

Universal Periodic Review

Joint Australian NGO Coalition

The Hon Robert McClelland
Attorney-General
Parliament House
Canberra ACT 2600

By email

8 December 2010

Dear Attorney-General

Universal Periodic Review – Voluntary Commitments

We are writing on behalf of a large coalition of non-government organisations (**NGO Coalition**) that has been involved in preparations for the Universal Periodic Review (**UPR**) of Australia on 27 January 2011.

Australia's appearance before the Human Rights Council – the main inter-governmental human rights body of the United Nations – presents a significant opportunity to re-affirm our commitment to the protection and promotion of human rights in Australia and abroad. It is an opportunity to demonstrate international human rights leadership through constructive and principled engagement with the Council and to give concrete substance to our UN Security Council candidacy pledge to be a "principled advocate of human rights for all".

In support of its nomination for membership, Australia should also make voluntary pledges that demonstrate its commitment to uphold the highest standards in the promotion and protection of human rights.

As part of the UPR process, states are encouraged to make "voluntary commitments" or pledges to take concrete action to promote human rights. We strongly support and encourage the Australian Government to consider making a number of voluntary commitments to demonstrate Australia's commitment to the protection and promotion of human rights, as well as our support for the work and functioning of the Human Rights Council.

The NGO Coalition proposes the following voluntary commitments for consideration by the Australian Government:

General Legal Framework

1. The Australian Government commits to fully implement and adequately resource Australia's Human Rights Framework, including by:
 - (a) expediting the passage of the Human Rights (Parliamentary Scrutiny) Bill to establish a Joint Parliamentary Committee on Human Rights and enact a requirement that each

Bill introduced to Parliament be accompanied by a Statement of Compatibility with human rights;

- (b) empowering the Joint Parliamentary Committee on Human Rights to play a role in considering and monitoring the implementation of recommendations and views of UN human rights mechanisms;
 - (c) adequately funding non-government organisations to deliver human rights education, including Aboriginal and Torres Strait Islander organisations; and
 - (d) incorporating the UN Declaration on the Rights of Indigenous Peoples into Australia's Human Rights Framework.
2. The Australian Government commits to ratify the following international human rights treaties:
- (a) the Optional Protocol to the Convention Against Torture;
 - (b) the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
 - (c) the ILO Convention No. 169 on Indigenous and Tribal Peoples;
 - (d) the Convention on Migrant Workers; and
 - (e) the Convention against Enforced Disappearances.
3. The Australian Government commits to broaden and strengthen the mandate of the Australian Human Rights Commission, including by defining "human rights" in the *Australian Human Rights Commission Act 1986* (Cth) to include all international human rights treaties to which Australia is party and to adequately resource the Commission to fulfil these functions.
4. The Australian Government commits to allocate sufficient funding for full-time Race, Age, Disability and Children's Commissioners.

Equality and non-discrimination laws

5. The Australian Government commits to strengthen federal discrimination laws, including by:
- (a) ensuring comprehensive coverage, including through the recognition of new prohibited grounds of discrimination, including sexual orientation and gender identity, homelessness, socio economic status, and irrelevant criminal record;
 - (b) promoting substantive equality, providing effective remedies against systemic and intersectional discrimination; and
 - (c) implementing the remaining recommendations of the Senate Committee inquiry in 2008 into the *Sex Discrimination Act 1984* (Cth).

Aboriginal and Torres Strait Islander rights

6. The Australian Government commits to develop an implementation strategy for the UN Declaration on the Rights of Indigenous Peoples.
7. The Australian Government commits to incorporate crime and justice benchmarks and indicators into the COAG "Close the Gap" initiative to reduce incarceration rates of Aboriginal and Torres Strait Islander peoples.

8. The Australian Government commits to the implementation of all recommendations from the *Bringing Them Home Report* (1997), including the introduction of a national compensation scheme for victims of the Stolen Generations and Stolen Wages.
9. The Australian Government commits:
 - (a) within six months, to consult genuinely with Aboriginal and Torres Strait Islander peoples about the Northern Territory Emergency Response and its transition from an “emergency” intervention to a community development plan; and
 - (b) to ensure that the measures contained in the Northern Territory Emergency Response comply with both the letter and the spirit of the *Racial Discrimination Act 1975* (Cth).

Women’s rights

10. The Australian Government commits to actively and promptly implement the National Plan to Reduce Violence Against Women with proper funding and independent monitoring by civil society.
11. The Australian Government commits to amend the *Family Law Act 1975* (Cth) to better protect the safety of women and children, including to:
 - (a) expand the definition of family violence, including to recognise the impact of exposure to violence upon children;
 - (b) remove the distinction between primary and additional considerations in assessing the best interests of children or, in the alternative, safety should be the primary consideration;
 - (c) remove what are commonly known as the “friendly parent provisions”;
 - (d) remove the false allegation costs provisions;
 - (e) remove the word “equal” from “equal shared parental responsibility”; and
 - (f) implement better screening for family violence.
12. The Australian Government commits to adopt targets of at least 30% representation of women on public and private sector boards, with a view to adopting compulsory quotas if targets are not met after three years.

Immigration and asylum seekers

13. The Australian Government commits to take immediate steps to:
 - (a) repeal the provisions of the *Migration Act 1958* (Cth) relating to mandatory detention;
 - (b) ensure that asylum seekers are detained only where strictly necessary and as a last resort;
 - (c) codify in law time limitations for detention to ensure no detention beyond six months;
 - (d) close remote detention facilities; and
 - (e) implement community based alternatives to detention, particularly for families, children and other vulnerable groups.
14. The Australian Government commits to take all necessary legislative measures to ensure that the *Disability Discrimination Act 1992* (Cth) applies fully to all aspects of the *Migration Act 1958* (Cth) and related policy and practice.

People with disability

15. The Australian Government commits to enact national legislation prohibiting the use of non-therapeutic sterilisation of children, regardless of whether they have a disability, and of adults with disability in the absence of their fully informed and free consent.

Housing and homelessness

16. The Australian Government commits to providing 220,000 new affordable dwellings by 2020, which includes public housing, housing managed by not-for-profit organisations and housing provided under the National Rental Affordability Scheme.
17. The Australian Government commits to enacting national homelessness legislation which explicitly recognises the right to adequate housing. This legislation was recommended by the Special Rapporteur on Adequate Housing in 2007, in the Australian Government's White Paper on Homelessness and again by the Standing Committee on Family, Community, Housing and Youth in its report, *Housing the Homeless: Report on the Inquiry into Homelessness Legislation*.

International assistance

18. The Australian Government commits to take a human rights-based approach towards foreign development assistance as recommended by the 2010 report of the Joint Committee on Foreign Affairs, Defence and Trade.
19. The Australian Government commits to developing and announcing a timetable for increasing Australia's official development assistance to 0.7 per cent of Gross National Income, with a significant component targeted to human rights programs.

If you would like to discuss any aspects of this letter, please contact Ben Schokman at ben.schokman@hrlrc.org.au or on (03) 8636 4451.

Yours sincerely



Ben Schokman
Human Rights Law Resource Centre
ben.schokman@hrlrc.org.au
ph: + 61 3 8636 4451



Anna Cody
Kingsford Legal Centre
acody@unsw.edu.au
ph: + 61 2 9385 9566



Louise Edwards
National Association of CLCs
louise_edwards@clc.net.au
ph: + 61 2 9264 9595

Copy to: The Hon Julia Gillard MP, Prime Minister of Australia
The Hon Kevin Rudd MP, Minister for Foreign Affairs