National Report of Australia - Universal Periodic Review 2021

**Annex 2**

Australia’s Voluntary Commitments – Second cycle UPR 2015 - Status of Implementation

| **No.** | **Voluntary Pledge** | **Australia’s implementation actions** |
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| **1** | The Government of Australia committed to holding a referendum to recognise Aboriginal and Torres Strait Islander people in the Australian Constitution in the next term of Parliament. The Government will undertake a national consultation process to ensure all Australians, and especially Aboriginal and Torres Strait Islander peoples, have an opportunity to engage in this important national conversation. | **Partially implemented**  The Australian Government is committed to promoting and protecting the rights of Aboriginal and Torres Strait Islander peoples, including working towards a referendum to recognise Aboriginal and Torres Strait Islander peoples in our Constitution. In order to frame proposals for constitutional change, the Australian Government initiated the Expert Panel on Constitutional Recognition (2012) and the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples (2015). In 2017, the Referendum Council held a series of First Nations dialogues, culminating in the Uluru Statement from the Heart. This process identified that Aboriginal and Torres Strait Islander priorities for recognition included a stronger voice in legislation and decision-making, truth-telling about the past and treaties.  In 2018, the Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples considered these recommendations and reported on a way forward. The Joint Select Committee acknowledged further work was needed to determine the details of an Indigenous voice to Parliament, before the Government could consider it. To progress this, the Australian Government allocated $7.3 million in 2019 for a co-design process for an Indigenous voice; as well as developing options for constitutional recognition.  The co-design process will consist of two stages: 1) the development of options for local and regional decision-making models and a national Indigenous voice; 2) consultation and engagement to refine models with Indigenous leaders, communities and other stakeholders across the country by the end of 2020. This consultation will inform further refinement of the models ahead of final recommendations to Government.  The Australian Government will hold a referendum when a consensus has been reached and it has the best chance of success. The Australian Government has not yet set a timeframe or a deadline on bringing a question for Constitutional Recognition of Indigenous Australians before the Parliament. |
| **2** | Australia committed to resettling 12,000 refugees fleeing conflict in the Syrian Arab Republic and Iraq. Australia will also provide humanitarian support to more than 240,000 Syrian and Iraqi people who have been forced to flee their homes or seek refuge in neighbouring countries. | **Implemented**  All families in the cohort have now arrived in Australia after the final visas under the additional intake were granted in March 2017. Since 2017, the Australian Government has increased the size of its Refugee and Humanitarian Program to 18,750 in 2018-19 from the previous level of 16,250 places in 2017-18. This represents Australia’s largest ongoing Humanitarian Program in over 30 years.  In 2019, Australia also provided humanitarian assistance to almost 240,000 Syrian internally displaced persons, refugees and neighbouring country host communities (under the 2017-2020 Syria humanitarian and resilience package) including those who have been forced to flee their homes or seek refuge in neighbouring countries. Longer-term resilience support for Jordan and Lebanon was also provided, focused on improving education and livelihood opportunities for refugees and their host communities. As of 2 April 2020, Australia’s three-year Iraq aid package (2017-2020) had provided over 1.4 million with increased access to safe water through our Iraq humanitarian investments, almost 930,000 people with improved protection services, 27,000 people with cash for work opportunities, strengthened 1,098 community peacebuilding and social integration networks and rendered 1,403 explosive hazards safe. |
| **3** | The Government of Australia committed to addressing the scourge of family violence. A $100 million package of measures announced on 24 September 2015 will provide a safety net for women and children at high risk of experiencing violence. The package will improve frontline support and services, leverage innovative technologies to keep women safe, and provide education resources to help change community attitudes to violence and abuse. The package includes $21 million for specific measures to help Aboriginal and Torres Strait Islander women and communities. | **Implemented**  The Australian Government’s $100 million Women’s Safety Package announced in 2015 contained a set of immediate and practical measures to help keep women safe, deliver improved frontline support and services and provide education resources to help change community attitudes towards violence and abuse. This package included $5 million for the development of respectful relationships education resources for students, educators and parents. Development of these materials is complete, however, they are yet to be released.  The Australian Government has also made a significant investment in reducing violence against women and their children, including under the Women’s Economic Security Package and the National Housing and Homelessness Agreement.  The Government continues to deliver *The National Plan to Reduce Violence against Women and their Children 2010-2022*, a 12 year strategy that brings together the efforts of all Australian governments and the community to address this national problem and make a significant and sustained reduction in violence against women and their children. The Fourth Action Plan (2019-2022) of the National Plan has a focus on primary prevention, with a specific action to promote healthy and safe relationships and build gender equitable values through initiatives for women, children and young people. This investment includes a number of measures to support Aboriginal and Torres Strait Islander communities.  The eSafety Commissioner, Australia’s national independent regulator for online safety, provides online safety advice, information, programs and guidance for all Australians, with a focus on at-risk groups and communities. One of the eSafety Commissioner’s core programs is eSafetyWomen, which provides practical tools and information to help women manage technology risks and abuse and training for frontline, specialist and support staff in the domestic and family violence sector. eSafetyWomen has developed targeted initiatives through a process of co-design with at-risk communities, including with Aboriginal and Torres Strait Islander women and elders. |
| **4** | Australia committed to improving the way the criminal justice system treats people with cognitive disability who are unfit to plead or found not guilty by reason of mental impairment. As part of this, the Government committed to a national effort to analyse existing data and develop best practice resources for our jurisdictions. | **Implemented**  Australian governments worked together through the Council of Attorneys-General to improve the way the criminal justice system treats people with cognitive disability who are unfit to plead or found not guilty by reason of mental impairment. A working group was established to collate existing data across jurisdictions and develop resources for national use on the treatment of people with cognitive disability or mental impairment who are unfit to plead or found not guilty by reason of mental impairment.  The working group developed a *National Statement of Principles Relating to Persons Unfit to Plead or Found Not Guilty by Reason of Cognitive or Mental Health Impairment* (National Principles) in 2015. The National Principles recognise the rights of persons with cognitive or mental health impairment, and seek to identify safeguards throughout legal processes and during the period in which a person is subject to orders.  All states and territories have considered the National Principles. As of August 2019 they have been endorsed by the Australian Capital Territory, Queensland, New South Wales, the Northern Territory, Western Australia, Victoria and Tasmania. States and territories will implement the National Principles in the context of their own legislation, policy and procedures. South Australia has advised that while they remain broadly supportive of the objectives of the National Principles, their foremost consideration is the protection of the community. As such, South Australia has not endorsed the National Principles.  The Australian government has committed to reviewing the National Principles in five years, in consultation with state and territory jurisdiction, to ensure they remain relevant and continue to represent best practice. |
| **5** | Australia committed to taking further steps to strengthen advocacy for the worldwide abolition of the death penalty. This will be informed by the outcomes of a recently established inquiry being undertaken by Parliament. | **Implemented**  Australia’s Parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade Human Rights Sub-Committee tabled its inquiry report, *A World Without the Death Penalty* on 5 May 2016.  In June 2018, the Government released Australia’s Strategy for the Abolition of the Death Penalty. This whole-of-government strategy, informed by the aforementioned inquiry, sets out Australia’s policy on the death penalty. The report provides guidance to Australian overseas missions on developing and implementing advocacy strategies to pursue abolition. Australia became a member of the international anti-death penalty alliance, Friends of the Protocol, in October 2018, which promotes ratification of the Second Optional Protocol of the International Covenant on Civil and Political Rights (ICCPR), and set up a consultative committee with civil society. Australia is also a full member, since November 2018, of the Support Group of the International Commission Against the Death Penalty, which supports internationally recognised Commissioners to advocate for global abolition.  Australia strongly supports multilateral resolutions on the death penalty. In September 2019, Australia co-sponsored and voted in favour of the Human Rights Council’s biennial resolution on the human rights impacts of the death penalty. Australia is also on the inter-regional taskforce that negotiates the text of the UN General Assembly biennial resolution calling for a moratorium on the use of the death penalty, which most recently passed in November/December 2018.  Australia is a member of the Human Rights Council until 2020 and in that context has highlighted Australia’s commitment to global abolition of the death penalty. |
| **6** | Australia committed to promoting and protecting the rights of older people internationally by modelling and advocating better use of existing United Nations human rights reporting mechanisms. Australia committed to including a dedicated section on the rights of “older Australians” in all relevant human rights treaty and Universal Periodic Review reports. Australia will seek to have the rights of older persons reflected in United Nations resolutions and encourage existing Special Rapporteurs to consider the application of their mandate to older persons in close collaboration with the Special Rapporteur on the enjoyment of all human rights by older persons. | **Implemented**  Commentary on the rights of older Australians can be found in section H of Australia’s UPR national report.  The Government of Australia consistently seeks to include language on the rights of older persons in human rights resolutions, as appropriate. Australia regularly engages in interactive dialogues with the Independent Expert on the enjoyment of all human rights by older persons, having done so at the 42nd session of the Human Rights Council (HRC42) in September 2019, as well as at HRC39 in September 2018. In HRC41, Australia made a panel statement on the rights of older women and their economic empowerment, and delivered a statement on the human rights of older persons.  Australia supported the adoption of a resolution of the UN General Assembly on the Follow-Up to the Second World Assembly on Ageing, on 18 December 2019, which called upon states to “promote and ensure the full realisation of all human rights and fundamental freedoms for older persons”.  Australia also engages closely with the United Nations Open Ended Working Group on Ageing. The Department of Foreign Affairs and Trade provided requested information ahead of the Working Group’s upcoming XI Session in April 2020. |
| **7** | Australia will continue taking steps to end unlawful discrimination on the grounds of sexual orientation, gender identity and intersex status. The Government committed to removing exemptions for Australian state and territory laws from the implementation of national anti-discrimination laws. This commitment will take effect from 31 July 2016. | **Implemented**  Australia continues to take steps to end unlawful discrimination on the grounds of sexual orientation, gender identity and intersex status. On 7 December 2017, the Australian Parliament passed legislation to amend the *Marriage Act 1961* (Cth) to redefine marriage as ‘the union of 2 people to the exclusion of all others, voluntarily entered into for life’. From 9 December 2017 the right to marry under Australian law is no longer determined by sex or gender. Foreign same-sex marriages are also legally recognised in Australia.  At the time, states and territories were granted temporary exemptions from complying with these protections to facilitate amendment of their laws, these exemptions ceased between July 2016 and July 2017. |
| **8** | Australia committed to supporting the protection and promotion of human rights through its foreign aid programme by promoting prosperity, reducing poverty and enhancing stability. The delegation welcomed the adoption of the 2030 Agenda for Sustainable Development and affirmed its commitment to advancing this agenda. The Government committed to applying its Development for All: 2015-2020 strategy to strengthen disability-inclusive development and its international Indigenous Peoples Strategy 2015-2019 to advance the interests of Aboriginal and Torres Strait Islander peoples in Australia and around the world. | **Implemented**  A large portion of Australia’s 2019-20 Overseas Development Assistance allocation achieves human rights objectives. The Government’s dedicated *Human Rights Fund* supports two core offices of the Office of the High Commissioner for Human Rights (OHCHR) and the Asia-Pacific Forum of National Human Rights Institutions (APF). This funding supports core, and earmarked, activities that achieve human rights objectives in the Indo-Pacific region.  Australia is actively working to implement the 2030 Agenda for Sustainable Development nationally, regionally and globally. Australia delivered its first Voluntary National Review at the UN High Level Political Forum on Sustainable Development on 17 July 2018. The Australian Government works in close partnership with civil society to advance the 2030 Agenda in Australia’s aid program; with the higher education sector through support for the Research for Development Impact Network and the Sustainable Development Solutions Network Australia/Pacific; and with business through the Global Compact Network Australia. In July 2018, the Australian Government launched its official National Reporting Platform for the Sustainable Development Goals, a publicly available website containing Australian Government data on the Indicators that support the Goals and will be used to track progress over time.  The Australian Government’s *Development for All 2015-2020: Strategy for strengthening disability-inclusive development in Australia’s aid program*, launched in May 2015, responds to the agenda set out in the Department of Foreign Affairs and Trade’s (DFAT) development policy, and aims to ensure that people with disabilities can participate in and benefit from Australia’s development and humanitarian programs on an equal basis with others. An independent review of the strategy was undertaken by the Office of Development Effectiveness and published in December 2017. The evaluation found that Australia’s international advocacy on disability inclusion is credible and effective with our advocacy helping to shape the policies and programs of bilateral, multilateral and other development agencies to deliver exponential benefits for people with disabilities beyond what Australian development cooperation can achieve. A second component of the evaluation, published in November 2018, found good progress in strengthening disability inclusion in Australian development cooperation. Work has commenced on our approach to disability inclusion beyond the conclusion of the current strategy at the end of 2020.  DFAT’s *Indigenous Peoples Strategy 2015-2019* provided a five-year framework for promoting the rights of Aboriginal and Torres Strait Islander peoples, delivering international programs that improve outcomes for indigenous peoples, and ensuring an inclusive workplace culture across the Department. A mid-term review of the Strategy was undertaken in 2018 to evaluate its overall effectiveness. The review found great diversity in the scope of the Department’s Indigenous-focused work and explored how DFAT can strengthen efforts to embed Indigenous advancement across priority areas. DFAT is in the process of developing a new strategy to replace the Indigenous Peoples Strategy 2015-19 and elevate indigenous issues across the foreign affairs and trade portfolio. |
| **9** | The Government committed to work with the Australian Human Rights Commission, to develop a public and accessible process for monitoring progress against universal periodic review recommendations. This will include a periodic statement on progress against the recommendations on behalf of the Government. Australia will also designate a standing national mechanism to strengthen its overall engagement with United Nations human rights reporting. | **Implemented**  The Australian Government worked with Australia’s National Human Rights Institution, the Australian Human Rights Commission (AHRC), to develop a website for reporting against and monitoring Universal Periodic Review (UPR) recommendations. The website was established in December 2017 and updated in August 2018 as part of Australia’s mid-term UPR report and in 2020 to support Australia’s appearance.  Australia established a Standing National Human Rights Mechanism in 2016 to strengthen its overall engagement with United Nations human rights reporting. The Standing Mechanism consists of:   * An inter-departmental committee involving Australian Government departments responsible for UN human rights reporting and domestic human rights policies and programs * The Commonwealth‐State‐Territory Standing Committee on Treaties (SCOT) which provides a network for intergovernmental engagement on UN human rights treaty reporting and other processes * An annual human rights forum to enable dialogue between the Australian Government, the AHRC, and non-government organisations, the most recent of which was held in December 2019 * Information made publicly available on Australia’s UN reporting processes, including the UPR monitoring website mentioned above. |
| **10** | The Australian Government will undertake a national consultation on the implementation of the UN Guiding Principles on Business and Human Rights during 2016. | **Implemented**  Australia has supported the UN Guiding Principles on Business and Human Rights since their inception in 2011, and continues to do so. Consultation to identify priorities and actions to implement the UN Guiding Principles on Business and Human Rights began in mid-2016. Businesses in partnership with the Global Compact Network Australia, key civil society organisations, academics and legal bodies with interests or expertise in human rights attended the roundtable convened by the AHRC and Human Rights Law Centre. Further multi-stakeholder discussions took place in October 2016. Throughout 2017, a Multi-Stakeholder Advisory Group on Implementation of the UN Guiding Principles on Business and Human Rights provided expert advice in the consultation process.  The Government is focused on key initiatives to further business and human rights in Australia and internationally. For example, Australia is focusing on the Modern Slavery Reporting Requirement; chairing the Voluntary Principles Initiative on Security and Human Rights from April 2020 to March 2021; and promoting Australian aid-for-trade investments that support Sustainable Development Goal 8 (‘Decent Work and Sustainable Economic Growth’). |
| **11** | Australia will move to withdraw its reservation to the Convention on the Elimination of Discrimination Against Women (CEDAW) relating to the exclusion of women from combat roles, including repealing the related exemption from Australian anti-discrimination legislation. | **Implemented**  The withdrawal of Australia’s reservation to CEDAW article 11(1)(b) and (c) was referred to the Australian Parliament on 20 March 2017. The Parliamentary Joint Standing Committee on Treaties supported the reservation withdrawal on 8 May 2017; an action recognised in CEDAW/C/AUS/CO/8 at para 9.  The *Civil Law and Justice Legislation Amendment Act 2018* (Cth) passed Parliament on 17 October 2018. The Act amended the Sex Discrimination Act 1984 (Cth) to remove the exemption for discrimination against women employed, engaged or appointed in Australian Defence Force positions involving combat duties.  The reservation was officially withdrawn on 14 December 2018. |