoy similar legal protections of their rights as other Australians, including under the *Racial Discrimination Act 1975* (Cth).  However, Aboriginal and Torres Strait Islander peoples continue to be particularly affected by racial discrimination, including institutional racism. In 2018, 43% of Aboriginal or Torres Strait Islander respondents experienced at least one form of racism in the past six months.[[236]](#footnote-237) 21% of all complaints to the Commission under the *Racial Discrimination Act 1975* (Cth) were lodged by Aboriginal people.[[237]](#footnote-238)  Since the last UPR process, minimal progress has been made on the implementation of measures to further address discrimination against Aboriginal and Torres Strait Islander peoples in policy settings.  Provisions that allow for racial discrimination against Aboriginal and Torres Strait Islander peoples remain in the constitution.  Aboriginal and Torres Strait Islander peoples also continue to disproportionately face adverse health and justice outcomes. Progress on measures to enable the participation of Aboriginal and Torres Strait Islander peoples in decision making remains slow. | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: Government reform federal discrimination laws to ensure comprehensive protection and improve effectiveness.  Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by developing a National Action Plan for Aboriginal and Torres Strait Islander women and girls.  Recommendation: Governments urgently prioritise early intervention programs to prevent children entering child protection systems. Governments fully implement the Aboriginal and Torres Strait Islander Child Placement Principle.  Recommendation: Government ensure the availability of diversionary programs for Indigenous peoples and expand justice reinvestment trials. Government commit adequate, ongoing funding for Indigenous legal assistance programs.  Recommendation: Government support social cohesion, community harmony and national unity initiatives underpinned by accurate data. Government fund a new national anti-racism strategy. |
| 136.205 Increase efforts to reduce the imprisonment of indigenous Australians (Uruguay);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  D51 Administration of justice & fair trial  D26 Conditions of detention  **Affected persons:**  - Indigenous peoples  - persons deprived of their liberty | **Partly implemented**  Since Australia’s last UPR cycle, reviews have been conducted to look at the imprisonment rate of Indigenous peoples and identify strategies about what can be done differently. These included the Australian Law Reform Commission’s *Pathways to Justice* Report on over-representation of Indigenous peoples in the criminal justice system and the Royal Commission into the detention and protection of children in the Northern Territory.  The recommendations of these reviews have not been fully implemented and rates of incarceration have not improved. | Recommendation: Government ensure the availability of diversionary programs for Indigenous peoples and expand justice reinvestment trials. Government commit adequate, ongoing funding for Indigenous legal assistance programs.  Recommendation: Governments abolish mandatory sentencing laws and expand the use of non-custodial measures where appropriate. |
| 136.204 Continue to work, in partnership with Aboriginal and Torres Strait Islander communities, to reduce indigenous incarceration rates (Ireland);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  D51 Administration of justice & fair trial  D7 Right to participation in public affairs and right to vote  D26 Conditions of detention  **Affected persons:**  - Indigenous peoples  - persons deprived of their liberty | **Partly implemented**  In 2017, the Government commissioned the Australian Law Reform Commission’s *Pathways to Justice* Report on over-representation of Indigenous peoples in the criminal justice system and the Royal Commission into the detention and protection of children in the Northern Territory. Both made recommendations to ensure effective engagement with Indigenous communities about addressing incarceration rates. These recommendations have not been fully implemented to date.  The Commission welcomes recent amendments to Western Australia’s unpaid fines regime. Previously, individuals who were unable or unwilling to pay fines could have their licenses suspended or be arrested and imprisoned. The *Pathways to Justice* Report identified the Western Australian system as ‘particularly arduous for Aboriginal and Torres Strait Islander peoples, especially women’.[[238]](#footnote-239) | Recommendation: Government ensure the availability of diversionary programs for Indigenous peoples and expand justice reinvestment trials. Government commit adequate, ongoing funding for Indigenous legal assistance programs.  Recommendation: Governments abolish mandatory sentencing laws and expand the use of non-custodial measures where appropriate. |
| 136.112 Intensify efforts in enhancing the rights of Indigenous Australians: by addressing the underlying causes of their plight, by providing opportunities in health, education, housing and employment; and addressing the high rate of their incarceration in prison (Kenya);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  D51 Administration of justice & fair trial  E31 Right to work  E41 Right to health - General  D26 Conditions of detention  E51 Right to education - General  E23 Right to adequate housing  **Affected persons:**  - Indigenous peoples  - persons deprived of their liberty | **Partly implemented**  As outlined in recommendations 136.205, 136.81, 136.104 and 136.96, while limited progress has been made towards the realisation of the rights of Aboriginal and Torres Strait Islander peoples, many gaps remain. Discrepancies persist in the areas of health, education, housing and justice. Aboriginal and Torres Strait Islander peoples continue to face much higher rates of homelessness and unstable or overcrowded housing.[[239]](#footnote-240) | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031. |
| 136.101 Eliminate the disparities in access to services by Aboriginal and Torres Strait Islander children and their families, especially by reviewing the Australian birth registration process in order to ensure that all children are registered at birth (Poland);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  D6 Rights related to name, identity, nationality  B32 Racial discrimination  F31 Children: definition; general principles; protection  G1 Members of minorities  **Affected persons:**  - children  - Indigenous peoples  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  More must be done to ensure equitable access to culturally appropriate and suitable services for Aboriginal and Torres Strait Islander Peoples.  The Commission’s Wiyi Yani U Thangani Project identified a range of concerns with the current way services are currently provided to Indigenous peoples, including a lack of accountability for mainstream organisations delivering services to Aboriginal and Torres Strait Islander communities, a lack of transparency and coordination, and gaps in services.  The Commission remains concerned about the under-registration of births to Aboriginal and Torres Strait Islander mothers, particularly in rural and remote areas.[[240]](#footnote-241) | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031. |
| 136.102 Continue strengthening the efforts in promoting and protecting non-racial discriminatory policy and specifically also ensure that Aboriginal children have access to birth registration (Timor-Leste);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  D6 Rights related to name, identity, nationality  B32 Racial discrimination  F31 Children: definition; general principles; protection  G1 Members of minorities  **Affected persons:**  - children  - Indigenous peoples  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendations 136.101 and 136.81. | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination. |
| 136.171 Further strengthen efforts towards birth registration for all, with a view to encouraging access to relevant procedures (Turkey);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  D6 Rights related to name, identity, nationality  F31 Children: definition; general principles; protection  **Affected persons:**  - general  - children  - Indigenous peoples | **Partly implemented**  See recommendation 136.101 |  |
| 136.100 Take effective legislative and practical measures for the comprehensive protection and promotion of civil, social, economic and cultural rights of indigenous peoples (Uzbekistan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  E1 Economic, social & cultural rights - general measures of implementation  A42 Institutions & policies - General  A41 Constitutional and legislative framework  D1 Civil & political rights - general measures of implementation  **Affected persons:**  - Indigenous peoples | **Partly implemented**  While limited progress has been made, many gaps remain in the realisation of the economic, cultural, civil and social rights of Aboriginal and Torres Strait Islander peoples. See recommendations 136.81, 136.205, 136.104 and 136.96 for further detail. | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031. |
| 136.104 Ensure that Aboriginal and other indigenous communities are accorded equal access to services including to judicial remedies for discrimination and racism (Rwanda);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  E1 Economic, social & cultural rights - general measures of implementation  B32 Racial discrimination  B51 Right to an effective remedy  D1 Civil & political rights - general measures of implementation  G1 Members of minorities  E41 Right to health - General  E51 Right to education - General  **Affected persons:**  - Indigenous peoples  - judges, lawyers and prosecutors  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  There remain ongoing concerns about funding for Indigenous legal services and Indigenous women’s family violence services, which provide legal assistance for Indigenous peoples to access judicial remedies. | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by developing a National Action Plan for Aboriginal and Torres Strait Islander women and girls. |
| 136.103 Step up efforts to address the economic and social inequalities affecting the indigenous peoples (Luxembourg);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  E1 Economic, social & cultural rights - general measures of implementation  B32 Racial discrimination  G1 Members of minorities  **Affected persons:**  - Indigenous peoples  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  The Closing the Gap strategy aims to “close the gap” between Indigenous and non-Indigenous Australians across a range of key life outcome indicators. In 2020, only two of the seven targets – early childhood education and Year 12 or equivalent attainment – are on track to be met by 2031.[[241]](#footnote-242) Other areas such as employment and school attendance have not seen improvements.[[242]](#footnote-243) Preventable deaths from treatable conditions, high youth suicide rates and perpetual deaths in custody have ensured the life expectancy gap persists.[[243]](#footnote-244)  The Commission welcomes the Partnership Agreement entered into in 2019 between Aboriginal and Torres Strait Islander peak bodies (the Coalition of the Peaks) and COAG – the peak intergovernmental forum in Australia – to address the power disparity in decision-making and work together as equal partners for the first time on Closing the Gap.  The 2020 Report from the Close the Gap Campaign ‘*We Nurture our Culture for our Future, and our Culture Nurtures us*’highlights how Aboriginal and Torres Strait Islander empowerment is critical to wellbeing and the realisation of human rights. It recognised the interconnected relationships between cultural expression, connection to country, family, kinship, community, and self determination and their subsequent connection with reaching equitable outcomes in health, education, justice and community safety. | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by developing a National Action Plan for Aboriginal and Torres Strait Islander women and girls. |
| 136.93 Continue to work towards closing the existing gaps in the protection of human rights and the promotion of welfare for indigenous peoples in order to achieve sustainable economic and social development (Thailand);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  E1 Economic, social & cultural rights - general measures of implementation  B41 Right to development  E24 Right to social security  E21 Right to an adequate standard of living - general  **Affected persons:**  - Indigenous peoples | **Partly implemented**  See recommendations 136.103, 136.81 and 136.78 | Recommendation: Government train public servants to ensure that statements of compatibility are of a consistently high standard and that the views of the PJCHR are fully considered prior to enacting legislation.  Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031. |
| 136.127 Continue to address inequalities affecting human rights in the areas of health, education, employment and income that disproportionately affect indigenous peoples and other minority groups (New Zealand);  **Source of position:** A/HRC/31/14/Add.1 - Para. 22, 28, 65 | Supported | G3 Indigenous peoples  E1 Economic, social & cultural rights - general measures of implementation  E31 Right to work  G1 Members of minorities  E41 Right to health - General  E21 Right to an adequate standard of living - general  E51 Right to education - General  **Affected persons:**  - Indigenous peoples  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendation 136.103 | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031. |
| 136.105 Continue strengthening the access mechanisms to social services for the Aboriginal and Torres Strait Islander children (Timor-Leste);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  E1 Economic, social & cultural rights - general measures of implementation  E41 Right to health - General  E24 Right to social security  E51 Right to education - General  **Affected persons:**  - children  - Indigenous peoples | **Partly implemented**  See recommendation 136.166 | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government expand human rights education in all areas of the public sector, particularly for those working with children and in the administration of justice and places of detention; and incorporate human rights more fully in the national school curriculum. |
| 136.92 Implement policies oriented to the development of remote communities and ensure the full enjoyment of economic, social and cultural rights of indigenous peoples interested in remaining in their land of origin (Mexico);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  E1 Economic, social & cultural rights - general measures of implementation  E7 Cultural rights  E41 Right to health - General  E6 Rights to protection of property; financial credit  E51 Right to education - General  **Affected persons:**  - Indigenous peoples | **Partly implemented**  See recommendations 136.103, 136.99 and 136.78 | Recommendation: The Government implement the recommendations of the ALRC’s *Connection to Country* report.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by prioritising culturally safe, community controlled and holistic services. |
| 136.99 Make further efforts to protect and promote the human rights of indigenous people, including the taking of measures to address the issue of poverty among them (Japan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  E21 Right to an adequate standard of living - general  **Affected persons:**  - Indigenous peoples | **Partly implemented**  The Commission continues to be concerned about the inadequacy of policies and programs to address poverty amongst Aboriginal and Torres Strait Islander peoples. The Commission has raised concerns that some social security policies infringe on human rights and potentially discriminate against Aboriginal and Torres Strait Islander peoples.  The Cashless Debit Card (CDC) has been trialled in areas with a high proportion of Indigenous people in Western Australia, South Australia and Queensland. The CDC restricts most of a recipient’s social welfare income so it may only be spent on specific goods and services. The Commission is concerned that income management of this kind can breach rights to social security, the right to private life, the right to equality and non-discrimination.[[244]](#footnote-245)  There are also concerns about the Community Development Program which involves around 30,000 participants, the majority of whom are Aboriginal and Torres Strait Islander people. The Commission is concerned that the program imposes obligations and compliance requirements on social security recipients in remote areas that exceed those placed on other recipients. This raises concerns about the right to non-discrimination within the right to social security.[[245]](#footnote-246)  More agency must be afforded to Aboriginal and Torres Strait Islander peoples to take part in decision making processes and to design the type and quality of services and policies they need. | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by prioritising culturally safe, community controlled and holistic services. |
| 136.97 Continue making progress in the implementation of the Indigenous Advancement Strategy to promote better opportunities in the areas of education, health and employment for indigenous communities (Colombia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  E31 Right to work  A42 Institutions & policies - General  E41 Right to health - General  E51 Right to education - General  **Affected persons:**  - Indigenous peoples | **Partly implemented**  Through the Indigenous Advancement Strategy (IAS), the Australian Government funds and delivers targeted services for Aboriginal and Torres Strait Islander people. The strategy places focus on education, employment and economic development, and community and home safety.  The Commission has concerns about the implementation of the IAS, including about the transparency of funding processes, the competition for funding between large non-Indigenous run NGOs and smaller Aboriginal and Torres Strait Islander controlled organisations, and the adequacy of services to meet the needs of communities. | Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by developing a National Action Plan for Aboriginal and Torres Strait Islander women and girls.  Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031. |
| 136.98 Continue its efforts in closing the gap between indigenous and non-indigenous Australians in health, education, employment opportunities and access to justice (Malaysia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  E31 Right to work  B32 Racial discrimination  B51 Right to an effective remedy  G1 Members of minorities  E41 Right to health - General  E51 Right to education - General  **Affected persons:**  - Indigenous peoples  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendations 136.103, 136.99 and 136.78 | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by developing a National Action Plan for Aboriginal and Torres Strait Islander women and girls. |
| 136.94 Continue ongoing efforts to close the gaps in opportunities between indigenous and non-indigenous Australians (Italy);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  E31 Right to work  B32 Racial discrimination  G1 Members of minorities  E41 Right to health - General  E51 Right to education - General  **Affected persons:**  - Indigenous peoples  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendations 136.103, 136.99 and 136.78 | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031. |
| 136.107 Take immediate measures to ensure that the indigenous people of Australia have access to health services, education, and to full employment opportunities (Maldives);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  E31 Right to work  E41 Right to health - General  E51 Right to education - General  **Affected persons:**  - Indigenous peoples  - media | **Partly implemented**  See recommendations 136.103, 136.99 and 136.78 | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by developing a National Action Plan for Aboriginal and Torres Strait Islander women and girls. |
| 136.110 Continue to implement indigenous education reforms (Slovakia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  E51 Right to education - General  **Affected persons:**  - Indigenous peoples | **Partly implemented**  See recommendations 136.211 and 136.111 | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government provide support to implement the cross-curriculum priority on ‘Aboriginal and Torres Strait Islander histories and cultures’ and ensure availability of bilingual education. |
| 136.114 Continue concerted efforts for the preservation of the cultural and linguistic identity of Indigenous peoples (Greece);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  E7 Cultural rights  **Affected persons:**  - Indigenous peoples | **Partly implemented**  Australia and the Torres Strait Islands are home to diverse Indigenous cultures, knowledge systems and languages. These traditional knowledges are incredibly significant and Aboriginal and Torres Strait Islander peoples must be adequately supported to preserve them following the interruption of colonisation and its ongoing ramifications.  Some programs exist across Australia to enable the preservation of Aboriginal languages. For example, the NSW Department of Education is working with Aboriginal communities to implement language programs in some NSW schools for Indigenous and non-Indigenous students.[[246]](#footnote-247)  However, more must be done to make formal education culturally inclusive, to ensure Aboriginal and Torres Strait Islander peoples feel that their language and traditional knowledge is valuable and valued and to support communities to preserve their cultures. | Recommendation: Government provide support to implement the cross-curriculum priority on ‘Aboriginal and Torres Strait Islander histories and cultures’ and ensure availability of bilingual education.  Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: The Government implement the recommendations of the ALRC’s *Connection to Country* report. |
| 136.115 Take further efforts to protect the special cultures of the indigenous people and enhance protection to the cultural archaeology (Iraq);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  E7 Cultural rights  **Affected persons:**  - Indigenous peoples | **Partly implemented**  See recommendation 136.114 about the preservation of Aboriginal and Torres Strait Islander languages and cultures.  As with traditional knowledges and languages, colonisation has had a significant impact on the ability of Aboriginal and Torres Strait Islander peoples to care for their country and cultural sites of significance.  Some programs exist to support Aboriginal and Torres Strait Islander peoples to care for their country. These include Indigenous Ranger programs funded through the Australian Government which employ Indigenous people to care for the environment and heritage sites. The Commission welcomes funding commitments by the government to support these programs into the future.[[247]](#footnote-248)  Australia’s system of Native Title was designed to give recognition of Aboriginal and Torres Strait Islander peoples rights to land and water based on their traditional law, customs and connection to country. However, the system is complex and places significant burdens on those attempting to prove traditional ownership, particularly if they were dispossessed during the processes of colonisation.  More must be done to better enable Aboriginal and Torres Strait Islander peoples to maintain their connection to country and care for culturally significant sites. This includes implementing the recommendations from the Australian Law Reform Commission’s *Connection to Country* report. | Recommendation: Government provide support to implement the cross-curriculum priority on ‘Aboriginal and Torres Strait Islander histories and cultures’ and ensure availability of bilingual education.  Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: The Government implement the recommendations of the ALRC’s *Connection to Country* report. |
| 136.108 Continue strengthening measures to address disparities in the access to education and health services for aboriginal and islander children and their families (Ecuador);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  F31 Children: definition; general principles; protection  E41 Right to health - General  E51 Right to education - General  **Affected persons:**  - children  - Indigenous peoples | **Partly implemented**  See recommendations 136.103, 136.211 and 136.111 | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by developing a National Action Plan for Aboriginal and Torres Strait Islander women and girls. |
| 136.109 Continue to implement the necessary measures to ensure indigenous children access to quality education (Lao People’s Democratic Republic);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  F31 Children: definition; general principles; protection  E51 Right to education - General  **Affected persons:**  - children  - Indigenous peoples | **Partly implemented**  See recommendations 136.211 and 136.111 | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government provide support to implement the cross-curriculum priority on ‘Aboriginal and Torres Strait Islander histories and cultures’ and ensure availability of bilingual education. |
| 136.113 Reduce the rate of family separation of indigenous peoples caused, among others, by the removal of babies and children from their families and the imprisonment of juveniles and adults (Paraguay);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Supported | G3 Indigenous peoples  F34 Children: Juvenile justice  D8 Rights related to marriage & family  D51 Administration of justice & fair trial  F32 Children: family environment and alternative care  D26 Conditions of detention  **Affected persons:**  - children  - Indigenous peoples  - persons deprived of their liberty | **Not implemented**  The Commission acknowledges steps taken at a federal and state and territory level since 2015 to improve prevention and early intervention programs with the aim of reducing the rate of family separation among Aboriginal and Torres Strait Islander peoples.  However, Aboriginal and Torres Strait Islander children remain overrepresented in the child protection and out-of-home care systems. Rates of over-representation have not been reduced since the previous UPR in any Australian jurisdiction.[[248]](#footnote-249) Removal of children leads to poorer outcomes across health, education and employment.  There is also increased evidence about the flow of children in the care and protection system into the juvenile justice or adult criminal justice systems. In June 2018, Aboriginal and Torres Strait Islander young people made up on average 59% of those aged 10–17 in detention, despite Indigenous young people making up only 5% of the general population aged 10–17.[[249]](#footnote-250) | Recommendation: Governments urgently prioritise early intervention programs to prevent children entering child protection systems. Governments fully implement the Aboriginal and Torres Strait Islander Child Placement Principle.  Recommendation: Government ensure the availability of diversionary programs for Indigenous peoples and expand justice reinvestment trials. Government commit adequate, ongoing funding for Indigenous legal assistance programs.  Recommendation: Governments raise the minimum age of criminal responsibility from 10 years to at least 14 years. |
| ***Theme: G4 Migrants*** | | | |  |
| 136.236 Protect the rights of Migrants and eliminate unfair treatment of migrant workers, and ensure their integration in to society (Pakistan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G4 Migrants  B31 Equality & non-discrimination  E31 Right to work  B32 Racial discrimination  G1 Members of minorities  **Affected persons:**  - migrants  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendation 136.36. | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. Government remove existing reservations to human rights treaties and withdraw its interpretative declarations to the CRPD.  Recommendation: Government establish an Anti-Slavery Commissioner with oversight of modern slavery statements; introduce financial penalties for non-compliance with reporting requirements; and develop and implement a National Action Plan to Combat Modern Slavery 2020-2024.  Recommendation: Government support social cohesion, community harmony and national unity initiatives underpinned by accurate data. Government fund a new national anti-racism strategy.  Recommendation: Government provide sufficient support to asylum seekers experiencing financial hardship to ensure an adequate standard of living. |
| ***Theme: G5 Refugees & asylum seekers*** | | | |  |
| 136.247 Ensure refugee/asylum-seekers get their rights (Pakistan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  **Affected persons:**  - refugees & asylum seekers | **Partly implemented**  The *Migration Act 1958* ( Cth)accords procedural rights and some rights to review. However, the Commission continues to hold serious concerns about aspects of Australia’s treatment of asylum seekers and refugees, which are inconsistent with its international human rights obligations. These include the policy of mandatory immigration detention for all unlawful non-citizens, including children. | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention.  Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations, and provide permanent protection for refugees and family sponsorship. Government provide sufficient support to asylum seekers experiencing financial hardship to ensure an adequate standard of living.  Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru.  Recommendation: Government ensure refugees and asylum seekers access timely and appropriate healthcare in Australia, unless there is a medical reason why another destination is more appropriate.  Recommendation: Government expand human rights education in all areas of the public sector, particularly for those working with children and in the administration of justice and places of detention. |
| 136.249 Continue to respect the rights of asylum-seekers and refugees despite the difficulties (Djibouti);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  **Affected persons:**  - refugees & asylum seekers | **Partly implemented**  Since 2015, the number of people in immigration detention has decreased, almost all children have been released from closed, onshore immigration detention facilities, and all children have been removed from third country processing centres. Despite these positive developments, Australia’s treatment of refugees and asylum seekers continues to present serious human rights challenges. For example, immigration detention remains mandatory for all unlawful non-citizens, including children, asylum seekers and refugees are at significant risk of refoulement, and human rights violations committed in the context of third country process. | See recommendations above at 136.247 |
| 136.251 Make every effort to guarantee the human rights of asylum seekers, bearing in mind international obligations (Holy See);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  **Affected persons:**  - refugees & asylum seekers | **Partly implemented**  The Commission continues to hold serious concerns about aspects of Australia’s treatment of asylum seekers and refugees, which are inconsistent with its international human rights obligations. In particular:   * Mandatory immigration detention for all unlawful non-citizens, including children (see recommendations 136.271 and 136.259) * The policy of third country processing in Papua New Guinea and Nauru for asylum seekers who arrive by sea (see recommendation 136.281) * Access to healthcare for refugees and asylum seekers in Nauru (see recommendation 136.243). * Serious human rights concerns regarding refugees and asylum seekers in “the Legacy Caseload” (see recommendation 136.282) * The length of detention for people who arrive by boat * Turn backs of boats offshore | See recommendations above at 136.247 |
| 136.253 Ensure that Australia lives up to its international obligations regarding asylum seekers and refugees (Rwanda);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  **Affected persons:**  - refugees & asylum seekers | **Partly implemented**  See recommendation 136.251 | See recommendations above at 136.247 |
| 136.241 Closely cooperate with the UNHCR and other relevant organizations to provide more adequate protection and proper treatment of asylum seekers and refugees (Republic of Korea);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  A28 Cooperation with other international mechanisms and institutions  D25 Prohibition of torture and cruel, inhuman or degrading treatment  D26 Conditions of detention  A6 Context, statistics, budget, civil society  **Affected persons:**  - refugees & asylum seekers  - persons deprived of their liberty | **Partly implemented**  Australia continues to cooperate with UNHCR, including through its contributions and participation in refugee resettlement.  However, Australia’s domestic approach to asylum seekers and refugees does not provide adequate protection or proper treatment of people seeking to enter Australia by sea. For more detail on domestic processes, see recommendation 136.251. |  |
| 136.252 Ensure that the issues of asylum seekers and refugees are addressed in line with the principles of the Bali Process, and Australia’s other human rights and humanitarian obligations (Indonesia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  A3 Inter-State cooperation & development assistance  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - refugees & asylum seekers | **Partly implemented**  Australia has actively contributed to the Bali process, including through its leadership in establishing the Bali Business Forum. However, Australia’s domestic approach to asylum seekers and refugees does not provide adequate protection or proper treatment of people seeking to enter Australia by sea. | Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations, and provide permanent protection for refugees and family sponsorship. Government provide sufficient support to asylum seekers experiencing financial hardship to ensure an adequate standard of living. |
| 136.273 Review the new federal immigration laws so to take into consideration the humanitarian aspects of a possible expulsion of foreign citizens with permanent resident visas, especially if they do not speak the language of their citizenship or have no longer connections with the country of origin of their family (Italy);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  B31 Equality & non-discrimination  D6 Rights related to name, identity, nationality  G4 Migrants  G8 Non-citizens  B32 Racial discrimination  A41 Constitutional and legislative framework  D25 Prohibition of torture and cruel, inhuman or degrading treatment  G1 Members of minorities  **Affected persons:**  - refugees & asylum seekers  - migrants  - minorities/ racial, ethnic, linguistic, religious or descent-based groups  - non-citizens | **Not implemented**  The Commission is concerned about possible refoulement, arbitrary, prolonged and/or indefinite detention and separation from family resulting from decisions to cancel visas of non-citizens under sections 501 and 116 of the Migration Act.[[250]](#footnote-251)  Under section 501 of the Migration Act, the Minister or their delegate can refuse or cancel a visa on the basis that the person does not pass the ‘character test’. The *Migration Amendment (Character and General Visa Cancellation) Act 2014* (Cth), which came into effect in December 2014, significantly broadened the scope of section 501.  Since then, there has been a significant increase in visa refusals and cancellations on character grounds. During the 2018–19 financial year, 268 people had their visa applications refused and 943 people had their visas cancelled on this basis. Between the 2013–14 and 2016–17 financial years, the number of visa cancellations on character grounds increased by over 1100%.[[251]](#footnote-252)  People who have visas refused or cancelled on character grounds have limited access to independent review. Many of the people affected by visa refusal or cancellation on character grounds are detained pending removal to their country of origin. For those who are at risk of persecution or other forms of serious harm in their country of origin, removal is not an option. The Commission is concerned that people in this situation could face prolonged indefinite detention with little prospect of release.[[252]](#footnote-253) | Recommendation: Government repeals mandatory visa cancellation provisions in sections 501(3A) and 501CA and removes a criminal charge as a prescribed ground for cancellation of a Bridging Visa E under section 116(1)(g) of the *Migration Act*. |
| 136.282 Ensure the full respect of the non-refoulement obligations, with regard to all asylum seekers (Slovenia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - refugees & asylum seekers | **Not implemented**  Between 2009 and 2013, over 50,000 people arrived in Australia by boat to seek asylum. The majority of asylum seekers who arrived during this period were permitted to remain in Australia in order to have their refugee claims assessed. While some had the opportunity to apply for substantive visas soon after their arrival, thousands more faced prolonged delays in the processing of their claims. This the group of approximately 30,000 asylum seekers who arrived in Australia by boat prior to 1 January 2014 has come to be known as the “Legacy Caseload”.  The Commission considers that the current refugee status determination process for the Legacy Caseload, which was introduced by the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth), does not provide adequate safeguards against refoulement.[[253]](#footnote-254) For example, it introduced additional criteria for refugee status (which do not reflect the Refugee Convention),[[254]](#footnote-255) removed access to comprehensive merits review (the ‘fast track’ merits review process) and introduced an amendment stipulating that Australia’s *non-refoulement* obligations are ‘irrelevant’ to removals carried out under s 198 of the Migration Act.[[255]](#footnote-256) In addition, most asylum seekers in Australia no longer have access to free government-funded legal advice. Restrictions on family reunion opportunities for people in the Legal Caseload also create a risk of constructive refoulement*.*[[256]](#footnote-257)  Since December 2013, Australia has also intercepted boats carrying asylum seekers who seek to enter Australia and returned them to their point of departure. In some cases, people have been returned directly to their countries of origin after undergoing a screening process at sea. The Commission is concerned these measures create a significant risk of refoulement.  The serious human rights concerns for asylum seekers in PNG and Nauru (third country processing) may also lead to some asylum seekers returning to their country of origin, even if they have a well-founded fear of persecution.[[257]](#footnote-258)  A robust legal framework for refugee status determination is essential for Australia to comply with its international obligations. | Recommendation: Government introduce a refugee status determination process that is consistent with its international obligations and repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government reinstate access to the Immigration Advice and Application Assistance Scheme to all asylum seekers who are experiencing financial hardship.  Recommendation: Government repeals mandatory visa cancellation provisions in sections 501(3A) and 501CA and removes a criminal charge as a prescribed ground for cancellation of a Bridging Visa E under section 116(1)(g) of the *Migration Act*.  Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent to PNG or Nauru. |
| 136.283 Respect fully the principle of non-refoulement enshrined in the Convention relating to the Status of Refugees (Switzerland);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - refugees & asylum seekers | **Not implemented**  See recommendation 136.282 | Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations, and provide permanent protection for refugees and family sponsorship. Government provide sufficient support to asylum seekers experiencing financial hardship to ensure an adequate standard of living.  Recommendation: Government repeals mandatory visa cancellation provisions in sections 501(3A) and 501CA and removes a criminal charge as a prescribed ground for cancellation of a Bridging Visa E under section 116(1)(g) of the *Migration Act*. |
| 136.269 Ensure full compliance with its international obligations regarding the right of asylum seekers and refugees by expediting the processing of applications by asylum seekers at the various processing centres (Ghana);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - refugees & asylum seekers | **Not implemented**  Asylum seekers in the Legacy Caseload are treated differently from other groups of asylum seekers and have faced lengthy delays in the processing of their visa applications.[[258]](#footnote-259) All people in the Legacy Caseload have been residing in Australia for at least five years, and in some cases for substantially longer. Around a third of the people in the Legacy Caseload are still waiting for their applications to be finalised, with resulting high levels of uncertainty and limited support.[[259]](#footnote-260) The Department estimates that primary assessments for people in the Legacy Caseload will be completed by December 2021.[[260]](#footnote-261) Those children and their families who have arrived by boat, and who are allowed to remain in Australia and found to be refugees, are granted temporary protection visas only.  In 2019, the Commission released a report that identified a range of ongoing concerns faced by asylum seekers and refugees in the Legacy Caseload.[[261]](#footnote-262) In particular:   * The lack of access to a fair and thorough process for determining their refugee claims; * Uncertainty about their visa status and ongoing entitlement to protection for a prolonged period of time; * Whether there is sufficient support for asylum seekers to maintain an adequate standard of living in the community; * The impact of restrictions on access to family reunion opportunities; and * The ongoing risk of arbitrary detention.   Each of these concerns raises issues regarding Australia’s compliance with its international human rights obligations. The Commission also has serious concerns about the impact of prolonged delays in the processing of claims on the mental health of many asylum seekers in the Legacy Caseload; and the significant negative impacts of the refugee status determination process on the wellbeing of some families, women and children.  Regarding people seeking asylum in Australia whose applications are processed in Nauru and Papua New Guinea (third country processing), the Commission has ongoing concerns regarding the quality of refugee status determination under third country arrangements.[[262]](#footnote-263) | Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations, and provide permanent protection for refugees and family sponsorship. Government provide sufficient support to asylum seekers experiencing financial hardship to ensure an adequate standard of living.  Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention.  Recommendation: Government expand human rights education in all areas of the public sector, particularly for those working with children and in the administration of justice and places of detention. |
| 136.271 Ensure that measures taken with regard to asylum-seekers are in full compliance with obligations under international law and human rights, including the principle of non-refoulement and that the detention of asylum-seekers is only done when absolutely necessary and for a minimal period of time (Sweden);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  D25 Prohibition of torture and cruel, inhuman or degrading treatment  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - persons deprived of their liberty | **Not implemented**  See recommendation 136.282.  Immigration detention remains mandatory for all unlawful non-citizens, including children.[[263]](#footnote-264) Australian courts do not have jurisdiction to remove a person from detention on the basis that their detention is arbitrary, and there is no legislative time limit on detention. | Recommendation: Government ensure that immigration detention is time limited, reasonable, necessary, proportionate and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention.  Recommendation: Government repeals mandatory visa cancellation provisions in sections 501(3A) and 501CA and removes a criminal charge as a prescribed ground for cancellation of a Bridging Visa E under section 116(1)(g) of the *Migration Act*. |
| 136.259 Develop alternative solutions to mandatory detention of asylum seekers, particularly in the case of children (France);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  F31 Children: definition; general principles; protection  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - children  - persons deprived of their liberty | **Partly implemented**  The Commission commends the Government for removing almost all children from closed, onshore immigration detention facilities, and all children from third country processing centres. Community-based alternatives to detention are most commonly used for children.  However, immigration detention remains mandatory for all unlawful non-citizens, including children.[[264]](#footnote-265) Detention of children for immigration-related reasons is never in conformity with the CRC.[[265]](#footnote-266)  As of 31 December 2019, according to the Australian Government there were fewer than 5 children in immigration detention facilities in Australia.[[266]](#footnote-267) However, this does not include two infants considered to be ‘guests’ in immigration detention, who were in immigration detention with the consent of their mothers. The UN Working Group on Arbitrary Detention has considered the circumstances of one of these children, and considers that the situation of this child qualifies as detention.[[267]](#footnote-268) | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention. |
| 136.261 Immediately halt mandatory detention of asylum seeker children (Maldives);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  F31 Children: definition; general principles; protection  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - children  - persons deprived of their liberty | **Partly implemented**  See recommendation 136.259.  The Migration Act 1958 (Cth) (Migration Act) affirms that, as a general principle, children should only be detained as a measure of last resort. However, under the Act, immigration detention remains mandatory for all unlawful non-citizens, including children.[[268]](#footnote-269)  Children who are unlawful non-citizens are detained automatically, regardless of circumstances. There is no discretion in the initial decision to detain. Further, Australian courts do not have jurisdiction to remove a person from detention on the basis that their detention is arbitrary under international law. There is also no legislative time limit on detention.  The Commission is concerned about under-reporting of children in immigration detention. Public reporting does not include children classified as ‘guests’ in immigration detention, who reside in immigration detention with the consent of a parent.[[269]](#footnote-270) | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention.  Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations and provide permanent protection for refugees and family sponsorship. |
| 136.258 Immediately end the mandatory detention of migrant children and ensure that the best interests of the children are respected (Slovenia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  G4 Migrants  F31 Children: definition; general principles; protection  D26 Conditions of detention  **Affected persons:**  - children  - migrants  - persons deprived of their liberty | **Not implemented**  See recommendations 136.259 and 136.261. | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention. |
| 136.256 Remove children and their families and other individuals at risk, in particular survivors of torture and trauma, from immigration detention centres (Germany);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  G4 Migrants  F31 Children: definition; general principles; protection  F32 Children: family environment and alternative care  D25 Prohibition of torture and cruel, inhuman or degrading treatment  D26 Conditions of detention  **Affected persons:**  - children  - migrants  - persons deprived of their liberty | **Partly implemented**  See recommendations 136.259 and 136.261. | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention.  Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations, and provide permanent protection for refugees and family sponsorship  Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent to PNG or Nauru. |
| 136.257 Cease the detention of children in immigration detention centres (Maldives);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  G4 Migrants  F31 Children: definition; general principles; protection  F32 Children: family environment and alternative care  D26 Conditions of detention  **Affected persons:**  - children  - migrants  - persons deprived of their liberty | **Partly implemented**  See recommendations 136.259 and 136.261. | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention. |
| 136.255 Ensure that no child is detained on the basis of his/her immigration status (Luxembourg);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  G4 Migrants  G8 Non-citizens  F31 Children: definition; general principles; protection  F32 Children: family environment and alternative care  D26 Conditions of detention  **Affected persons:**  - children  - migrants  - persons deprived of their liberty  - non-citizens | **Partly implemented**  See recommendations 136.259 and 136.261.  Immigration detention remains mandatory for all unlawful non-citizens, including children.[[270]](#footnote-271) | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention. |
| 136.254 Continue to ensure transparency and accountability in all procedures related to its treatment of refugees and asylum seekers (Japan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  D51 Administration of justice & fair trial  A42 Institutions & policies - General  B51 Right to an effective remedy  D25 Prohibition of torture and cruel, inhuman or degrading treatment  D1 Civil & political rights - general measures of implementation  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - persons deprived of their liberty | **Partly implemented**  See recommendations 136.273, 136.282 | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention.  Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations, and provide permanent protection for refugees and family sponsorship. Government provide sufficient support to asylum seekers experiencing financial hardship to ensure an adequate standard of living. |
| 136.266 Take practical measures to cease the maltreatment of and violence against the refugees, including sexual violence by the officials in detention centres (Democratic People’s Republic of Korea);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  F13 Violence against women  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - women  - persons deprived of their liberty | **Partly implemented**  Australia maintains a policy of third country processing for asylum seekers who arrive by sea. Numerous reports and inquiries have demonstrated that this regime is inconsistent with Australia’s obligations under international human rights law.[[271]](#footnote-272) Key issues of concern include physical and mental health, and physical safety, including physical and sexual violence.[[272]](#footnote-273)  In 2019, the Commission released the report on its inquiry into the use of force in immigration detention and in transfers to and from immigration detention. The report is based on an inquiry into 14 separate complaints about use of force received by the Commission against the Department of Home Affairs. It is not comprehensive of all instances in which force has been used in immigration detention. Nonetheless, the inquiry found several individual violations of article 10 and 17 of the ICCPR and article 9 of the CRC, as well as systemic concerns about the use of restraints on people with low security risk ratings and the use of ‘spit hoods’.[[273]](#footnote-274)  Regarding children, the Royal Commission into Institutional Responses to Child Sexual Abuse identified immigration detention as an institutional context with an elevated risk of child sexual abuse, and made a number of recommendations for improving child protection in this context. between 1 July 2017 and 27 February 2019, there were five reported incidents of child assault in closed detention (and no reported incidents of neglect or sexual assault of children during this time).[[274]](#footnote-275) | Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru.  Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention.  Recommendation: Government expand human rights education in all areas of the public sector, particularly for those working with children and in the administration of justice and places of detention; and incorporate human rights more fully in the national school curriculum.  Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.248 Ensure all children of asylum seekers are protected (Maldives);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  F31 Children: definition; general principles; protection  **Affected persons:**  - refugees & asylum seekers  - children | **Partly implemented**  In regard to mandatory detention, see recommendations 136.271 and 136.259. | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention. |
| 136.250 Review legislation on migration and refugee status (Mexico);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  G4 Migrants  A41 Constitutional and legislative framework  **Affected persons:**  - refugees & asylum seekers  - migrants | **Partly implemented**  There have been a number of reviews of elements of the migration and refugee systems. However, Government has not undertaken a comprehensive review of legislation or policy regarding asylum seekers, refugees or migrants to assess its compliance with Australia’s international human rights obligations. | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention.  Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations, and provide permanent protection for refugees and family sponsorship. Government provide sufficient support to asylum seekers experiencing financial hardship to ensure an adequate standard of living.  Recommendation: Government repeals mandatory visa cancellation provisions in sections 501(3A) and 501CA and removes a criminal charge as a prescribed ground for cancellation of a Bridging Visa E under section 116(1)(g) of the *Migration Act*. |
| 136.246 Review current immigration policies so to improve the rights of refugees and asylum seekers (Italy);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  G4 Migrants  A42 Institutions & policies - General  **Affected persons:**  - refugees & asylum seekers  - migrants | **Partly implemented**  See recommendation 136.251, 136.250, 136.226, 136.259. | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention.  Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations, and provide permanent protection for refugees and family sponsorship. Government provide sufficient support to asylum seekers experiencing financial hardship to ensure an adequate standard of living. |
| 136.239 Take adequate steps to promote and protect the rights of asylum seekers, refugees and migrants (India);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  G4 Migrants  A42 Institutions & policies - General  A41 Constitutional and legislative framework  **Affected persons:**  - refugees & asylum seekers  - migrants | **Partly implemented**  See recommendation 136.251 and recommendation 136.250.  The Commission is also concerned that refugees and asylum seekers in regional processing countries are receiving inadequate physical or mental health care. The Commission considers the repeal of ‘Medevac legislation’, which established a framework for transferring refugees and asylum seekers from regional processing countries to Australia for medical treatment, is retrogressive in relation to the right to the highest attainable standard of physical and mental health. | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention.  Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations, and provide permanent protection for refugees and family sponsorship. Government provide sufficient support to asylum seekers experiencing financial hardship to ensure an adequate standard of living.  Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru.  Recommendation: Government ensure refugees and asylum seekers access timely and appropriate healthcare in Australia, unless there is a medical reason why another destination is more appropriate. |
| 136.242 Take under consideration making its migration and humanitarian policies more flexible with a view to a larger reception of migrants and refugees (Peru);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  G4 Migrants  A42 Institutions & policies - General  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - refugees & asylum seekers  - migrants | **Implemented**  Australia met its voluntary commitment to resettle 12,000 refugees fleeing conflict in the Syrian Arab Republic and Iraq.[[275]](#footnote-276) |  |
| 136.245 Review its immigration laws and policies and ensure compliance with its international obligations, especially regarding the rights of children (Fiji);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  G4 Migrants  A42 Institutions & policies - General  F31 Children: definition; general principles; protection  A41 Constitutional and legislative framework  **Affected persons:**  - children  - migrants | **Partly implemented**  See recommendations 136.251 and 136.250. | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention.  Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations, and provide permanent protection for refugees and family sponsorship. Government provide sufficient support to asylum seekers experiencing financial hardship to ensure an adequate standard of living.  Recommendation: Government ensure refugees and asylum seekers access timely and appropriate healthcare in Australia, unless there is a medical reason why another destination is more appropriate.  Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.264 Review its national migration and asylum policies with a view to bring them in line with the Convention against Torture as well as the Convention on the Rights of the Child, particularly with regard to conditions of detention (Honduras);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  G4 Migrants  A42 Institutions & policies - General  F31 Children: definition; general principles; protection  D25 Prohibition of torture and cruel, inhuman or degrading treatment  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - children  - migrants  - persons deprived of their liberty | **Partly implemented**  See recommendation 136.251 and 136.250. | See recommendations above at 136.245 |
| 136.243 Improve conditions of reception and detention of refugees and migrants in accordance with international standards (Uzbekistan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  G4 Migrants  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - migrants  - persons deprived of their liberty | **Partly implemented**  Numerous studies have documented high rates of mental health problems among people in immigration detention in Australia, with the negative impacts tending to worsen as detention becomes more prolonged.[[276]](#footnote-277) In particular, numerous reports and inquiries have repeatedly documented serious human rights concerns for people seeking asylum in Australia whose applications are processed in Nauru and Papua New Guinea. Significant safety concerns have also been identified, including allegations of assault, harassment and exploitation.[[277]](#footnote-278) The combination of delays in processing asylum claims, harsh living conditions, concerns about physical safety, and uncertainty about the future has had a profoundly negative impact on the mental health outcomes of people subject to third country processing.[[278]](#footnote-279)  The Commission is also concerned that refugees and asylum seekers in regional processing countries are receiving inadequate physical or mental health care. The Commission considers the repeal of ‘Medevac legislation’, which established a framework for transferring refugees and asylum seekers from regional processing countries to Australia for medical treatment, is retrogressive in relation to the right to the highest attainable standard of physical and mental health. | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention.  Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations, and provide permanent protection for refugees and family sponsorship. Government provide sufficient support to asylum seekers experiencing financial hardship to ensure an adequate standard of living.  Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru.  Recommendation: Government ensure refugees and asylum seekers access timely and appropriate healthcare in Australia, unless there is a medical reason why another destination is more appropriate.  Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.265 Ensure that conditions of detention are in line with international norms and standards in particular the detention of migrants and asylum seekers (Rwanda);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  G4 Migrants  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - migrants  - persons deprived of their liberty | **Partly implemented**  There is regular monitoring of places of immigration detention. However, concerns remain about the conditions of detention and access to necessary medical services.  Australia has recently ratified OPCAT and is making slow progress in implementing a national preventive mechanism framework that would ensure appropriate conditions of detention across all settings.  See recommendation 136.21 for more information on the implementation of OPCAT. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.244 Treat appropriately all the refugees, migrants and asylum seekers who have reached the Australian shores, to effectively safeguard their human rights (China);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  G4 Migrants  E1 Economic, social & cultural rights - general measures of implementation  D1 Civil & political rights - general measures of implementation  **Affected persons:**  - refugees & asylum seekers  - migrants | **Partly implemented**  See recommendation 136.251. | Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations, and provide permanent protection for refugees and family sponsorship. Government provide sufficient support to asylum seekers experiencing financial hardship to ensure an adequate standard of living.  Recommendation: Government establish an Anti-Slavery Commissioner with oversight of modern slavery statements; introduce financial penalties for non-compliance with reporting requirements; and fully implement the National Action Plan. |
| 136.267 Allow human rights organisations full access to detention centres (Maldives);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Supported | G5 Refugees & asylum seekers  H1 Human rights defenders  G4 Migrants  A28 Cooperation with other international mechanisms and institutions  D25 Prohibition of torture and cruel, inhuman or degrading treatment  D26 Conditions of detention  A6 Context, statistics, budget, civil society  **Affected persons:**  - human rights defenders  - migrants  - persons deprived of their liberty | **Partly implemented**  There is regular monitoring of onshore places of immigration detention. However, concerns remain about the conditions of detention and access to necessary services.  Australia has recently ratified OPCAT and is making slow progress in implementing a national preventive mechanism framework that would ensure appropriate conditions of detention across all settings.  The Australian Red Cross, Commonwealth Ombudsman and UNHCR previously conducted visits to the Regional Processing Centres in Nauru and Manus Island, although only UNHCR has reported its findings publicly.[[279]](#footnote-280) The 2015 Senate Inquiry into Australia’s Regional Processing Centre in Nauru found that greater transparency was necessary in order to improve accountability. This included facilitating reasonable access to Offshore Processing Centres.[[280]](#footnote-281) | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| ***Theme: A12 Acceptance of international norms*** | | | |  |
| 136.1 Ratify the international human rights instruments to which it is not a party and bring its internal legal framework into line with international obligations (Trinidad and Tobago);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  **Affected persons:**  - general | **Partly implemented**  The Commission welcomes the Australian Government ratification on 21 December 2017 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).  The Commission also welcomes Australia’s withdrawal on 14 December 2018 of its reservation to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which stated that it did not accept the application of the Convention in so far as it would require alteration of Defence Force policy which excludes women from combat duties.  Australia has stated that it is not currently intending to ratify any other treaties. It has also not ratified the individual communication processes under ICESCR and CRC, and it has stated it will not withdraw its remaining reservations to ICERD, CEDAW and CRC, or its interpretative declarations under the CRPD, which UN committees, NGOs and the Commission have called to be removed.  In regard to theInternational Convention on Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) and the International Convention on the Protection of All Persons from Forced Disappearance (ICPPED), the Government will not ratify these treaties as, in its view, existing domestic and international protections are sufficient.[[281]](#footnote-282) | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. Government remove existing reservations to human rights treaties and withdraw its interpretative declarations to the CRPD.  Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay.  Recommendation: Government ensure that Australia’s international human rights obligations are comprehensively incorporated into law.  Recommendation: Government develop a national program to implement UNDRIP and schedule it to the definition of human rights in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).  Recommendation: Government take urgent steps to implement the Paris Agreement and integrate a human rights-based approach into all disaster recovery policies. |
| 136.2 Consider the ratification of human rights conventions to which it is not yet a State party (Plurinational State of Bolivia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  **Affected persons:**  - general | **Partly implemented**  See recommendation 136.1. | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. Government remove existing reservations to human rights treaties and withdraw its interpretative declarations to the CRPD. |
| 136.21 Expedite the ratification of the Optional Protocol to the Convention against Torture and establish a National Preventive Mechanism for places of detention (Republic of Moldova);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  A42 Institutions & policies - General  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Partly implemented**  When Australia ratified OPCAT in 2017, it made a declaration under Article 24 of OPCAT to postpone its National Preventive Mechanism (NPM) obligations for three years.  The Commonwealth Ombudsman has been designated the NPM for federal places of detention, and has been appointed to co-ordinate a national network of NPMs. Each state and territory has been asked to designate a body, or bodies, to be the NPM in that jurisdiction. To date, only WA has formerly made this designation. Negotiations continue between the Commonwealth Government and all state and territory governments to establish a formal mechanism to govern the NPM network.  The Subcommittee on the Prevention of Torture is scheduled to visit Australia in 2020.  The Commonwealth Ombudsman released an OPCAT implementation report in October 2019. The Commission is due to issue a final report on OPCAT implementation, based on consultation with civil society and other key stakeholders, in mid 2020. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.24 Ratify the Optional Protocol to the Convention against Torture and implement a National Preventative Mechanism (New Zealand);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  A42 Institutions & policies - General  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Partly implemented**  See recommendation 136.21. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.26 Expedite the ratification process of the Optional Protocol to the Convention against Torture in order to allow for the early establishment of a National Preventive Mechanism (Hungary);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  A42 Institutions & policies - General  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Partly implemented**  See recommendation 136.21. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.27 Expedite the ratification of the Optional Protocol to the Convention against Torture and establish a National Preventative Mechanism (Sweden);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  A42 Institutions & policies - General  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Partly implemented**  See recommendation 136.21. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.55 Consider ratifying the Amendments to the Rome Statute of the International Criminal Court adopted in Kampala, Uganda in 2010 (Ghana);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  B51 Right to an effective remedy  B11 International humanitarian law  **Affected persons:**  - general | **Implemented**  Australia has not ratified the 2010 Amendments to the Rome Statute of the International Criminal Court. However, it has stated that it is considering ratification in accordance with its usual domestic processes. |  |
| 136.3 Consider ratifying the Optional Protocol to the Convention against Torture (Ghana);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.4 Consider favourably the ratification of the Optional Protocol to the Convention against Torture (Peru);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.5 Take further steps towards ratifying the Optional Protocol to the Convention against Torture (Ukraine);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.6 Initiate the accession procedure to the Optional Protocol to the Convention against Torture (Serbia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.7 Ratify the Optional Protocol to the Convention against Torture (Estonia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.8 Ratify the Optional Protocol to the Convention against Torture (Georgia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.9 Ratify the Optional Protocol to the Convention against Torture (Italy);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.10 Ratify the Optional Protocol to the Convention against Torture (Lithuania);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.11 Ratify the Optional Protocol to the Convention against Torture (Luxembourg);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.12 Ratify the Optional Protocol to the Convention against Torture (Montenegro);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.13 Ratify the Optional Protocol to the Convention against Torture (Paraguay);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.14 Ratify the Optional Protocol to the Convention against Torture (Switzerland);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.15 Ratify the Optional Protocol to the Convention against Torture (the former Yugoslav Republic of Macedonia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.16 Ratify the Optional Protocol to the Convention against Torture (Turkey);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.17 Ratify the Optional Protocol to the Convention against Torture (Albania);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.18 Ratify the Optional Protocol to the Convention against Torture (Azerbaijan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.19 Ratify the Optional Protocol to the Convention against Torture (Benin);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.25 Ratify the Optional Protocol to the Convention against Torture and promptly implement it (Chile);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Partly Implemented**  When Australia ratified OPCAT in 2017, it made a declaration under Article 24 of OPCAT to postpone its National Preventive Mechanism (NPM) obligations for three years.  The Commonwealth Ombudsman has been designated the NPM for federal places of detention, and has been appointed to co-ordinate a national network of NPMs. Each state and territory has been asked to designate a body, or bodies, to be the NPM in that jurisdiction. To date, only WA has formerly made this designation. Negotiations continue between the Commonwealth Government and all state and territory governments to establish a formal mechanism to govern the NPM network. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.28 Speed up the process of the on-going consultations on the ratification of the Optional Protocol to the Convention against Torture in the hope that the country ratifies this important instrument for the protection and promotion of human rights (Mozambique);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.29 Step up efforts to ratify the Optional Protocol to the Convention against Torture (Philippines);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.20 Ratify the Optional Protocol to the Convention against Torture in keeping with the commitment undertaken by Australia during its previous UPR (France);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  A27 Follow-up to Universal Periodic Review (UPR)  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.22 Ratify the Optional Protocol to the Convention against Torture without further delay, as previously recommended (Denmark);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  A27 Follow-up to Universal Periodic Review (UPR)  **Affected persons:**  - general  - persons deprived of their liberty | **Implemented**  Australia ratified OPCAT in 2017. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.23 Ratify and effectively implement, before its next UPR cycle, the Optional Protocol to the Convention against Torture (Czech Republic);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D25 Prohibition of torture and cruel, inhuman or degrading treatment  A27 Follow-up to Universal Periodic Review (UPR)  **Affected persons:**  - general  - persons deprived of their liberty | **Partly implemented**  When Australia ratified OPCAT in 2017, it made a declaration under Article 24 of OPCAT to postpone its National Preventive Mechanism (NPM) obligations for three years.  The Commonwealth Ombudsman has been designated the NPM for federal places of detention, and has been appointed to co-ordinate a national network of NPMs. Each state and territory has been asked to designate a body, or bodies, to be the NPM in that jurisdiction. To date, only WA has formerly made this designation. Negotiations continue between the Commonwealth Government and all state and territory governments to establish a formal mechanism to govern the NPM network. | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay. |
| 136.50 Consider ratifying the International Convention on the Protection of All Persons from Enforced Disappearance (Ghana);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D32 Enforced disappearances  **Affected persons:**  - disappeared persons | **Not implemented**  The Government rejected calls for ratification after the 2015 UPR, stating that “Australia already has international human rights obligations prohibiting conduct covering enforced disappearances and provides protection against enforced disappearances in its criminal law”.[[282]](#footnote-283) |  |
| 136.51 Ratify the International Convention on the Protection of All Persons from Enforced Disappearance (Japan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D32 Enforced disappearances  **Affected persons:**  - disappeared persons | **Not implemented**  See recommendation 136.50. |  |
| 136.52 Ratify the International Convention on the Protection of All Persons from Enforced Disappearance (Sierra Leone);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D32 Enforced disappearances  **Affected persons:**  - disappeared persons | **Not implemented**  See recommendation 136.50. |  |
| 136.53 Accede to the International Convention on the Protection of All Persons from Enforced Disappearance and recognize the competence of the Committee (Uruguay);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D32 Enforced disappearances  **Affected persons:**  - disappeared persons | **Not implemented**  See recommendation 136.50. |  |
| 136.54 Ratify the International Convention on the Protection of All Persons from Enforced Disappearance (Cuba);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  D32 Enforced disappearances  **Affected persons:**  - disappeared persons | **Not implemented**  See recommendation 136.50. |  |
| 136.30 Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Italy);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  E1 Economic, social & cultural rights - general measures of implementation  B51 Right to an effective remedy  **Affected persons:**  - general | **Not implemented**  The Commission sees ratification of this instrument as a priority for consideration. | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.31 Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Portugal);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  E1 Economic, social & cultural rights - general measures of implementation  B51 Right to an effective remedy  **Affected persons:**  - general | **Not implemented**  The Commission sees ratification of this instrument as a priority for consideration. | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.32 Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Uruguay);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  E1 Economic, social & cultural rights - general measures of implementation  B51 Right to an effective remedy  **Affected persons:**  - general | **Not implemented**  The Commission sees ratification of this instrument as a priority for consideration. | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.33 Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Albania);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  E1 Economic, social & cultural rights - general measures of implementation  B51 Right to an effective remedy  **Affected persons:**  - general | **Not implemented**  The Commission sees ratification of this instrument as a priority for consideration. | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.34 Ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (Italy);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  F31 Children: definition; general principles; protection  B51 Right to an effective remedy  **Affected persons:**  - children | **Not implemented**  The Commission sees ratification of this instrument as a priority for consideration. | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.35 Ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (Montenegro);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  F31 Children: definition; general principles; protection  B51 Right to an effective remedy  **Affected persons:**  - children | **Not implemented**  The Commission sees ratification of this instrument as a priority for consideration. | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.56 Ratify the ILO Convention No. 138 on the minimum age for admission to employment (Uzbekistan);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  F33 Children: protection against exploitation  **Affected persons:**  - general  - children | **Not implemented**  Australia has not ratified Minimum Age Convention, 1973 (No. 138) |  |
| 136.57 Ratify the ILO Convention No. 169 (Chile);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  G3 Indigenous peoples  **Affected persons:**  - Indigenous peoples | **Not implemented**  Australia has not ratified Indigenous and Tribal Peoples Convention, 1989 (No. 169) nor conducted any consultation process about ratification. |  |
| 136.36 Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Mexico);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  G4 Migrants  **Affected persons:**  - migrants | **Not implemented**  Following the 2015 UPR, Australia stated that it will not ratify the ICRMW as it “regards the combination of strong domestic and international protections already in place to be sufficient” and “is not considering acceding to additional treaties where there would be little practical impact on the already existing strong protections in Australia”.[[283]](#footnote-284)  The Commission has been disappointed at the lack of active consideration of ratification of additional human rights instruments over recent years, particularly in relation to the ICRMW, given the significance of the issues within our region. Temporary visa holders make up approximately 7% of Australia’s total working force.[[284]](#footnote-285) Labour exploitation in Australia and international supply chains have attracted significant media attention in recent years, including high-profile investigations of 7-Eleven and labour hire contractors in the agricultural sector.[[285]](#footnote-286) | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.37 Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Algeria);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  G4 Migrants  **Affected persons:**  - migrants | **Not implemented**  See recommendation 136.36 | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.38 Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Ghana);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  G4 Migrants  **Affected persons:**  - migrants | **Not implemented**  See recommendation 136.36 | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.39 Consider the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Plurinational State of Bolivia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  G4 Migrants  **Affected persons:**  - migrants | **Not implemented**  See recommendation 136.36 | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.40 Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Turkey);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  G4 Migrants  **Affected persons:**  - migrants | **Not implemented**  See recommendation 136.36 | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.41 Accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Sri Lanka);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  G4 Migrants  **Affected persons:**  - migrants | **Not implemented**  See recommendation 136.36 | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.42 Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Egypt);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  G4 Migrants  **Affected persons:**  - migrants | **Not implemented**  See recommendation 136.36 | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.43 Ratify on the Protection of the Rights of All Migrant Workers and Members of Their Families (Honduras);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  G4 Migrants  **Affected persons:**  - migrants | **Not implemented**  See recommendation 136.36 | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.44 Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Indonesia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  G4 Migrants  **Affected persons:**  - migrants | **Not implemented**  See recommendation 136.36 | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.45 Ratify International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Senegal);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  G4 Migrants  **Affected persons:**  - migrants | **Not implemented**  See recommendation 136.36 | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.46 Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Convention on Migrant Workers (Sierra Leone);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  G4 Migrants  **Affected persons:**  - migrants | **Not implemented**  See recommendation 136.36 | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.47 Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Bahrain);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  G4 Migrants  **Affected persons:**  - migrants | **Not implemented**  See recommendation 136.36 | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.48 Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Benin);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  G4 Migrants  **Affected persons:**  - migrants | **Not implemented**  See recommendation 136.36 | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.49 Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and promptly implement it (Chile);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A12 Acceptance of international norms  G4 Migrants  **Affected persons:**  - migrants | **Not implemented**  See recommendation 136.36 | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC.  Recommendation: Government ensure that Australia’s international human rights obligations are comprehensively incorporated into law. |
| ***Theme: A13 Reservations*** | | | |  |
| 136.59 Withdraw its reservation on article 4 (a) of the International Convention on the Elimination of All Forms of Racial Discrimination (South Africa);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A13 Reservations  B32 Racial discrimination  G1 Members of minorities  **Affected persons:**  - general  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Not implemented**  The Government has maintained that it will not presently consider withdrawal of this reservation.[[286]](#footnote-287) | Recommendation: Government remove existing reservations to human rights treaties.  Recommendation: Government support social cohesion, community harmony and national unity initiatives underpinned by accurate data. Government fund a new national anti-racism strategy. |
| 136.165 Remove the reservation to the Convention on the Rights of the Child, and prohibit corporal punishment of children in the home and all other settings (Estonia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 8 | Noted | A13 Reservations  F31 Children: definition; general principles; protection  F32 Children: family environment and alternative care  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - general  - children | **Not implemented**  The defence of ‘reasonable chastisement’ can still be used to defend a charge of assault of a child by a parent in certain jurisdictions in Australia.[[287]](#footnote-288) In some states and territories, a parent’s right to use corporal punishment is provided in legislation, while in others it is provided by the common law.  NSW is the only state to have made legislative amendments limiting corporal punishment by parents.[[288]](#footnote-289) NSW, South Australia, Tasmania and Victoria have explicitly prohibited the use of corporal punishment in all schools. In the ACT, the current interpretation of the law means that a ban applies to non-government schools as well, but it is not explicitly prohibited in all schools.[[289]](#footnote-290) There is ambiguity in the Northern Territory, Queensland and Western Australia, where the prohibitions do not extend to non-government schools.[[290]](#footnote-291) | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC.  Recommendation: Governments prohibit the use of isolation and force as punishment in juvenile justice facilities. |
| ***Theme: A22 Cooperation with treaty bodies*** | | | |  |
| 136.61 Implement recommendations from the Committee against Torture (Timor-Leste);  **Source of position:** A/HRC/31/14/Add.1 - Para. 13 | Noted | A22 Cooperation with treaty bodies  A23 Follow-up to treaty bodies  D25 Prohibition of torture and cruel, inhuman or degrading treatment  A27 Follow-up to Universal Periodic Review (UPR)  **Affected persons:**  - general  - judges, lawyers and prosecutors  - persons deprived of their liberty | **Partly implemented**  Australia has not implemented all recommendations from the Committee against Torture. For example, sterilisation of women and girls with disability, without consent, continues to occur in Australia.[[291]](#footnote-292) | Recommendation: Government address the UNCRPD Committee’s recommendations in the new National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework. |
| ***Theme: A24 Cooperation with special procedures*** | | | |  |
| 136.77 Implement the recommendations from the Special Rapporteur on the rights of indigenous peoples (Costa Rica);  **Source of position:** A/HRC/31/14/Add.1 - Para. 13 | Noted | A24 Cooperation with special procedures  A25 Follow-up to special procedures  A27 Follow-up to Universal Periodic Review (UPR)  G3 Indigenous peoples  **Affected persons:**  - Indigenous peoples | **Partly implemented**  See recommendations 136.74, 136.125, 136.205, 136.101, 136.103, 136.99, 136.97 for detail on the realisation of the rights of Aboriginal and Torres Strait Islander peoples. | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by developing a National Action Plan for Aboriginal and Torres Strait Islander women and girls. |
| ***Theme: A28 Cooperation with other international mechanisms and institutions*** | | | |  |
| 136.62 Take urgent measures for the implementation of the recommendations of the UNHCR, the United Nations Human Rights Treaty Bodies and Special Procedures as regards asylum seekers and illegal migrants (Belarus);  **Source of position:** A/HRC/31/14/Add.1 - Para. 13 | Noted | A28 Cooperation with other international mechanisms and institutions  A25 Follow-up to special procedures  G4 Migrants  A22 Cooperation with treaty bodies  A23 Follow-up to treaty bodies  A24 Cooperation with special procedures  A27 Follow-up to Universal Periodic Review (UPR)  G5 Refugees & asylum seekers  **Affected persons:**  - refugees & asylum seekers  - migrants | **Partly implemented**  The Commission continues to hold serious concerns about aspects of Australia’s treatment of asylum seekers and refugees, which are inconsistent with its international human rights obligations. In particular:   * Mandatory immigration detention for all unlawful non-citizens, including children * The policy of third country processing in Papua New Guinea and Nauru for asylum seekers who arrive by sea * Access to healthcare for refugees and asylum seekers in Nauru * Serious human rights concerns regarding refugees and asylum seekers in “the Legacy Caseload” * The length of detention for people who arrive by boat * Turn backs of boats offshore | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention.  Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations, and provide permanent protection for refugees and family sponsorship. Government provide sufficient support to asylum seekers experiencing financial hardship to ensure an adequate standard of living.  Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru.  Recommendation: Government ensure refugees and asylum seekers access timely and appropriate healthcare in Australia, unless there is a medical reason why another destination is more appropriate. |
| ***Theme: A3 Inter-State cooperation & development assistance*** | | | |  |
| 136.215 Further contribute to the global realization of the right to development including through ensuring that its annual ODAs (Official Development Assistance) matches the internationally agreed level of 0.7% of the GDP (Egypt);  **Source of position:** A/HRC/31/14/Add.1 - Para. 13 | Noted | A3 Inter-State cooperation & development assistance  B41 Right to development  **Affected persons:**  - general | **Not Implemented**  The OECD recommends that states allocate 0.7 per cent of Gross National Income (GNI) to ODA. ODA as a proportion of GNI will fall to 0.22 per cent in 2017­–18 and to a low of 0.20 per cent in 2020–21 in Australia.[[292]](#footnote-293)  In 2019 the Joint Standing Committee on Foreign Affairs, Defence and Trade released the first report of its inquiry into Australia’s aid program in the Indo-Pacific. The report recommended that the Government commit to increasing the aid budget to at least 0.5 per cent of GNI within five years, and a second timeframe to reach 0.7 per cent of GNI over ten years.[[293]](#footnote-294) The Committee also recommended that the Australian Parliament introduce a legislated floor reflecting these per cent of GNI figures however this has not yet been implemented.[[294]](#footnote-295) |  |
| 136.216 Increase its ODA from the current 0.33% to 0.7% of the GDP (Sierra Leone);  **Source of position:** A/HRC/31/14/Add.1 - Para. 13 | Noted | A3 Inter-State cooperation & development assistance  B41 Right to development  **Affected persons:**  - general | **Not Implemented**  For discussion on the 0.7 per cent GNI/ODA standard to, see recommendation 136.215. |  |
| 136.217 Adopt a clear road map to reach ODA target of 0.7 per cent of GNI (Bangladesh);  **Source of position:** A/HRC/31/14/Add.1 - Para. 13 | Noted | A3 Inter-State cooperation & development assistance  B41 Right to development  **Affected persons:**  - general | **Not Implemented**  For discussion on the 0.7 per cent GNI/ODA standard to, see recommendation 136.215. |  |
| 136.219 Revise its Intended Nationally Determined Contribution to be in line with a fair approach taken by other industrialised countries, so as to be consistent with the full enjoyment of human rights by its people and those in neighbouring countries (Fiji);  **Source of position:** A/HRC/31/14/Add.1 - Para. 13 | Noted | A3 Inter-State cooperation & development assistance  B41 Right to development  **Affected persons:**  - general | **Not Implemented**  Australia’s intended nationally determined contribution target is 26 to 28 per cent below 2005 greenhouse gas emission levels by 2030.[[295]](#footnote-296)  This target is below those set by many other industrialised countries including the UK, Germany, Norway and the US.[[296]](#footnote-297)  Climate change is already affecting the human rights of thousands across the Pacific and around the world. It is appropriate and in Australia’s best interest to help prevent the worst impacts of climate change. | Recommendation: Government take urgent steps to implement the Paris Agreement and integrate a human rights-based approach into all disaster recovery policies |
| ***Theme: A41 Constitutional and legislative framework*** | | | |  |
| 136.70 Consolidate national human rights efforts through a federal human rights act and reinvigorating the National Human Rights Plan of Action (Indonesia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 17 | Noted | A41 Constitutional and legislative framework  A42 Institutions & policies - General  B51 Right to an effective remedy  **Affected persons:**  - general | **Not implemented**.  See recommendation 136.117.  Australia does not have a national human rights act or a constitutional bill of rights. Australia has also not revisited the development of a National Human Rights Plan of Action.  Despite the PJCHR, Australia continues to have limited legislative protection of human rights at the Federal level. While some international human rights commitments are enshrined in domestic law, Australia has an inadequate legal patchwork of human rights protection and individuals cannot access enforceable remedies when their rights are breached. | Recommendation: Government ensure that Australia’s international human rights obligations are comprehensively incorporated into Australian law |
| 136.75 Continue its ongoing efforts towards the promotion and protection of the rights of indigenous persons, through law and practice, including by giving constitutional recognition (Sri Lanka);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Noted | A41 Constitutional and legislative framework  A42 Institutions & policies - General  G3 Indigenous peoples  **Affected persons:**  - Indigenous peoples | **Partly implemented**  See recommendation 136.74  The UN Declaration on the Rights of Indigenous Peoples (UNDRIP)has not been implemented in Australia. The Commission encourages the Government to develop and implement a national action plan to achieve the ends of the UNDRIP, consistent with the commitment made in the Outcome Document of the World Conference on Indigenous Peoples.[[297]](#footnote-298) | Recommendation: Government develop a national program to implement UNDRIP and schedule it to the definition of human rights in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).  Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination. |
| 136.116 Remove from the Constitution provisions allowing racial discrimination (Russian Federation);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Noted | A41 Constitutional and legislative framework  B32 Racial discrimination  G1 Members of minorities  G3 Indigenous peoples  **Affected persons:**  - Indigenous peoples  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Not implemented**  The Constitution still allows racial discrimination to occur through the operation of section 51(xxvi) and section 25:   * Section 25 of the Australian Constitution contemplates the ability of Australian state governments to disqualify a group of people from voting based on race. * Under Australia’s Constitution, the federal Parliament is permitted to make laws under enumerated ‘heads of power’ in s 51. Under s 51(xxix), the ‘external affairs power’, the federal Parliament may pass legislation that implements international treaty obligations.[[298]](#footnote-299) However, under s 51(xxvi), the ‘races power’, the federal Parliament may pass laws with respect to ‘the people of any race for whom it is deemed necessary to make special laws’.[[299]](#footnote-300) Judicial interpretation of the ‘races power’ suggests that it is not limited to matters that are beneficial in nature and could validly support the passage of adverse racially discriminatory laws.[[300]](#footnote-301)   The Commission and others have made repeated calls to repeal s 25 and to reform or repeal the ‘races power’ as a way to remove the potential for racial discrimination from the Constitution.[[301]](#footnote-302) In particular, the Commission has previously suggested the:   * Removal of s 25 and s 51(xxvi), and * Insertion of a provision guaranteeing, for all Australians, equality before the law and freedom from discrimination, with such a protection drafted in a way that would guide the operation of the ‘races power’ to ensure that ‘special laws’ for the people of a particular race could not be made if they were (adversely) discriminatory.[[302]](#footnote-303) | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination. |
| 136.73 Consider establishing a comprehensive human rights act as recommended by the National Human Rights Consultative Committee (Canada);  **Source of position:** A/HRC/31/14/Add.1 - Para. 17 | Noted | A41 Constitutional and legislative framework  E1 Economic, social & cultural rights - general measures of implementation  A42 Institutions & policies - General  B51 Right to an effective remedy  D1 Civil & political rights - general measures of implementation  **Affected persons:**  - general | **Not implemented**  See recommendations 136.70 and 136.117. | Recommendation: Government ensure that Australia’s international human rights obligations are comprehensively incorporated into Australian law |
| 136.71 Fully incorporate its international human-rights obligations into domestic law by introducing a comprehensive judicially enforceable federal Human Rights Act (Iceland);  **Source of position:** A/HRC/31/14/Add.1 - Para. 17 | Noted | A41 Constitutional and legislative framework  E1 Economic, social & cultural rights - general measures of implementation  B51 Right to an effective remedy  D1 Civil & political rights - general measures of implementation  **Affected persons:**  - general | **Not implemented**  See recommendations 136.70 and 136.117. | Recommendation: Government ensure that Australia’s international human rights obligations are comprehensively incorporated into Australian law |
| 136.72 Incorporate international human rights obligations into domestic law by adopting a comprehensive Human Rights Act at federal level (Turkey);  **Source of position:** A/HRC/31/14/Add.1 - Para. 17 | Noted | A41 Constitutional and legislative framework  E1 Economic, social & cultural rights - general measures of implementation  B51 Right to an effective remedy  D1 Civil & political rights - general measures of implementation  **Affected persons:**  - general | **Not implemented**  See recommendations 136.70 and 136.117. | Recommendation: Government ensure that Australia’s international human rights obligations are comprehensively incorporated into Australian law |
| 136.76 Implement Constitutional recognition of Indigenous Australians and continue to exert efforts to fully implement the Indigenous Advancement Strategy in order to ensure the indigenous people have sufficient access to health services, education and employment opportunities (Republic of Korea);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Noted | A41 Constitutional and legislative framework  E31 Right to work  E41 Right to health - General  G3 Indigenous peoples  E51 Right to education - General  **Affected persons:**  - Indigenous peoples | **Not implemented.**  See recommendation 136.75 | Recommendation: Government develop a national program to implement UNDRIP and schedule it to the definition of human rights in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).  Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031. |
| ***Theme: A42 Institutions & policies - General*** | | | |  |
| 136.65 Extend the mandate of the Joint Parliamentary Committee on Human Rights to include the domestic consideration and oversight of implementation of recommendations from United Nations human rights mechanisms (United Kingdom of Great Britain and Northern Ireland);  **Source of position:** A/HRC/31/14/Add.1 - Para. 17 | Noted | A42 Institutions & policies - General  A25 Follow-up to special procedures  A23 Follow-up to treaty bodies  A27 Follow-up to Universal Periodic Review (UPR)  **Affected persons:**  - general | **Not implemented**  The mandate of the PJCHR has not been expanded since Australia’s second cycle UPR.[[303]](#footnote-304)  The Commission notes, however, that the legislation establishing the committee provides that the Attorney-General may refer matters for inquiry to the committee. This could include inquiries reviewing progress in implementing treaty obligations. In reality, no such inquiry has been referred despite recommendations to this effect by civil society organisations and the AHRC. | Recommendation: Government train public servants to ensure that Statements of Compatibility are of a consistently high standard and ensure that the views of the PJCHR are considered prior to enacting legislation.  Recommendation: Government develop a national program to implement UNDRIP and schedule it to the definition of human rights in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth). |
| 136.68 Carry out an assessment of plans of action on human rights and ensure that these instruments are effective in practice (Belarus);  **Source of position:** A/HRC/31/14/Add.1 - Para. 17 | Noted | A42 Institutions & policies - General  A27 Follow-up to Universal Periodic Review (UPR)  A6 Context, statistics, budget, civil society  **Affected persons:**  - general | **Not implemented**  Australia has not undertaken an assessment of its national action plans to ensure they are consistent with its international human rights obligations. | Recommendations: Government ensure that Australia’s international human rights obligations are comprehensively incorporated into law.  Recommendations: Government commits to formally replying to all treaty body recommendations within 12 months with civil society engagement, targets and identifying responsible government agencies for implementation. |
| 136.69 Prepare a comprehensive national action plan defining responsibilities, benchmarks and indicators to measure progress achieved (Panama);  **Source of position:** A/HRC/31/14/Add.1 - Para. 17 | Noted | A42 Institutions & policies - General  A27 Follow-up to Universal Periodic Review (UPR)  A6 Context, statistics, budget, civil society  **Affected persons:**  - general | **Partly implemented**  Australia does not have a comprehensive national action plan.  In regard to the Standing National Human Rights Mechanism, see recommendation 136.64. | Recommendations: Government ensure that Australia’s international human rights obligations are comprehensively incorporated into law.  Recommendations: Government commits to formally replying to all treaty body recommendations within 12 months with civil society engagement, targets and identifying responsible government agencies for implementation. |
| 136.67 Revise the decision to reduce the AHRC’s funds in order to guarantee its independent and effective functioning (Hungary);  **Source of position:** A/HRC/31/14/Add.1 - Para. 17 | Noted | A42 Institutions & policies - General  A6 Context, statistics, budget, civil society  **Affected persons:**  - general | **Partly implemente**d  The Commission had funding redirected for a four year period. This was reinstated at the end of that period.  While the Commission has not had further significant funding decreases, it has had an increase in the total number of Commissioners appointed, without the provision of appropriate funding. This has limited the resources available to the incoming Commissioner and placed strain on other sections of the Commission, particularly those dealing with the conciliation of complaints. For example:   * The funding cut from the 2014–15 Budget was not restored when a new Human Rights Commissioner was appointed in February 2014 bringing the total number of Commissioners back up to seven. * In July 2016 a new Disability Discrimination Commissioner was appointed bringing the total number of Commissioners up to eight. However, no additional budget was provided to the Commission for the costs associated with this new position.[[304]](#footnote-305) Instead, the budget for the Commission in 2016/17 decreased * The impact on the Commission of taking on significant additional expenses with the appointment of new Commissioners, without additional budget was a reduction in staffing levels and an increased burden on remaining staff. For example, despite increased operational efficiencies within the Commission, complaint handling staff saw an increase in caseloads which were on average 30% higher than standard caseloads.[[305]](#footnote-306) |  |
| ***Theme: B31 Equality & non-discrimination*** | | | |  |
| 136.220 Open legal partnership models to all, regardless of their sexual orientation or gender identity (Iceland);  **Source of position:** A/HRC/31/14/Add.1 - Para. 42 | Noted | B31 Equality & non-discrimination  D8 Rights related to marriage & family  G2 Lesbian, gay, bisexual and transgender and intersex persons (LGBTI)  **Affected persons:**  - lesbian, gay, bisexual, transgender and intersex persons (LGBTI) | **Implemented**  In December 2017 the Australian Parliament passed legislation to redefine marriage as ‘the union of 2 people to the exclusion of all others, voluntarily entered into for life’.[[306]](#footnote-307) The amendments mean that adult couples are now able to marry in Australia regardless of their sex, sexual orientation, gender identity or intersex status. The amendments also removed an exception in the SDA, which made it lawful for state and territory governments to refuse to make, issue, or alter an official record of a person’s sex because the person was married,[[307]](#footnote-308) in accordance with the Human Rights Committee’s decision in *G v Australia.*[[308]](#footnote-309) The Commission welcomed these historic changes.[[309]](#footnote-310) |  |
| 136.222 Revise the Marriage Act of 1961 in a way that ensures full equality with respect to the civil institution of marriage (Netherlands);  **Source of position:** A/HRC/31/14/Add.1 - Para. 42 | Noted | B31 Equality & non-discrimination  D8 Rights related to marriage & family  G2 Lesbian, gay, bisexual and transgender and intersex persons (LGBTI)  **Affected persons:**  - lesbian, gay, bisexual, transgender and intersex persons (LGBTI) | **Implemented**  See recommendation 136.220 above. |  |
| 136.223 Legally recognize same-sex marriage (Spain);  **Source of position:** A/HRC/31/14/Add.1 - Para. 42 | Noted | B31 Equality & non-discrimination  D8 Rights related to marriage & family  G2 Lesbian, gay, bisexual and transgender and intersex persons (LGBTI)  **Affected persons:**  - lesbian, gay, bisexual, transgender and intersex persons (LGBTI) | **Implemented**  See recommendation 136.220 above. |  |
| 136.224 Amend the federal Marriage Act to allow same-sex couples to marry by changing the definition of marriage, and provide full recognition of same-sex marriages from overseas (Sweden);  **Source of position:** A/HRC/31/14/Add.1 - Para. 42 | Noted | B31 Equality & non-discrimination  D8 Rights related to marriage & family  G2 Lesbian, gay, bisexual and transgender and intersex persons (LGBTI)  **Affected persons:**  - lesbian, gay, bisexual, transgender and intersex persons (LGBTI) | **Implemented**  See recommendation 136.220 above. |  |
| ***Theme: B32 Racial discrimination*** | | | |  |
| 136.122 Put an end to racism and racial discrimination, in particular, against the indigenous people, including demolition of buildings and discontinuation of funding to essential and municipal services in indigenous communities pursued by both federal and local governments, as well as the enforced sterilization and adoption of indigenous women and children (Democratic People’s Republic of Korea);  **Source of position:** A/HRC/31/14/Add.1 - Para. 68 | Noted | B32 Racial discrimination  E1 Economic, social & cultural rights - general measures of implementation  F32 Children: family environment and alternative care  G1 Members of minorities  E41 Right to health - General  A6 Context, statistics, budget, civil society  G3 Indigenous peoples  **Affected persons:**  - children  - Indigenous peoples  - women  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  For recommendations on racial discrimination see 136.99 and 136.125.  For recommendations about the funding of services see 136.104, 136.87, 136.136 and 136.91.  For recommendations about the rights of Aboriginal and Torres Strait Islander children and child protection polices see 136.91. | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031.  Recommendation: Government implement the recommendations of the Wiyi Yani U Thangani report, including by developing a National Action Plan for Aboriginal and Torres Strait Islander women and girls. |
| ***Theme: B51 Right to an effective remedy*** | | | |  |
| 136.197 Set up a commission of National Independent Inquiry on Violence and Abuse against People with Disability (Islamic Republic of Iran);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Noted | B51 Right to an effective remedy  F43 Persons with disabilities: protection against exploitation, violence and abuse  A42 Institutions & policies - General  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - persons with disabilities | **Implemented**  On 5 April 2019, the Government announced the establishment of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. The Commission commends the Government for establishing this Royal Commission and welcomes the broad scope of the terms of reference, which recognises the human rights and fundamental freedoms of people with disability under the CRPD.[[310]](#footnote-311)  The Commission encourages the Royal Commission to examine the gender-based aspects of violence, abuse, neglect and exploitation. |  |
| 136.198 Conduct a national independent investigation into cases of violence and degrading treatment of persons with disabilities and persons suffering from mental illness in institutions and homes for the disabled (Russian Federation);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Noted | B51 Right to an effective remedy  F43 Persons with disabilities: protection against exploitation, violence and abuse  F32 Children: family environment and alternative care  D25 Prohibition of torture and cruel, inhuman or degrading treatment  E41 Right to health - General  D26 Conditions of detention  **Affected persons:**  - persons deprived of their liberty  - persons with disabilities | **Implemented**  See recommendation 136.197  Notwithstanding the establishment of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People, the Commission remains concerned that mental health laws, frameworks and policies in Australia permit the provision of mental health services to people with psychosocial disability and mental health conditions in ways that breach their human rights, including their right to liberty and security.[[311]](#footnote-312) In particular, the Commission is concerned about the imposition of compulsory treatment by means of Community Treatment Orders, the administration of medical intervention to people with disability without the free, prior and informed consent of the person concerned, and involuntary hospitalisation, including committal to mental-health facilities, of people with a disability on the basis of perceived or actual impairment. In 2016–2017, nearly half (45.4%) of public health overnight separations with specialised care were patients with an involuntary mental health status.[[312]](#footnote-313)  The Commission encourages the Government to ensure that all mental health laws, frameworks and policies be examined and reformed to ensure alignment with the rights and obligations enshrined in the CRPD. The Commission also encourages the Government to implement OPCAT with a view to applying it to all places of detention where an individual is or may be deprived of his or her liberty, including disability-specific settings, such as mental health facilities, forensic psychiatric or disability units, residential institutions (including group homes) and segregated educational facilities. | Recommendation: Governments adopt a human rights-based approach to mental health laws and ensure that mental health services do not violate the human rights of people with disability.  Recommendation: Government address the UNCRPD Committee’s recommendations in the new National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework. |
| ***Theme: B6 Business & Human Rights*** | | | |  |
| 136.212 Adopt a National Action Plan to implement the Guiding Principles on Business and Human Rights (Netherlands);  **Source of position:** A/HRC/31/14/Add.1 - Para. 65 | Noted | B6 Business & Human Rights  A42 Institutions & policies - General  **Affected persons:**  - general | **Not implemented**  Following its second cycle UPR, the Australian Government commenced consultations to develop a National Action Plan on Business and Human Rights but withdrew its support in 2017. | Recommendation: Government develop a National Action Plan on Business and Human Rights; and legislate for large Australian companies and those operating in high risk sectors, including extraterritorially, to conduct human rights and environmental due diligence. |
| ***Theme: D51 Administration of justice & fair trial*** | | | |  |
| 136.202 Adopt the recommendation by the Committee against Torture to review mandatory sentencing laws with a view to abolishing them (Norway);  **Source of position:** A/HRC/31/14/Add.1 - Para. 53 | Noted | D51 Administration of justice & fair trial  F34 Children: Juvenile justice  A22 Cooperation with treaty bodies  A23 Follow-up to treaty bodies  A41 Constitutional and legislative framework  **Affected persons:**  - general | **Not implemented**  Mandatory sentencing laws continue to exist in most Australian jurisdictions.[[313]](#footnote-314) These laws undermine rule of law principles such as judicial discretion, may lead to arbitrary detention, and disproportionality impact on Aboriginal and Torres Strait Islander people.[[314]](#footnote-315) | Recommendation: Governments abolish mandatory sentencing laws, and expand the use of non-custodial measures where appropriate. |
| 136.201 Ensure access to justice by all, including by repealing laws on mandatory sentencing (Botswana);  **Source of position:** A/HRC/31/14/Add.1 - Para. 53 | Noted | D51 Administration of justice & fair trial  F34 Children: Juvenile justice  A41 Constitutional and legislative framework  **Affected persons:**  - general | **Not implemented**  See recommendation 136.202 | Recommendation: Governments abolish mandatory sentencing laws, and expand the use of non-custodial measures where appropriate. |
| ***Theme: D7 Right to participation in public affairs and right to vote*** | | | |  |
| 136.206 Amend its electoral legislation so that any deprivation of the right to vote of citizens serving a prison sentence is reasonable and proportionate and applied only for the committing of the most serious crimes (Czech Republic);  **Source of position:** A/HRC/31/14/Add.1 - Para. 53 | Noted | D7 Right to participation in public affairs and right to vote  A41 Constitutional and legislative framework  D1 Civil & political rights - general measures of implementation  **Affected persons:**  - persons deprived of their liberty | **Implemented**  In 2019, Queensland amended the *Electoral Act 1992* (Qld) so that a person who is serving a sentence of  imprisonment of less than three years will be entitled to vote.[[315]](#footnote-316)  Prior to this amendment, Queensland was the only Australian jurisdiction that did not allow prisoners to vote if they were serving a custodial prison sentence. |  |
| ***Theme: D8 Rights related to marriage & family*** | | | |  |
| 136.225 Provide protection to the family as the natural and the fundamental unit of the society (Egypt);  **Source of position:** A/HRC/31/14/Add.1 - Para. 68 | Noted | D8 Rights related to marriage & family  **Affected persons:**  - general | **Implemented** | Recommendation: Government increase prevention and early intervention initiatives on DFV; tailored measures to address the needs of women experiencing intersectional discrimination; and commit to a further National Plan from 2022. |
| ***Theme: F13 Violence against women*** | | | |  |
| 136.154 Make provision in its national legislation for the crime of domestic violence and take all adequate measures to eliminate it (Portugal);  **Source of position:** A/HRC/31/14/Add.1 - Para. 32 | Noted | F13 Violence against women  A42 Institutions & policies - General  F31 Children: definition; general principles; protection  A41 Constitutional and legislative framework  **Affected persons:**  - general  - women | **Partly Implemented**  As noted in recommendation 136.163, 136.156 and 136.157, the Government has introduced the Fourth Action Plan of the National Plan to Reduce Violence Against Women and Their Children 2010-22. However, violence against women in Australia, including family and domestic violence (FDV), remains endemic.[[316]](#footnote-317) There is currently no provision in national legislation that legislates for the criminalisation of domestic violence. However, there are State and Territory laws which provide for the protection of persons from domestic violence. This includes domestic violence protection orders which can be made for the purpose of preventing a person from engaging in future violence towards a person.[[317]](#footnote-318) | Recommendation: Government increase prevention and early intervention initiatives on DFV; tailored measures to address the needs of women experiencing intersectional discrimination; and commit to a further National Plan from 2022. |
| ***Theme: F34 Children: Juvenile justice*** | | | |  |
| 136.178 Raise the age of criminal responsibility to 18 years as recommended by the Committee on the Rights of the Child (Iceland);  **Source of position:** A/HRC/31/14/Add.1 - Para. 48 | Noted | F34 Children: Juvenile justice  A22 Cooperation with treaty bodies  A23 Follow-up to treaty bodies  F31 Children: definition; general principles; protection  A41 Constitutional and legislative framework  **Affected persons:**  - children | **Not implemented**  The minimum age of criminal responsibility under federal law, as well as in all states and territories, remains 10 years of age. | Recommendation: Governments raise the minimum age of criminal responsibility from 10 years to at least 14 years**.** |
| 136.179 Raise the age of the criminal responsibility in accordance with general comment No. 10 of the Committee on the Rights of Child (Uruguay);  **Source of position:** A/HRC/31/14/Add.1 - Para. 48 | Noted | F34 Children: Juvenile justice  A22 Cooperation with treaty bodies  A23 Follow-up to treaty bodies  F31 Children: definition; general principles; protection  A41 Constitutional and legislative framework  **Affected persons:**  - children | **Not implemented**  See recommendation 136.178 | Recommendation: Governments raise the minimum age of criminal responsibility from 10 years to at least 14 years. |
| 136.174 Abolish the mandatory minimum sentencing of juvenile offenders (Czech Republic);  **Source of position:** A/HRC/31/14/Add.1 - Para. 48 | Noted | F34 Children: Juvenile justice  D51 Administration of justice & fair trial  F31 Children: definition; general principles; protection  **Affected persons:**  - children | **Not implemented**  Although most states and territories do not have mandatory minimum sentences for juveniles, mandatory minimum sentences for juveniles continue to exist in the Northern Territory and WA despite repeated calls for their repeal.[[318]](#footnote-319)  Mandatory minimum sentences have an additional impact on Aboriginal and Torres Strait Islander children, who are more likely to have criminal histories and inadequate access to diversionary programs, and are contrary to the findings of the 1991 Royal Commission into Aboriginal Deaths in Custody.[[319]](#footnote-320) | Recommendation: Governments raise the minimum age of criminal responsibility from 10 years to at least 14 years.  Recommendation: Governments abolish mandatory sentencing laws and expand the use of non-custodial measures where appropriate. |
| 136.176 Develop alternatives to the mandatory sentencing laws placing children as young as 10 years of age in juvenile detention centres (Denmark);  **Source of position:** A/HRC/31/14/Add.1 - Para. 48 | Noted | F34 Children: Juvenile justice  D51 Administration of justice & fair trial  F31 Children: definition; general principles; protection  D26 Conditions of detention  **Affected persons:**  - children  - persons deprived of their liberty | **Partly implemented**  See recommendation 136.174  The availability of appropriate diversionary programs is essential to reducing the numbers of children in youth detention. While diversion from the criminal justice system is a key principle of all youth justice systems in Australia, it appears to be underutilised for a variety of reasons. For example, mandatory sentencing, onerous bail laws that play a role in the disproportionately high, and increasing, numbers of children on remand in youth detention, and the minimum age of criminal remaining at 10 years of age.  The Senate Legal and Constitutional Affairs Committee, and successive Social Justice Commissioners, have recommended justice reinvestment strategies, which involve diverting and reinvesting funds used for imprisonment to services that address underlying causes of crime, in communities with high rates of offending.[[320]](#footnote-321) The ALRC has noted a number of trials and initiatives using justice reinvestment in the ACT, NSW, NT, Queensland and South Australia.[[321]](#footnote-322)  Given the level of contact of Aboriginal and Torres Strait Islander peoples with criminal justice processes, and the integral role that juvenile offending plays in this, diversionary processes are particularly important for ensuring lasting reductions in the rates of Aboriginal and Torres Strait Islander overrepresentation in detention.[[322]](#footnote-323) | Recommendation: Governments raise the minimum age of criminal responsibility from 10 years to at least 14 years.  Recommendation: Governments abolish mandatory sentencing laws and expand the use of non-custodial measures where appropriate. |
| 136.177 Abolish the sentencing of children to life in prison (Lithuania);  **Source of position:** A/HRC/31/14/Add.1 - Para. 48 | Noted | F34 Children: Juvenile justice  D51 Administration of justice & fair trial  F31 Children: definition; general principles; protection  D26 Conditions of detention  **Affected persons:**  - children  - persons deprived of their liberty | **Not Implemented**  The ACT and Victoria are the only states and territories that explicitly prohibit the imposition of life sentences on children.[[323]](#footnote-324)  To the Commission’s knowledge, no children have received a life sentence in Australia. |  |
| 136.172 Bring the Australian juvenile justice system in conformity with international standards, including removing minors from the adult justice system and ensuring their rehabilitation (Lithuania);  **Source of position:** A/HRC/31/14/Add.1 - Para. 48 | Noted | F34 Children: Juvenile justice  F31 Children: definition; general principles; protection  B51 Right to an effective remedy  D26 Conditions of detention  **Affected persons:**  - children  - persons deprived of their liberty | **Partly implemented**  Article 37(c) of the CRC requires authorities to separate children from adults in detention. The Australian Government still has a reservation to this article.  Each state and territory has legislation that allows children to be detained in adult facilities under certain circumstances.[[324]](#footnote-325) However, most do not place those under 18 years in adult detention facilities, and on rare occasions where it does occur, safeguards exist.  Prior to 2016, Queensland automatically transferred 17 year olds to adult detention facilities. Changes to legislation in 2016 mean that 17 year olds are no longer automatically transferred to an adult facility.  The Commission encourages the Government to withdraws its reservation to article 37(c) of the CRC. | Recommendation: Governments raise the minimum age of criminal responsibility from 10 years to at least 14 years  Recommendation: Governments prohibit the use of isolation and force as punishment in juvenile justice facilities.  Recommendation: Governments abolish mandatory sentencing laws and expand the use of non-custodial measures where appropriate.  Recommendation: Government ensure the availability of diversionary programs for Indigenous peoples and expand justice reinvestment trials. Government commit adequate, ongoing funding for Indigenous legal assistance programs.  Recommendation: Government implement the recommendations of the *Inquiry into indefinite detention of people with cognitive and psychiatric impairment in Australia*. Governments adopt a human rights-based approach to mental health laws and ensure that mental health services do not violate the human rights of people with disability. |
| ***Theme: F4 Persons with disabilities*** | | | |  |
| 136.196 Guarantee the end of the unwarranted use of prisons for the management of persons with disabilities (Islamic Republic of Iran);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Noted | F4 Persons with disabilities  D33 Arbitrary arrest and detention  A41 Constitutional and legislative framework  E41 Right to health - General  D26 Conditions of detention  **Affected persons:**  - persons deprived of their liberty  - persons with disabilities | **Not implemented**  See recommendation 136.194 | Recommendation: Government implement the recommendations of the *Inquiry into indefinite detention of people with cognitive and psychiatric impairment in Australia*. Governments adopt a human rights-based approach to mental health laws and ensure that mental health services do not violate the human rights of people with disability. |
| 136.194 Prevent the indefinite detention of persons with mental disabilities (Spain);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Noted | F4 Persons with disabilities  D33 Arbitrary arrest and detention  D51 Administration of justice & fair trial  A42 Institutions & policies - General  A41 Constitutional and legislative framework  D26 Conditions of detention  **Affected persons:**  - persons deprived of their liberty  - persons with disabilities | **Not implemented**  The Commission reiterates its concern that in some jurisdictions declarations of unfitness to stand trial may lead to the indefinite detention of unconvicted people with disability, including children with disability.[[325]](#footnote-326) For example, in Western Australiaa person can be indefinitely detained in a custodial setting without trial if found unfit to stand trial.[[326]](#footnote-327)  There are no special procedures for children.[[327]](#footnote-328) Children with FASD are at particular risk of being held in indefinite detention and are overrepresented in the juvenile justice system.[[328]](#footnote-329)  The Commission notes that the *National Statement of Principles Relating to Persons Unfit to Plead or Found Not Guilty By Reason of Cognitive or Mental Health Impairment* was endorsed in 2019 by most Australian governments on a voluntary, non-binding basis. To date, it has not contributed to law reform to remove the declarations of ‘unfitness to plead’ and ‘not guilty by reason of cognitive or mental health impairment’. | Recommendation: Government implement the recommendations of the *Inquiry into indefinite detention of people with cognitive and psychiatric impairment in Australia*. Governments adopt a human rights-based approach to mental health laws and ensure that mental health services do not violate the human rights of people with disability. |
| 136.195 Introduce measures to address issues related to the treatment of persons with disabilities, including considering the implementation of recommendations from both the Australian Law Reform Commission’s report on Equality, Capacity and Disability in Commonwealth Laws, and the Senate inquiry into high levels of violence and abuse of persons with disabilities in institutional and residential settings (New Zealand);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Noted | F4 Persons with disabilities  F43 Persons with disabilities: protection against exploitation, violence and abuse  A42 Institutions & policies - General  B51 Right to an effective remedy  A41 Constitutional and legislative framework  D26 Conditions of detention  **Affected persons:**  - persons deprived of their liberty  - persons with disabilities | **Partly implemented**  The Commission remains concerned by a lack of progress in implementing a nationally consistent supported decision-making framework, as recommended in the *Equality, Capacity and Disability in Commonwealth Laws* report by the ALRC.[[329]](#footnote-330)  The Commission welcomes the Australian Government’s support of training programs at the Commonwealth, State and Territory level recognising the legal capacity of people with disability on an equal basis with others.[[330]](#footnote-331) However, the training will only be effective alongside laws and policies that recognise the legal capacity of people with disability on an equal basis as others  On 5 April 2019, the Government announced the establishment of the Royal Commission into Violence, Abuse, Neglect and  Exploitation of People with Disability. The Commission commends the Government for establishing the Royal Commission into Violence, Abuse, Neglect and  Exploitation of People with Disability. See recommendation 136.197. | Recommendation: Government address the UNCRPD Committee’s recommendations in the new National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework.  .  Recommendation: Government implement the recommendations of the *Inquiry into indefinite detention of people with cognitive and psychiatric impairment in Australia*. Governments adopt a human rights-based approach to mental health laws and ensure that mental health services do not violate the human rights of people with disability. |
| ***Theme: F41 Persons with disabilities: definition, general principles*** | | | |  |
| 136.187 Establish a supported decision-making framework in relation with people with disabilities (Israel);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Noted | F41 Persons with disabilities: definition, general principles  F4 Persons with disabilities  F45 Persons with disabilities: independence, inclusion  **Affected persons:**  - persons with disabilities | **Not implemented**  In 2013, the Australian Government commissioned the Australian Law Reform Commission to conduct a review of equal recognition before the law and legal capacity for people with disability. The final report of this review, *Equality, Capacity and Disability in Commonwealth Laws*, was tabled in Parliament in 2014. It recommended the establishment of a supported decision-making framework.[[331]](#footnote-332)  This framework has not been implemented.  See recommendation 136.195 for more detail. | Recommendation: Government address the UNCRPD Committee’s recommendations in the new National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework. |
| ***Theme: F44 Persons with disabilities: protecting the integrity of the person*** | | | |  |
| 136.181 End the practice of enforced sterilization of persons with disabilities for non-therapeutic reasons (France);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Noted | F44 Persons with disabilities: protecting the integrity of the person  F13 Violence against women  F41 Persons with disabilities: definition, general principles  F43 Persons with disabilities: protection against exploitation, violence and abuse  F31 Children: definition; general principles; protection  **Affected persons:**  - women  - persons with disabilities | **Not implemented**  The Commission remains deeply concerned that the sterilisation of people with disability, particularly women and girls with disability, continues to take place in Australia without free, prior and informed consent.[[332]](#footnote-333) The Commission is also concerned by the forced administration of contraceptives and abortion procedures.[[333]](#footnote-334) | Recommendation: Government address the UNCRPD Committee’s recommendations in the new National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework. |
| 136.182 Prohibit the sterilization of persons with disabilities, unless they provide their free and informed consent (Spain);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Noted | F44 Persons with disabilities: protecting the integrity of the person  F41 Persons with disabilities: definition, general principles  A41 Constitutional and legislative framework  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - persons with disabilities | **Not implemented**  See recommendation 136.181 | Recommendation: Government address the UNCRPD Committee’s recommendations in the new National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework. |
| 136.184 Prohibit the non-therapeutic sterilization of any individual who is not mentally competent to consent (Canada);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Noted | F44 Persons with disabilities: protecting the integrity of the person  F41 Persons with disabilities: definition, general principles  F31 Children: definition; general principles; protection  A41 Constitutional and legislative framework  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - women  - persons with disabilities | **Not implemented**  See recommendation 136.181 | Recommendation: Government address the UNCRPD Committee’s recommendations in the new National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework. |
| 136.180 Adopt national legislation prohibiting the use of sterilization of adults without their consent, and of children (Germany);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Noted | F44 Persons with disabilities: protecting the integrity of the person  F41 Persons with disabilities: definition, general principles  F43 Persons with disabilities: protection against exploitation, violence and abuse  F31 Children: definition; general principles; protection  A41 Constitutional and legislative framework  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - children  - persons with disabilities | **Not implemented**  See recommendation 136.181 | Recommendation: Government address the UNCRPD Committee’s recommendations in the new National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework. |
| 136.183 Adopt national uniform legislation prohibiting, except where there is a serious threat to life or health, the sterilisation of children and of adults with disability, in the absence of prior, fully informed and free consent (United Kingdom of Great Britain and Northern Ireland);  **Source of position:** A/HRC/31/14/Add.1 - Para. 39 | Noted | F44 Persons with disabilities: protecting the integrity of the person  F41 Persons with disabilities: definition, general principles  F43 Persons with disabilities: protection against exploitation, violence and abuse  F31 Children: definition; general principles; protection  A41 Constitutional and legislative framework  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - children  - persons with disabilities | **Not implemented**  See recommendation 136.181 | Recommendation: Government address the UNCRPD Committee’s recommendations in the new National Disability Strategy; adopt uniform legislation prohibiting sterilisation of people with disability without their consent; and implement a nationally consistent supported decision-making framework. |
| ***Theme: G3 Indigenous peoples*** | | | |  |
| 136.82 Harmonize legislation relating to the recognition of the rights of indigenous peoples, at all levels, with the International Convention on the Elimination of All Forms of Racial Discrimination (Honduras);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Noted | G3 Indigenous peoples  A22 Cooperation with treaty bodies  B32 Racial discrimination  A41 Constitutional and legislative framework  G1 Members of minorities  **Affected persons:**  - Indigenous peoples  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Not implemented**  The Government has not undertaken a process to harmonise legislation relating to the recognition of the rights of indigenous peoples with ICERD. Gaps remain in Australia’s domestic incorporation of ICERD.[[334]](#footnote-335) | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: Government reform federal discrimination laws to ensure comprehensive protection and improve effectiveness. |
| 136.95 Implement the recommendations of the International Conference on Population and Development (ICPD) Programme of Action, to close the gap between Indigenous and non-Indigenous Australians in health, education, housing and employment (Canada);  **Source of position:** A/HRC/31/14/Add.1 - Para. 13 | Noted | G3 Indigenous peoples  A28 Cooperation with other international mechanisms and institutions  E31 Right to work  B32 Racial discrimination  G1 Members of minorities  E41 Right to health - General  E51 Right to education - General  E23 Right to adequate housing  **Affected persons:**  - Indigenous peoples  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendation 136.103 | Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031. |
| 136.84 Adhere to the United Nations Declaration on the Rights of Indigenous Peoples (Senegal);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Noted | G3 Indigenous peoples  A42 Institutions & policies - General  A41 Constitutional and legislative framework  **Affected persons:**  - Indigenous peoples | **Not implemented**  See recommendation 136.75 | Recommendation: Government develop a national program to implement UNDRIP and schedule it to the definition of human rights in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth). |
| 136.85 Develop in partnership with Aboriginal and Torres Strait Islander peoples a National Strategy to give effect to the United Nations Declaration on the Rights of Indigenous Peoples, and to facilitate the constitutional recognition of Aboriginal Australians (Estonia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Noted | G3 Indigenous peoples  A42 Institutions & policies - General  A41 Constitutional and legislative framework  D7 Right to participation in public affairs and right to vote  **Affected persons:**  - Indigenous peoples | **Not implemented**  See recommendation 136.75 and 136.74 | Recommendation: Government develop a national program to implement UNDRIP and schedule it to the definition of human rights in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).  Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination. |
| 136.96 Continue efforts to close the gap in opportunities and life outcomes between Indigenous and non-Indigenous Australians, according to the Close the Gap Campaign and its Progress and Priorities report 2015 (Croatia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Noted | G3 Indigenous peoples  A42 Institutions & policies - General  B32 Racial discrimination  G1 Members of minorities  **Affected persons:**  - Indigenous peoples  - minorities/ racial, ethnic, linguistic, religious or descent-based groups | **Partly implemented**  See recommendation136.103 | Recommendation: Government implements shared decision making and partnerships with Aboriginal and Torres Strait Islander peoples through the Closing the Gap strategy, and commit to funding and actions to achieve targets by 2031. |
| 136.90 Take all necessary measures to ensure Aboriginal and Torres Strait Islander Peoples give their consent to the development and implementation of policies and programmes that impact upon their communities and futures (Namibia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Noted | G3 Indigenous peoples  A42 Institutions & policies - General  B41 Right to development  D7 Right to participation in public affairs and right to vote  **Affected persons:**  - Indigenous peoples | **Not implemented**  The principle of free, prior and informed consent has not been directly incorporated into Australian law and is not always applied before adopting and implementing legislative or administrative measures that may affect Aboriginal and Torres Strait Islander peoples. | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination. |
| 136.80 Work towards ensuring full respect for the human rights of indigenous people, and continue the ongoing consultations and with a serious pace with the indigenous peoples, regarding the implementation of legislation entitled “Towards a better future” (Bahrain);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Noted | G3 Indigenous peoples  A42 Institutions & policies - General  D7 Right to participation in public affairs and right to vote  **Affected persons:**  - Indigenous peoples | **Partly implemented**  See recommendation 136.90 | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination. |
| 136.86 Develop, in partnership with indigenous communities, a national strategy to implement the United Nations Declaration on the Rights of Indigenous Peoples (Hungary);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Noted | G3 Indigenous peoples  A42 Institutions & policies - General  D7 Right to participation in public affairs and right to vote  **Affected persons:**  - Indigenous peoples | **Not implemented**  See recommendation 136.75 and 136.74 | Recommendation: Government develop a national program to implement UNDRIP and schedule it to the definition of human rights in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).  Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination. |
| 136.83 Revise laws and national, regional and local policies to fully recognize and protect the rights of indigenous peoples in domestic law uniformly throughout the nation (Cuba);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Noted | G3 Indigenous peoples  B31 Equality & non-discrimination  A42 Institutions & policies - General  A41 Constitutional and legislative framework  **Affected persons:**  - Indigenous peoples | **Partly implemented**  The Government has not undertaken a comprehensive process to revise laws and policies that are inconsistent with Australia’s international human rights obligations in relation to Indigenous peoples.  See recommendations 136.75, 136.78 and 136.117. | Recommendation: Government develop a national program to implement UNDRIP and schedule it to the definition of human rights in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth). |
| 136.91 Ensure that indigenous peoples are consulted when considering the viability of remote communities, and that those affected by closures of communities receive transitional support and unimpeded access to ancestral lands (United States of America);  **Source of position:** A/HRC/31/14/Add.1 - Para. 28 | Noted | G3 Indigenous peoples  E7 Cultural rights  B41 Right to development  D7 Right to participation in public affairs and right to vote  E6 Rights to protection of property; financial credit  **Affected persons:**  - Indigenous peoples | **Partly implemented**  In late 2014, there were significant concerns that the Western Australian Government was going to forcibly close over 100 remote communities in the state. This received significant attention from around the country and around the world. Though communities were not forcibly closed, changed funding models made it increasingly difficult for many communities to remain viable.  There are ongoing concerns about whether the free, prior and informed consent of Aboriginal and Torres Strait Islander peoples is being sought before decisions are made about their communities. This includes decisions about the closure of communities, changes to programs or the use of ancestral lands for mining, development, radioactive waste management or other purposes.[[335]](#footnote-336) | Recommendation: Government support a national voice to Parliament for Indigenous peoples, and ensure the informed consent of Indigenous peoples in all decision making that affects them. Government sets timetable for achieving reform of the Constitution to remove capacity for racial discrimination.  Recommendation: The Government implement the recommendations of the ALRC’s *Connection to Country* report. |
| ***Theme: G4 Migrants*** | | | |  |
| 136.237 Consider reviewing existing migration policies to address concerns that hinder accession to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Philippines);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G4 Migrants  A42 Institutions & policies - General  A12 Acceptance of international norms  **Affected persons:**  - migrants | **Not implemented**  See recommendation 136.36 | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.238 Undertake relevant safe measures on migrants trying to reach Australian borders according to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Albania);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G4 Migrants  A42 Institutions & policies - General  D1 Civil & political rights - general measures of implementation  G5 Refugees & asylum seekers  **Affected persons:**  - migrants | **Not implemented**  Australia has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Commission has recommended that Australia ratify the convention. | Recommendation: Parliamentary Joint Standing Committee on Treaties conduct a National Interest Analysis on ratification of the Migrant Workers Convention and Optional Protocols to ICESCR and CRC. |
| 136.235 Ensure that all migrant children, irrespective of their migration status, have access to education and healthcare services in the exact same terms as Australian children do (Portugal);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G4 Migrants  B31 Equality & non-discrimination  F31 Children: definition; general principles; protection  E41 Right to health - General  E51 Right to education - General  **Affected persons:**  - children  - migrants | **Partly implemented**  Most migrant children are able to access education and healthcare services in line with other children in Australia. However, some migrant children face significant formal and informal barriers to accessing services.  There are also major barriers for some visa holders, including those holding temporary protection visas, to access tertiary education.[[336]](#footnote-337) | Recommendation: Government ensure refugees and asylum seekers access timely and appropriate healthcare in Australia, unless there is a medical reason why another destination is more appropriate.  Recommendation: Government expands and funds the delivery of child targeted mental health and support services. |
| 136.285 Put an end to the practice of pushing-back boats transporting migrants to the high seas (Spain);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G4 Migrants  D25 Prohibition of torture and cruel, inhuman or degrading treatment  G5 Refugees & asylum seekers  **Affected persons:**  - refugees & asylum seekers  - migrants | **Not implemented**  Since December 2013, boats carrying asylum seekers which seek to enter Australia have been intercepted and returned to their point of departure. In some cases, people have been returned directly to their countries of origin after undergoing a screening process at sea. The Commission is concerned these measures create a significant risk of refoulement. | Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru. |
| 136.286 Respect its obligation not to return intercepted migrants in international waters in conformity with international law and norms (Guatemala);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G4 Migrants  D25 Prohibition of torture and cruel, inhuman or degrading treatment  G5 Refugees & asylum seekers  **Affected persons:**  - refugees & asylum seekers  - migrants | **Not implemented**  See recommendations 136.285 and 136.282. | Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru. |
| 136.268 Allow access to independent observers to centres of detention of migrants which are outside of the Australian territory (Spain);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G4 Migrants  H1 Human rights defenders  A3 Inter-State cooperation & development assistance  A28 Cooperation with other international mechanisms and institutions  D25 Prohibition of torture and cruel, inhuman or degrading treatment  A24 Cooperation with special procedures  D26 Conditions of detention  A6 Context, statistics, budget, civil society  G5 Refugees & asylum seekers  **Affected persons:**  - human rights defenders  - migrants  - persons deprived of their liberty | **Not implemented**  Independent monitoring is critical to guaranteeing transparency and accountability and ensuring human rights standards are maintained.  Refugees and people going through the refugee status determination process are still being held in the ‘open centre’ in Nauru and on Papua New Guinea.[[337]](#footnote-338)  There are no independent monitoring bodies with jurisdiction to routinely access offshore places of detention or to be fully effective in the oversight of them.[[338]](#footnote-339)  Allegations have been made about mistreatment and abuse at the Regional Processing Centre in Nauru and a Senate Inquiry into the allegations noted concerns about the lack of transparency or independent oversight.[[339]](#footnote-340) | Recommendation: Australian governments apply recommendations from *Implementing OPCAT in Australia* and commence operation of all NPM bodies without delay.  Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent to PNG or Nauru. |
| ***Theme: G5 Refugees & asylum seekers*** | | | |  |
| 136.275 Closely monitor the processing of refugees and asylum seekers in offshore centers to ensure that their human rights are respected (United States of America);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  A3 Inter-State cooperation & development assistance  D33 Arbitrary arrest and detention  D51 Administration of justice & fair trial  A42 Institutions & policies - General  B51 Right to an effective remedy  D25 Prohibition of torture and cruel, inhuman or degrading treatment  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - persons deprived of their liberty | **Not implemented**  See recommendation 136.268  As at 31 March 2019, there were no asylum seekers being held for processing at the Nauru Regional Processing Centre. However as of 30 September 2019, 562 people are being held in the ‘open centre’ in Nauru and on Papua New Guinea.[[340]](#footnote-341) A further 47 people are being detained by Papua New Guinea in Bomana Detention Centre.[[341]](#footnote-342) | Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent to PNG or Nauru. |
| 136.277 Review the current regional offshore processing arrangement, and policy of mandatory detention of refugees, stateless persons and migrants, and uphold all human rights obligations towards refugees, stateless persons and migrants, including the principle of non-refoulement (Kenya);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  A3 Inter-State cooperation & development assistance  D33 Arbitrary arrest and detention  G4 Migrants  G8 Non-citizens  A42 Institutions & policies - General  D25 Prohibition of torture and cruel, inhuman or degrading treatment  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - migrants  - persons deprived of their liberty  - non-citizens | **Not implemented**  See recommendations 136.281 and 136.240 | Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru. |
| 136.274 Ensure that asylum seekers have access to legal assistance during the process and adopt measures, together with third countries, so that conditions in the processing centres in countries with which Australia has agreements, are in conformity with international laws and standards (Uruguay);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  A3 Inter-State cooperation & development assistance  D51 Administration of justice & fair trial  B51 Right to an effective remedy  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - persons deprived of their liberty | **Not implemented**  Many asylum seekers currently in Australia no longer have access to free government-funded legal advice to assist them in presenting their asylum claims.  The Immigration Advice and Application Assistance Scheme (IAAAS), funded by the Federal Government, provides access to free, independent migration advice and application assistance for people seeking asylum at the primary stage of visa processing.  However, as of 31 March 2014, people who arrived in Australia without a valid visa (whether by boat or by plane, and including those who arrived prior to this date) are no longer eligible for IAAAS.[[342]](#footnote-343)  Some people who are ineligible for IAAAS can access application assistance through the Primary Application and Information Service (PAIS). PAIS is available to a small percentage of asylum seekers who are assessed by the Department to be exceptionally vulnerable.  As a result of the reduction of IAAAS and the restrictive eligibility criteria for PAIS, most people in the Legacy Caseload are not eligible to receive free  government-funded legal advice and assistance with their visa applications. | Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations, and provide permanent protection for refugees and family sponsorship. Government provide sufficient support to asylum seekers experiencing financial hardship to ensure an adequate standard of living.  Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention.  Recommendation: Government ensure refugees and asylum seekers access timely and appropriate healthcare in Australia, unless there is a medical reason why another destination is more appropriate.  Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru. |
| 136.276 Immediately close the Nauru and Manus Island detention centres (Maldives);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  A3 Inter-State cooperation & development assistance  G4 Migrants  A42 Institutions & policies - General  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - refugees & asylum seekers  - migrants  - persons deprived of their liberty | **Partly implemented**  Australia has a policy of third country processing which includes offshore processing centres on Manus Island and Nauru.[[343]](#footnote-344)  The Manus Regional Processing Centre was closed on 31 October 2017.[[344]](#footnote-345) As at 31 March 2019, there were no aslylum seekers being held for processing at the Nauru Regional Processing Centre. However as of 30 September 2019, 562 people are being held in the ‘open centre’ in Nauru and on Papua New Guinea.[[345]](#footnote-346) A further 47 people are being detained by Papua New Guinea in Bomana Detention Centre.[[346]](#footnote-347) | Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru. |
| 136.281 Review the policy of offshore processing of asylum seekers on Nauru and Manus Island and review the implementation of the Migration and Maritime Power Legislation Amendment Bill, making sure that the international obligation of non refoulement is strictly upheld (Germany);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  A42 Institutions & policies - General  A41 Constitutional and legislative framework  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - refugees & asylum seekers | **Not implemented**  The Australian Government maintains its policy of third country processing of asylum.  The *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload Act 2014* (Cth) passed in December 2014, introduced a range of new powers allowing the Minister for Immigration and Border Protection and officers to detain people at sea and take them to another country, regardless of whether Australia has an agreement or arrangement with that country to do so.[[347]](#footnote-348) As a result, people who arrive by boat to seek asylum may now be lawfully taken to other countries without any consideration of their protection claims, even if doing so would breach Australia’s non-refoulement obligations.[[348]](#footnote-349)  The Commission has strongly recommended that the government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload Act 2014* (Cth). | Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru. |
| 136.284 Adopt the necessary measures to put an end to the practice of interception and return of asylum seekers, in conformity with international refugee law and international human rights law (Argentina);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  A42 Institutions & policies - General  A41 Constitutional and legislative framework  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - refugees & asylum seekers | **Not implemented**  See recommendations 136.285 and 136.282 |  |
| 136.289 Proceed with the adoption and implementation of a code of conduct for the treatment of asylum seekers, and stop the practice of intercepting and pushing back the boats of the asylum-seekers into international waters, with the implementation of measures consistent with the provisions of international law and international standards (Bahrain);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  A42 Institutions & policies - General  A41 Constitutional and legislative framework  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - refugees & asylum seekers | **Not implemented**  See recommendations 136.285 and 136.282 |  |
| 136.287 Give full protection to asylum seekers in accordance with international law, and abolish the practice of pushing the boats of asylum seekers back at sea (Nigeria);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - refugees & asylum seekers | **Not implemented**  See recommendations 136.285 and 136.282 | Recommendation: Government introduce a refugee status determination process that is consistent with its international obligations and repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government reinstate access to the Immigration Advice and Application Assistance Scheme to all asylum seekers who are experiencing financial hardship.  Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru. |
| 136.280 Ensure that all asylum seekers and refugees who arrive in Australia are processed there regardless of their mode of arrival and ensure that the conditions at the offshore processing centers comply with international law and standards (Slovenia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  D25 Prohibition of torture and cruel, inhuman or degrading treatment  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - persons deprived of their liberty | **Not implemented**  Australia maintains a policy of third country processing for asylum seekers who arrive by sea.  See recommendations 136.285 and 136.282 | Recommendation: Government introduce a refugee status determination process that is consistent with its international obligations and repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government reinstate access to the Immigration Advice and Application Assistance Scheme to all asylum seekers who are experiencing financial hardship.  Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru. |
| 136.270 Ensure that asylum seekers claims are processed in accordance with the Convention relating to the Status of Refugees and that detention occurs only when necessary, for a minimal period, and that access to judicial oversight of detention is ensured (Norway);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  D51 Administration of justice & fair trial  B51 Right to an effective remedy  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - judges, lawyers and prosecutors  - persons deprived of their liberty | **Not implemented**  See recommendations 136.271 and 136.259. | Recommendation: Government introduce a refugee status determination process that is consistent with its international obligations and repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government reinstate access to the Immigration Advice and Application Assistance Scheme to all asylum seekers who are experiencing financial hardship.  Recommendation Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention. |
| 136.279 Stop the offshore processing of asylum requests (Luxembourg);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  D51 Administration of justice & fair trial  D25 Prohibition of torture and cruel, inhuman or degrading treatment  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - persons deprived of their liberty | **Not implemented**  See recommendations 136.280, 136.285 and 136.282 | Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru. |
| 136.272 Do not detain migrants other than in exceptional cases, limit this detention to six months and bring detention conditions into line with international standards in the field of human rights, as previously recommended (Switzerland);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  G4 Migrants  A27 Follow-up to Universal Periodic Review (UPR)  D26 Conditions of detention  **Affected persons:**  - migrants  - persons deprived of their liberty | **Not implemented**  See recommendations 136.271 and 136.259. | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention. |
| 136.260 Repeal provisions which establish compulsory detention for those who enter the country in an irregular manner (Guatemala);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  G4 Migrants  A41 Constitutional and legislative framework  D25 Prohibition of torture and cruel, inhuman or degrading treatment  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - migrants  - persons deprived of their liberty | **Not implemented**  See recommendations 136.271 and 136.259. | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention. |
| 136.262 Repeal the provisions establishing the mandatory detention of persons entering its territory irregularly (Bangladesh);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  G4 Migrants  A41 Constitutional and legislative framework  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - migrants  - persons deprived of their liberty | **Not implemented**  See recommendations 136.271 and 136.259. | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention. |
| 136.263 End the policy of mandatory detention for all unauthorized arrivals, ensure that detention is only applied as a last resort, establish statutory time limits for detention and ensure access to an effective judicial remedy to review the necessity of detention (Slovenia);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  G4 Migrants  A42 Institutions & policies - General  B51 Right to an effective remedy  A41 Constitutional and legislative framework  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - migrants  - judges, lawyers and prosecutors  - persons deprived of their liberty | **Not implemented**  See recommendations 136.271 and 136.259. | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention. |
| 136.278 In line with its tradition as a resettlement country, reverse its policies of mandatory detention and offshore processing (Brazil);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  D33 Arbitrary arrest and detention  G4 Migrants  A42 Institutions & policies - General  D25 Prohibition of torture and cruel, inhuman or degrading treatment  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - migrants  - persons deprived of their liberty | **Not implemented**  See recommendations 136.271 and 136.259. | Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru.  Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention. |
| 136.290 Instil a transparent, human rights-based approach related to the treatment of asylum seekers following their arrival, including the cessation of transfers to third countries (Turkey).  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  E1 Economic, social & cultural rights - general measures of implementation  D51 Administration of justice & fair trial  B51 Right to an effective remedy  D25 Prohibition of torture and cruel, inhuman or degrading treatment  D1 Civil & political rights - general measures of implementation  D26 Conditions of detention  **Affected persons:**  - refugees & asylum seekers  - persons deprived of their liberty | **Not implemented**  See recommendations 136.280, 136.285 and 136.282 | See recommendations above at 136.278 |
| 136.288 Cease its practice of interceptions and “push-backs” in its borders (Bangladesh);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  G4 Migrants  D25 Prohibition of torture and cruel, inhuman or degrading treatment  **Affected persons:**  - refugees & asylum seekers  - migrants | **Not implemented**  ‘Operation Sovereign Borders’ continues to prevent boats carrying asylum seekers from reaching Australia. Since December 2013, this operation has intercepted boats and returned them to their point of departure ‘where it is safe to do so’.[[349]](#footnote-350)  It is difficult to assess whether boat turn-backs are being conducted in accordance with Australia’s international human rights obligations, including whether adequate safeguards are in place to prevent refoulement and guarantee safety of life at sea.[[350]](#footnote-351) |  |
| 136.240 Further promote the safety and living conditions of migrants, refugees and asylum seekers arriving in Australia (Greece);  **Source of position:** A/HRC/31/14/Add.1 - Para. 62 | Noted | G5 Refugees & asylum seekers  G4 Migrants  E1 Economic, social & cultural rights - general measures of implementation  D1 Civil & political rights - general measures of implementation  **Affected persons:**  - refugees & asylum seekers  - migrants | **Partly implemented**  Since 2013, there have been a number of significant developments in Australia’s policies towards people seeking asylum, particularly in relation to those who arrive by boat.[[351]](#footnote-352) While some of these changes bring Australia’s policies into closer alignment with international human rights law, others could potentially place Australia in breach of its international obligations. Some of the changes include: the release of almost all children from immigration detention, a significant reduction in the overall number of people in immigration detention, the reinstatement of work rights for asylum seekers living in the community on Bridging Visas, the reintroduction of Temporary Protection Visas as well as a new temporary visa for refugees, the Safe Haven Enterprise Visa.[[352]](#footnote-353)  The United Nations Special Rapporteur on the Human Rights of Migrants, François Crépeau has highlighted concerns related to Australia’s policies, in particular nonrefoulement, discrimination based on mode of arrival, immigration detention, third country processing, guardianship of unaccompanied children, family reunion, visa refusals and cancellations, and access to justice and citizenship.[[353]](#footnote-354) | Recommendation: Government ensure immigration detention is justified, time limited, and subject to prompt and regular judicial oversight. Government reduces numbers of people held in immigration detention to maintain safety during COVID-19 pandemic. Government amends the *Migration Act 1958* (Cth) to prohibit placing children in immigration detention.  Recommendation: Government repeal the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (Cth). Government conduct refugee status determination consistently with its international obligations, and provide permanent protection for refugees and family sponsorship. Government provide sufficient support to asylum seekers experiencing financial hardship to ensure an adequate standard of living.  Recommendation: Government immediately cease the current regime of third country processing, and offer viable long-term protection for all refugees subject to third country processing, including those transferred to Australia, and confirm they will not be sent back to PNG or Nauru.  Recommendation: Government ensure refugees and asylum seekers access timely and appropriate healthcare in Australia, unless there is a medical reason why another destination is more appropriate. |

1. Australia submitted reports to the Committee on the Elimination of Racial Discrimination, Consideration of reports submitted by States parties under article 9 of the Convention, UN Doc CERD/C/AUS/18-20 (2 February 2016) <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/051/93/PDF/G1605193.pdf?OpenElement>>; the Committee on Economic, Social and Cultural Rights, Consideration of reports submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights, UN Doc E/C.12/AUS5 (10 February 2016) <<https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fAUS%2f5&Lang=en>>; the Human Rights Committee and the Committee on the Elimination of Discrimination against Women, Consideration of reports submitted by States parties under article 18 of the Convention, UN Doc CEDAW/C/AUS/8 (8 December 2016) < <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/452/30/PDF/N1645230.pdf?OpenElement>>. [↑](#footnote-ref-2)
2. Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the human rights of migrants; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on violence against women, its causes and consequences; Special Rapporteur on the rights of Indigenous peoples. [↑](#footnote-ref-3)
3. Voluntary commitment by Australia: Human Rights Council, 31st session, Agenda Item 6. *Report of the Working Group on the Universal Periodic Review: Australia* (13 January 2016), UN Doc A/HRC/31/14. At <https://undocs.org/A/HRC/31/14> (viewed 9 January 2020). [↑](#footnote-ref-4)
4. National Indigenous Australians Agency, *Indigenous Voice* <<https://www.indigenous.gov.au/topics/indigenous-voice>> (viewed 10 January 2020). Processes since 2011 include the formation of the Expert Panel on Constitutional Recognition of Indigenous Australians, the Recognise Campaign established by Reconciliation Australia with funding from the Australian Government, the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples, the enactment of the Aboriginal and Torres Strait Islander Peoples Recognition Act and the convening of the Referendum Council Dialogues. See: Australian Human Rights Commission, *Submission to the Expert Mechanism on the Rights of Indigenous Peoples for its Study on Recognition, Reparations and Reconciliation*, (29 February 2019). At <https://www.ohchr.org/Documents/Issues/IPeoples/EMRIP/StudyRRR/Australia_NHRI1.pdf> (viewed on 5 March 2020). [↑](#footnote-ref-5)
5. National Indigenous Australians Agency, *Indigenous Voice* <<https://www.indigenous.gov.au/topics/indigenous-voice>> (viewed 10 January 2020). [↑](#footnote-ref-6)
6. Human Rights Council, *Report of the Working Group on the Universal Periodic Review–Australia*, UN Doc A/HRC/31/14 (13 January 2016) [138]–[146]. At <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/31/14&Lang=E> (viewed 28 January 2020). [↑](#footnote-ref-7)
7. Australian Human Rights Commission, *Free and Equal: An Australian conversation on human rights* (31 May 2019) 17. At <https://www.humanrights.gov.au/free-and-equal>. [↑](#footnote-ref-8)
8. Australian Human Rights Commission, *Submission to the UN Committee on the Elimination of Racial Discrimination: information concerning Australia’s compliance with the International Convention on the Elimination of All Forms of Racial Discrimination*, (30 October 2017), [150]. At https://www.humanrights.gov.au/node/14777 (viewed 5 February 2020). [↑](#footnote-ref-9)
9. Australian Human Rights Commission, *Commission welcomes Palm Island decision* (Media Release, 2 May 2018). At <https://www.humanrights.gov.au/about/news/commission-welcomes-palm-island-decision> (viewed 6 February 2020); and Australian Human Rights Commission, *Submission to the UN Committee on the Elimination of Racial Discrimination: information concerning Australia’s compliance with the International Convention on the Elimination of All Forms of Racial Discrimination*, (30 October 2017) 30-31. At https://www.humanrights.gov.au/node/14777 (viewed 5 February 2020). [↑](#footnote-ref-10)
10. International Law Commission, *Fourth report on crimes against humanity By Sean D. Murphy, Special Rapporteur*, UN Doc A/CN.4/725, [22]-[23]. At <https://legal.un.org/docs/?symbol=A/CN.4/725> (viewed 7 July 2020); and International Law Commission’s Draft Articles on Crimes Against Humanity, *Comments of Australia* (December 2018). At <https://legal.un.org/docs/?path=../ilc/sessions/71/pdfs/english/cah_australia.pdf&lang=E> (viewed 7 July 2020). [↑](#footnote-ref-11)
11. See, for example: *Resolution on the situation of Human Rights in Myanmar* (A/HRC/RES/40/29); *Resolution on the situation of human rights of Rohingya Muslims and other minorities in Myanmar* (A/HRC/RES/42/3) *Resolution on technical assistance and capacity-building to improve human rights in Libya* (A/HRC/RES/40/27); *Resolution on technical assistance and capacity-building for Mali in the field of human rights* (A/HRC/RES/40/27); *Resolution on the situation of human rights in the Democratic People* (A/HRC/RES/40/20); *Resolution on the situation of human rights in South Sudan* (A/HRC/RES/40/19); *Resolution on the human rights situation in the Syrian Arab Republic* (A/HRC/RES/40/17). [↑](#footnote-ref-12)
12. Australian Government, *Statement of Australia to the 18th Session of the Assembly of States Parties to the International Criminal Court.* At <https://asp.icc-cpi.int/iccdocs/asp_docs/ASP18/GD.AUS.3.12.pdf> (viewed 6 February 2020). [↑](#footnote-ref-13)
13. *Charter of Human Rights and Responsibilities Act 2006* (Vic); *Human Rights Act 2004* (ACT); and *Human Rights Act 2019* (Qld). [↑](#footnote-ref-14)
14. In 2017, a petition was launched calling for a Tasmanian human rights Act (10 years after the Tasmanian Law Reform Institute recommended the establishment of a state human rights Act). See Blair Richards, ‘Campaign begins to put a human rights Act back on agenda’, *The Mercury* (online), 22 January 2017. At <http://www.themercury.com.au/news/politics/campaign-begins-to-put-a-human-rights-act-back-on-agenda/news-story/d70cf11696eed0de5c42cf2be381335f> (viewed 11 September 2017). [↑](#footnote-ref-15)
15. In 1975 with the *Racial Discrimination Act 1975* (Cth) *Sex Discrimination Act 1984* (Cth). [↑](#footnote-ref-16)
16. In 1984 with the *Sex Discrimination Act 1984* (Cth). [↑](#footnote-ref-17)
17. In 1992 with the *Disability Discrimination Act 1992* (Cth). [↑](#footnote-ref-18)
18. In 2004 with the *Age Discrimination Act 2004* (Cth). [↑](#footnote-ref-19)
19. In 2013 amendments were made to the *Sex Discrimination Act 1984* (Cth) by the *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013* (Cth). The amendments replaced discrimination based on ‘marital status’ throughout the *Sex Discrimination Act 1984* (Cth) with discrimination on the basis of ‘sexual orientation, gender identity, intersex status, marital or relationship status’: *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013* (Cth) Sch 1, Pt 1. [↑](#footnote-ref-20)
20. There are also protections against unlawful discrimination in federal workplace laws such as the *Fair Work Act 2009* (Cth), and some crossovers with work health and safety laws. [↑](#footnote-ref-21)
21. *Australian Human Rights Commission Act 1986* (Cth), s 46P. [↑](#footnote-ref-22)
22. *Australian Human Rights Commission Act 1986* (Cth), s 46PO(1). [↑](#footnote-ref-23)
23. *Australian Human Rights Commission Act 1986* (Cth), s 46PO(4). [↑](#footnote-ref-24)
24. *Australian Human Rights Commission Act 1986* (Cth), s 29. [↑](#footnote-ref-25)
25. The *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth) establishes the PJCHR. The Act defines human rights as the rights and freedoms recognised or declared by the following international instruments: the International Convention on the Elimination of all Forms of Racial Discrimination; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination Against Women; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities. See Parliament of Australia, *Parliamentary Joint Committee on Human Rights*. At: <http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights> (viewed 28 January 2020). [↑](#footnote-ref-26)
26. *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth), ss 7(a), (b), (c). [↑](#footnote-ref-27)
27. See description of the Committee’s work in Australian Law Reform Commission, *Traditional Rights and Freedoms – Encroachments by Commonwealth Laws* (ALRC Report 129, 2015) 41–43. [↑](#footnote-ref-28)
28. See recommendation 136.117 for a more detailed discussion about models comprehensive human rights protections at the federal level. [↑](#footnote-ref-29)
29. Australian Human Rights Commission, [*Discussion Paper: Priorities for federal discrimination law reform*](https://www.humanrights.gov.au/node/15775)(1 August 2019). At https://humanrights.gov.au/our-work/rights-and-freedoms/publications/discussion-paper-priorities-federal-discrimination-law. [↑](#footnote-ref-30)
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32. Australian Human Rights Commission, *National Anti-Racism Strategy and Racism. It Stops with Me: Summary Evaluation and Future Direction* (14 May 2015). At <https://www.humanrights.gov.au/sites/default/files/National%20Anti-Racism%20Strategy%20Summary%20Evaluation%20and%20Future%20Direction.pdf> (viewed 29 January 2020). [↑](#footnote-ref-33)
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34. Australian Government, *Australian Government’s Multicultural Statement* (March 2017). At https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-affairs/about-multicultural-affairs/our-statement (viewed 6 February 2020). [↑](#footnote-ref-35)
35. Australian Government, *Multicultural Affair: Parliamentary statement on racial tolerances*. At <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-affairs/about-multicultural-affairs/our-policy-history> (viewed 7 February 2020). [↑](#footnote-ref-36)
36. Australian Human Rights Commission, *Submission to the UN Committee on the Elimination of Racial Discrimination: information concerning Australia’s compliance with the International Convention on the Elimination of All Forms of Racial Discrimination*, (30 October 2017), [60]. At https://www.humanrights.gov.au/node/14777 (viewed 5 February 2020). [↑](#footnote-ref-37)
37. Australian Human Rights Commission, *Submission to the UN Committee on the Elimination of Racial Discrimination: information concerning Australia’s compliance with the International Convention on the Elimination of All Forms of Racial Discrimination*, (30 October 2017), [61]. At https://www.humanrights.gov.au/node/14777 (viewed 5 February 2020); and Australian Human Rights Commission, *Submission to the Select Committee on Strengthening Multiculturalism Inquiry into* Multiculturalism (19 May 2017), [37]. At <https://www.humanrights.gov.au/sites/default/files/20170519_AHRC_Submission_Strengthening_Multiculturalism.pdf> (viewed 19 May 2019). [↑](#footnote-ref-38)
38. Australian Human Rights Commission, *Religious Freedom Review, Submission to the Expert Panel* (14 February 2018) at [11]-[14]. At <https://www.humanrights.gov.au/our-work/legal/submission/religious-freedom-review-2018> (viewed 3 February 2020). [↑](#footnote-ref-39)
39. *Religious Discrimination Bill 2019* (Cth); *Religious Discrimination (Consequential Amendments) Bill 2019* (Cth); and *Human Rights Legislation Amendment (Freedom of Religion) Bill 2019* (Cth). [↑](#footnote-ref-40)
40. Attorney-General’s Department, *Religious Freedom Bills – First Exposure Drafts.* At <https://www.ag.gov.au/Consultations/Pages/religious-freedom-bills.aspx> (viewed 3 February 2020). [↑](#footnote-ref-41)
41. Attorney-General’s Department, *Religious Freedom Bills – Second Exposure Drafts.* At <https://www.ag.gov.au/Consultations/Pages/religious-freedom-bills-second-exposure-drafts.aspx> (viewed 3 February 2020). [↑](#footnote-ref-42)
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