



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

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## Committee on the Elimination of Racial Discrimination

### Ninety-fourth session

20 November-8 December 2017

Item 4 of the provisional agenda

**Consideration of reports, comments and information submitted  
by States parties under article 9 of the Convention**

## List of themes in relation to the combined eighteenth to twentieth periodic reports of Australia

### Note by the Country Rapporteur

1. The Committee on the Elimination of Racial Discrimination decided at its seventy-sixth session (see A/65/18, para. 85) that the Country Rapporteur would send to the State party concerned a short list of themes with a view to guiding and focusing the dialogue between the State party's delegation and the Committee during the consideration of the State party's report. The present document contains a list of such themes. It is not an exhaustive list; other issues may also be raised in the course of the dialogue. No written replies are required.

### **The Convention in domestic law and the institutional and policy framework for its implementation (arts. 2, 4, 6 and 7)**

2. Information on measures to: (a) consolidate anti-discrimination legislation; (b) adopt a federal human rights charter; and (c) render the provisions of the Convention justiciable in domestic courts, with examples of rights under the Convention being invoked before domestic courts or being applied by them (CERD/C/AUS/CO/15-17, para. 10; CERD/C/AUS/18-20, paras. 24-30).

3. Information on the work undertaken by the Parliamentary Joint Committee on Human Rights, in particular in relation to reviewing draft anti-discrimination bills, indicating whether its recommendations are regularly taken into account by legislators (CERD/C/AUS/18-20, paras. 28 and 103).

4. Measures to withdraw the State party's reservation to article 4 (a) of the Convention and bring its legislation, including at the state and territory levels, in compliance with article 4 of the Convention (CERD/C/AUS/CO/15-17, para. 17; CERD/C/AUS/18-20, para. 104).

5. Information on the mandate, powers and resources allocated to the Australian Human Rights Commission. Disaggregated data on complaints of racial discrimination submitted to the Race Discrimination Commissioner, including information on their outcome and on redress provided to victims (CERD/C/AUS/CO/15-17, para. 11; CERD/C/AUS/18-20, paras. 34-35).

6. Application of anti-discrimination criminal provisions by law enforcement officials. Detailed information on decisions handed down by criminal, civil and administrative courts

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concerning racial discrimination (CERD/C/AUS/CO/15-17, para. 17; CERD/C/AUS/18-20, paras. 98-103).

7. Information on cases in which corporations registered in the State party have been held accountable for breaches of the Convention, including with regard to their operations abroad and to violations of the rights of indigenous peoples, in particular (CERD/C/AUS/CO/15-17, para. 13; CERD/C/AUS/18-20, paras. 45-55).

#### **Racist hate speech and hate crimes (art. 4)**

8. Measures to investigate, deter and punish hate crimes and hate speech, against groups vulnerable to discrimination, such as asylum seekers, migrants, refugees, indigenous peoples and international students (CERD/C/AUS/CO/15-17, paras. 11-12; CERD/C/AUS/18-20, para. 107).

9. Updated information on the burden of proof requirements for victims of racial discrimination (CERD/C/AUS/CO/15-17, para. 25; CERD/C/AUS/18-20, para. 33).

#### **Situation of indigenous peoples (arts. 2-7)**

10. Information on measures taken to:

(a) Provide for the constitutional recognition of indigenous peoples (CERD/C/AUS/CO/15-17, para. 15; CERD/C/AUS/18-20, paras. 77-82);

(b) Increase native title determinations and reform the Native Title Act (1993) (CERD/C/AUS/CO/15-17, para. 18; CERD/C/AUS/18-20, paras. 113-124);

(c) Empower indigenous advisory bodies, notably the National Congress of Australia's First Peoples, and increase their funding (CERD/C/AUS/CO/15-17, para. 15; CERD/C/AUS/18-20, paras. 83-89);

(d) Seek the free, prior and informed consent of indigenous peoples in decisions that affect them;

(e) Achieve the targets under the Closing the Gap Strategy and in particular improve the health, employment and education indicators among indigenous peoples (CERD/C/AUS/CO/15-17, paras. 6 and 22; CERD/C/AUS/18-20, paras. 220-226);

(f) Review any measures, notably the mandatory income management and community development programme, under the Stronger Futures legislation (2012), which may have a discriminatory effect on indigenous peoples and minority groups (CERD/C/AUS/CO/15-17, para. 16; CERD/C/AUS/18-20, paras. 96-100);

(g) Address the persistently high rate of incarceration among indigenous peoples, including children and women; introduce alternatives to detention; and address the high percentage of indigenous children placed in alternative care (CERD/C/AUS/CO/15-17, para. 20; CERD/C/AUS/18-20, paras. 153-185);

(h) Ensure access to inclusive and quality education for indigenous children, and preserve and promote indigenous languages (CERD/C/AUS/CO/15-17, para. 21; CERD/C/AUS/18-20, paras. 203-214).

#### **Situation of migrants, asylum seekers and refugees (arts. 5 and 7)**

11. Information on measures taken to:

(a) End the State party's policy of offshore processing of asylum claims and close down the regional processing centres;

(b) Address the violations of the human rights of migrants and asylum seekers held in the regional processing centres, which have been widely publicized, including in the 2014 inquiry report of the Australian Human Rights Commission on children in immigration detention;

(c) Find alternatives to the detention of migrants and asylum seekers without a valid visa, especially those who arrive by sea;

(d) Ensure access to fair and efficient asylum procedures that afford procedural fairness and due process, including for the asylum seekers forming the so-called legacy caseload;

(e) Expand support services to asylum seekers holding temporary or bridging visas, including by increasing social security benefits and extending to them the right to family reunification (CERD/C/AUS/CO/15-17, para. 24, CERD/C/AUS/18-20, paras. 243-259).

**Situation of migrant workers (arts. 5 and 7)**

12. Information on measures taken to address the reportedly poor working conditions of migrant workers, especially those on working holiday or bridging visas, and on steps taken to hold exploitative employers accountable and provide redress to victims. Detailed information on the frequency and coverage of labour inspections, including in occupations where migrant workers are overrepresented (CERD/C/AUS/18-20, para. 287).

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