



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination

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### Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination

#### List of themes to be taken up in connection with the consideration of the fifteenth to seventeenth periodic reports of Australia (CERD/C/AUS/15-17)

The following is a list of themes identified by the country rapporteur in connection with the consideration of the combined fifteenth to seventeenth periodic reports of Australia. The list is meant to guide the dialogue between the State party delegation and the Committee and *does not require written replies*. This is not an exhaustive list as other issues will be raised in the course of the dialogue.

##### 1. The Convention in domestic law and legislative and policy frameworks for its implementation (arts. 1, 2, 4, 6):

(a) Updated information on the report by the National Human Rights Consultation Committee (CERD/C/AUS/15-17, para. 13) and information on the Human Rights Framework of Australia and its implementation plan;

(b) Measures to address the shortcomings of the Racial Discrimination Act (CERD/C/AUS/CO/14 para. 15) and latest developments with regard to constitutional protection from racial discrimination (CERD/C/304/Add.101, para. 6, CERD/C/AUS/CO/14, para. 9; HRI/CORE/AUS/2007, paras. 52 and 65);

(c) Update on progress with a view to withdrawing the reservation made to article 4 (a); information whether legislation criminalizing acts of racial hatred and against incitement of racial hatred have been adopted (CERD/C/AUS/CO/14, para. 12; CERD/C/AUS/15-17, para. 39) and the extent to which existing legislation prohibiting all forms of racial discrimination and racial vilification have been applied to counter incidents and activities of racial discrimination, including in the mass media, sports, politics and government, and on the Internet (CERD/C/AUS/15-17, para. 26);

(d) Statistical data on complaints, prosecutions and sentences regarding serious acts of racial hatred or incitement to racial hatred in states and territories with legislation

specifying such offences (CERD/C/304/ADD.101, para. 14; CERD/C/AUS/CO/14, para. 12; CERD/C/AUS/15-17, para. 26).

**2. Human rights of Aboriginal and Torres Strait Islander Peoples (arts. 2, 4, 5, 6):**

(a) Information on the representative body for Indigenous peoples in Australia, clarification on the National Congress of Australia's First Peoples and any other initiative for establishing a national indigenous representative body. Existing communication and consultation processes of governments with indigenous communities and measures to engage indigenous peoples in decision-making and to ensure their participation in the redesign of measures to combat discrimination. (CERD/C/AUS/CO/14, para. 11; HRI/CORE/AUS/2007, para. 181; CERD/C/AUS/15-17, paras. 148-149 and 184-185);

(b) Information on measures taken to address the 1998 amendments to the Native Title Act (CERD/C/AUS/CO/14, paras. 16-18; CERD/C/AUS/15-17, para. 141);

(c) Content of the review of and changes recently adopted by Parliament to the Northern Territory Emergency Response (NTER) in order to reverse racially discriminatory actions already initiated under NTER (CERD/C/AUS/15-17, paras. 123-124; early warning and urgent action communications dated 13 March 2009 and 28 September 2010; report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/15/37/Add.4, para. 60));

(d) Information on efforts to ensure the adequate protection of indigenous peoples' rights to collective ownership, development and control of lands, territories and resources in light of the recent report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, in which he states that the NTER "involves impairment of the enjoyment of various human rights, including rights of collective self-determination, individual autonomy in regard to family and other matters, privacy, due process, land tenure and property, and cultural integrity" (A/HRC/15/37/Add.4, para. 16);

(e) Programmes in place to prevent and counter domestic and family violence affecting indigenous women and children in particular (CERD/C/AUS/15-17, para. 70); updated information on the effectiveness of legislative reforms on domestic violence in remote communities in the Northern Territory (CERD/C/AUS/15-17, para. 133);

(f) Further information, including indicators, on evaluations and first results of ongoing state and territory initiatives to improve the enjoyment of economic, social, and cultural rights by indigenous peoples and whether their outcomes have been attained (CERD/C/AUS/CO/14, para. 19; CERD/C/AUS/15-17, para. 104 ff.; HRI/CORE/AUS/2007 para. 536);

(g) Information on measures to ensure a fair hearing, including legal aid and interpretative services (early warning and urgent action communication dated 31 May 2010; CERD/C/AUS/15-17, paras. 122 and 233 ff.) as well as to alleviate the burden of proof on plaintiffs;

(h) Updated information on remedies available at the state and territory level and whether a national compensation for the Stolen Generations or stolen wages exists, information on the Government response to and implementation of recommendations in the *Bringing Them Home* report.<sup>1</sup>

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<sup>1</sup> *Official Records of the General Assembly, Fifty-Fifth Session, Supplement No. 18* (A/55/18), para. 36; on compensation in Tasmania, CERD/C/AUS/15-17, p. 29, information box E.

**3. Equality before the law in the enjoyment of civil, economic, social and cultural rights with regard to certain groups, including non-citizens (arts. 4, 5 and 7):**

- (a) Implementation of measures promoting social inclusiveness and countering indirect discrimination against Somali, Sri Lankan, Arab and broader Muslim Australians which could have emerged as a result of anti-terrorism legislation (CERD/C/AUS/CO/14, para. 13; CERD/C/AUS/15-17, para. 322);
- (b) Information on the statutory guarantees to limit migration detention, to address the plight of stateless and long-term detainees and to ensure that asylum-seekers within the jurisdiction of Australia are accorded State protection (CERD/C/AUS/CO/14, para. 23; CERD/C/AUS/15-17, paras. 284-290);
- (c) Information on the processing “freeze” for asylum-seekers from Sri Lanka and Afghanistan and the measures in place to counter the detrimental impact of remote detention on asylum-seekers, given in particular the re-opening of Curtin detention centre in Western Australia (CERD/C/AUS/15-17, para. 290);
- (d) Measures taken to counter and prevent harassment, racist stereotypes and vilification, including in the mass media, of certain minority communities including African-Australians, people of Indian origin, people from non-English speaking backgrounds, international students, Arab and Muslim Australians, and in particular women. Information on actions taken to counter the biased treatment of asylum seekers by the media and society at large (CERD/C/AUS/CO/14, para. 14);
- (e) Information on the equal treatment under the law with respect to work-related rights of migrant workers and other particular groups residing in the State party.