

## **Committee against Torture**

**Forty-fifth session**

1-19 November 2010

### **List of issues prior to the submission of the fifth periodic report of Australia (CAT/C/AUS/4)\***

#### **ADVANCE UNEDITED VERSION**

#### **Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations.**

##### **Articles 1 and 4**

1. In light of the previous recommendations of the Committee (paras. 8, 18, 19)<sup>1</sup>, and with a view to ensure that torture is adequately defined and specifically criminalized at both the Federal, States and Territories levels in accordance with articles 1 and 4 of the Convention and to guarantee the effective application of the Convention throughout the jurisdiction of the State party, please provide information to the Committee on the following aspects relating to the *Crimes Legislation Amendment (Torture Prohibition and Death Penalty Abolition) Act 2010*:

(a) The rationale behind the separate inclusion of the purpose of discrimination in section 274.2(2), and not in section 274.2(1), as well as the purpose of these two distinct sections under the definition of torture (section 274.2);

(b) The intention of the State party to review section 274.3(1) according to which effective extraterritorial application of the Act is made conditional on the consent in writing of the Attorney-General to initiate proceedings for an offence under the Act.

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\* The present list of issues was adopted by the Committee at its 45<sup>th</sup> session, according to the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

<sup>1</sup> Paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee, published under symbol CAT/C/AUS/CO/3 (2008).

## Article 2<sup>2</sup>

2. In light of the previous recommendation of the Committee (para. 9), please provide information on steps taken by the State party to adopt a Human Rights Act at the Federal level in order to ensure a comprehensive constitutional protection of basic rights. In particular, what steps have been taken by the State party to consider a Federal Human Rights Act in 2014, if not earlier, in the context of review of the Human Rights Framework? Please also provide information on progress made towards the incorporation of international human rights treaties into domestic law. Further, if the *Human Rights (Parliamentary Scrutiny) Bill 2010* is retabled before Parliament, is the State party considering extending the powers of the Parliamentary Joint Committee on Human Rights, including vesting it with investigative powers and the mandate to follow-up on recommendations by United Nations human rights treaty bodies?

3. Please provide information on steps taken by the State party to ensure constitutional or other effective legal recognition and protection of the rights of Aboriginal and Torres Strait Islander peoples in a manner that would provide long-term security for their rights.

4. Please provide information to the Committee on how the State party intends to further enhance prevention of torture and other forms of cruel, inhuman and degrading treatment or punishment, in line with the State party's obligation under articles 2 and 16 of the Convention, in the context of the Human Rights Framework launched in 2010 in response to the National Human Rights Consultation.

5. In light of the previous recommendation of the Committee (para. 14), please provide information to the Committee on measures taken to ensure that the Australian Human Rights Commission (AHRC) has statutory power to effectively monitor the State party's obligations under the Convention. In particular, is the State party considering declaring the Convention under section 47 of the *Australian Human Rights Commission Act 1986 (Cth)* for the purpose of including the Convention rights in the AHRC's statutory functions under section 11 of the Act? Please also provide information on steps taken to expand the powers, functions and funding of the AHRC generally, as recommended by the Committee on the Elimination of Racial Discrimination (CERD/C/AUS/CO/15-17/CRP.1, para. 11).

6. In light of the previous recommendation of the Committee (para. 10(b)), and as also recommended by the Human Rights Committee (CCPR/C/AUS/CO/3, para. 11), please provide information on steps taken by the State party to:

(a) Make specific the definition of terrorist act in the Criminal Code Act 1995 in order to ensure that its application is limited to offences that are indisputably terrorist offences; and

(b) Review, with a view to abrogate, the powers of the Australian Security Intelligence Organization (ASIO) to detain suspects under a questioning warrant for renewable periods up to seven days without access to a lawyer due to limitations necessary

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<sup>2</sup> The issues raised under article 2 could imply also different articles of the Convention, including but not limited to article 16. As General Comment n°2, paragraph 3, states "*The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter "ill-treatment") under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. [...] In practice, the definitional threshold between ill-treatment and torture is often not clear.*" See further Chapter V of the same General Comment.

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to ensure the protection of national security and the effectiveness of the questioning warrant.

7. Please provide information to the Committee on steps taken to undertake a comprehensive review of all counter-terrorism legislation at Federal, States and Territories levels, taking into account consultations following the release of the National Security Legislation Discussion paper. In particular, please provide information on measures taken to:

(a) Ensure effective and uniform legal safeguards of access to an independent doctor, if possible of their own choice, access to an independent lawyer and the right to contact members of their families to all persons deprived of their liberty across the jurisdiction of the State party as from the outset of their deprivation of liberty;

(b) Repeal powers of the Australian Federal Police (AFP) to arrest and detain a person without a warrant for an indefinite period of time during investigation and, in this respect, establish a maximum length of pre-charge detention, as recommended by the Australian Human Rights Commission;

(c) Steps taken to appoint a National Security Legislation Monitor with broad mandate to review counter-terrorism laws and their compliance with international human rights obligations.

8. Please provide information to the Committee on steps taken by the State party to ensure, in law and in practice, independent monitoring and inspection mechanisms of places where persons are deprived of their liberty at Federal, States and Territories levels, including in offshore detention facilities. In particular, please provide information on progress towards ratification of the Optional Protocol to the Convention and on steps underway to designate an effective National Preventive Mechanism (NPM), including the holding of inclusive consultations held at the States and Territories level. What organizational structure of the NPM is the State party considering?

9. Please provide information to the Committee on measures taken to guarantee by law a maximum length of custody and pre-trial detention at Federal, States and Territories levels which is in compliance with international human rights standards. Has a statutory time period before which arrested persons must be brought before a judge been incorporated into legislation at Federal, States and Territories levels? Please also provide information to the Committee whether the State party intends to ensure that all jurisdictions in the Federation provide for an obligation of law enforcement agencies to video record interrogations of suspects, including those arrested for non-serious offences.

10. In light of the recommendation of the Committee (para. 13), and in view of the recommendations by the Special Rapporteur on the right to health pursuant to his mission to the State party (A/HRC/14/20/Add.4, paras. 7, 100), please provide information on measures underway to:

(a) Include the right of persons deprived of their liberty to have access, as from the outset of their deprivation of liberty, to an independent doctor, if possible of their own choice, in all criminal legislation at Federal, States and Territories levels; and

(b) Whether such legislation will include the establishment of a specific independent monitoring and accountability mechanism to ensure provision of health services in places of detention.

11. In light of the previous recommendation of the Committee (CAT/C/AUS/CO/3, para. 11(b)), please provide information on measures taken by the State party to enhance human rights protection of stateless persons residing in the State party, in particular by abolishing current policy and legislation according to which stateless persons can be

indefinitely held in immigration detention (*Al-Kateb v Godwin*, 2004). Please provide information to the Committee on the number of removal pending bridging visas and protection visas granted to stateless persons in immigration detention by the Minister for Immigration and Citizenship during the reporting period. Furthermore, in view of information provided by the State party in its follow-up response to the Committee, please inform it on progress made by the State party towards complying with its obligations under the Convention on the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

12. Please provide information, in view of earlier recommendations by the Committee (para. 32) and as also recommended by the Human Rights Committee (CCPR/C/AUS/CO/5, para. 22) and the Committee on Economic, Social and Cultural Rights (E/C.12/AUS/CO/4, para. 23), on effective measures taken by the State party to strengthen measures to prevent and punish trafficking of persons and ensure effective remedies to victims of trafficking. What steps have been taken by the State party to review laws on trafficking and related offences, and to ensure that the offence of trafficking includes all aspects of the definition of trafficking in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol)? Please provide statistical information on the number of complaints, investigations, and, as appropriate, prosecutions and convictions of persons involved in trafficking as well as on the number beneficiaries, disaggregated by sex and age, of redress and compensation, including for the means for full rehabilitation, for victims of trafficking.

13. In view of concerns and recommendations by United Nations human rights treaty bodies (CCPR/C/AUS/CO/5 (2009), para. 17; E/C.12/AUS/CO/4 (2009), para. 22; CEDAW/C/AUL/CO/5 (2006), paras. 18-19), please provide information to the Committee on steps taken to effectively implement and enforce laws on violence against women, particularly domestic violence and marital rape, including by enhancing the capacity of law enforcement agencies and judicial authorities to investigate, prosecute and convict offenders. Please also provide:

(a) Statistical data, disaggregated by crime, ethnicity, age and jurisdiction, on the number of complaints and investigations into allegations of all forms of violence against women, and, as appropriate, prosecutions and convictions of offenders during the reporting period;

(b) Information on measures taken to ensure access to sexual assault services for women in rural and remote areas, especially access to crisis accommodation services, in particular for Indigenous women and women with disabilities.

14. In light of concerns by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living on the disproportionately high number of homeless individuals in the criminal justice system of the State party, please provide information to the Committee on progress made towards the implementation of the recommendation of the Special Rapporteur to revise and amend laws that criminalize poverty and homelessness (A/HRC/4/18/Add.2, para. 132)..

### **Article 3**

15. In light of the previous recommendation of the Committee (para. 15), and as also recommended by the Human Rights Committee (CCPR/C/AUS/CO/5, para. 19) and the Committee on the Elimination of Racial Discrimination (CERD/C/AUS/CO/15-17/CRP.1, para. 24), please provide information on steps taken to incorporate into domestic legislation the principle of *non-refoulement* as per article 3 of the Convention into domestic legislation. In particular, please provide information on:

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(a) Steps taken to adopt a system of complementary protection by which the State party no longer solely relies on the Minister's discretionary powers to meet its *non-refoulement* obligations under the Convention;

(b) Steps taken to retable before Parliament the *Migration Amendment (Complementary Protection) Bill* and ensure that the Bill fully meets the State party's obligations under international law, in line with recommendations by the Australian Human Rights Commission.

16. With respect to the State party's obligations under article 3 of the Convention, please provide detailed information on steps taken by the State to:

(a) Abolish the non-statutory refugee status assessment process applied to arrivals at excised offshore locations by: (i) repealing provisions of the *Migration Act 1958* relating to offshore places, (ii) ensuring equal application of refugee status determination under the *Migration Act 1958*, and, (iii) if retabled before Parliament, ensuring application of *Migration Amendment (Complementary Protection) Bill*, to asylum seekers arriving in offshore places;

(b) Lift the suspension of processing visa applications from asylum seekers from Afghanistan (CERD/C/AUS/CO/15-17/CRP.1, para. 24 (b)) with a view to guarantee to all asylum seekers equal opportunity to apply for a visa;

(c) Ensure that detainees in offshore detention are provided full access to adequate legal assistance and full access to judicial review of decisions regarding refugee status.

17. Please provide data, disaggregated by age, sex and nationality, for the reporting period concerning:

(a) The number of asylum requests registered;

(b) The number of requests for protection visas that were granted;

(c) The number of *non-refoulement* cases where protection visa has been granted through exercise of the Minister for Immigration and Citizenship's discretionary powers.

18. In view of information that asylum seekers are regularly deported to countries non-signatories to the 1951 Convention and to "safe third countries" where acts of torture have been reported, noting specific cases where deportation has subsequently resulted in torture, death or suicide of the failed asylum seeker, please provide detailed information on measures taken to enhance the system of pre-removal clearance for failed asylum-seekers conducted by the Department of Immigration and Citizenship. Please inform the Committee on the number of cases during the reporting period that were referred to the Department for "further consideration" when the person "has expressed a fear that they may face persecution, torture or violation of their human rights upon return" and/or the case "indicates interest from the UNHCR, [the] Human Rights Committee or [the] Committee against Torture" (CAT/C/AUS/Q/4/Add.1/Rev.1, para. 383).

19. In light of the previous recommendation of the Committee (para. 16), please provide information on the number of cases of extradition or removal of persons subject to receipt of diplomatic assurances during the reporting period and the post-return monitoring mechanisms put in place to ensure they are effectively upheld. Please also provide information to the Committee on the number, disaggregated by age, gender and country of return, of forcible deportations or expulsions executed during the reporting period.

20. Please provide information to the Committee on how the State party, under the planned regional processing centre for asylum seekers in Timor Leste, will: (i) ensure respect for its obligations under article 3 of the Convention; (ii) equal application of refugee

status determination process under the Migration Act 1958 and (iii) legal and administrative safeguards for the protection of fundamental human rights.

21. Please provide information on the number of visa cancellations under section 501 *Migration Act 1958* during the reporting period and the number of requests, disaggregated by age, gender and nationality of applicant, of judicial review on the basis that visa cancellation decision was in breach of the State party's *non-refoulement* obligation under the Convention or would expose the person to the risk of death penalty. Please inform the Committee of the outcome of all cases of such review. Please also inform the Committee whether the State party, in view of its article 3 obligation, is considering repealing the note in Ministerial Direction No. 41 which provides that "notwithstanding international obligations, the power to grant a visa or cancel a visa must inherently remain a fundamental exercise of Australian sovereignty".

22. In light of the earlier recommendation of the Committee (para. 20), please provide information on steps taken to ensure, in law and in practice, that extradition towards a State where an individual runs substantial risks of being subjected to torture, or may face the death penalty, is refused. Please also inform the Committee about the number of refused extradition requests on the basis of article 22(3)(g) of the *Extradition Act* during the reporting period and the number of requests for judicial review of extradition decisions that would breach the State party's obligations under the Convention. In particular, please inform whether the State party intends to amend articles 22(3)(g) of the *Extradition Act* and 8(2)(e), (g) of the *Mutual Assistance in Criminal Matters Act* respectively so as to refuse extradition or mutual assistance requests if there are grounds for believing that the individual due to be extradited run the risk of being subjected to torture or other forms of cruel, inhuman or degrading treatment or punishment.

### **Articles 5, 6 and 7**

23. Since the consideration of the previous report, please indicate whether the State party has rejected, for any reason, any request for extradition by another State of an individual suspected of having committed an offence of torture, and has started prosecution proceedings as a result. If so, please provide information on the status and outcome of such proceedings.

24. Please provide detailed information on the exercise of universal jurisdiction by the State party during the reporting period for acts of torture regardless of the nationality of the victim or perpetrator or the territory in which the act of torture was committed. In particular, please provide information on cases where the State party has exercised universal jurisdiction over alleged war crimes and crimes against humanity.

### **Article 10**

25. In light of the previous recommendation of the Committee (para. 22), please provide information on measures taken by the State party to ensure awareness and application of the *Crimes Legislation Amendment (Torture Prohibition and Death Penalty Abolition) Act 2010* and the Convention, especially on the absolute prohibition of torture and the obligation of *non-refoulement*, among members of immigration detention officials (of both the Department of Immigration and Citizenship and contracted service providers), members of the Australian Federal Police, corrections personnel and members of the judiciary. Please provide information to the Committee on mandatory training programmes on the Act and international human rights obligations for these professional groups.

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26. In light of the recommendation of the Special Rapporteur on the right to health pursuant to his mission to the State party (A/HRC/14/20/Add.4, paras. 16 and 100), please provide information on steps taken to include human rights training in the educational curricula of health professionals and making it mandatory. Please also provide information on measures taken by the State party to provide training for health professionals, persons involved with detainees, and other professionals involved in the documentation and investigation of torture on the Convention and on the contents of the *Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* ("Istanbul Protocol"). Please also provide information to the Committee of the methodology adopted to assess the impact of such training.

## Article 11

27. Please provide information on any new interrogation rules, instructions, methods and practices, as well as arrangements for the custody of persons subject to any form of arrest, detention or imprisonment, that may have been introduced since the consideration of the last periodic report, and the frequency with which they are reviewed, with a view to prevent any cases of torture or ill-treatment.

28. In light of the vast overrepresentation of Indigenous men, women and juveniles deprived of their liberty in the State party, please provide information to the Committee on comprehensive programmes, with specific timelines and targets, aimed at reducing the length and rates of Indigenous incarceration, including non-custodial measures and diversion programmes, review of relevant criminal laws, assessment of sentencing policies, increased use of Indigenous courts and implementation of 'social reinvestment' strategies (A/HRC/14/20/Add.4, paras. 76, 77, CERD/C/AUS/CO/15-17/CRP.1, para. 20). Please also inform the Committee on measures taken to further incorporate Aboriginal and Torres Strait Islander customary law and other juridical systems into its criminal justice system, including community dispute resolution mechanisms (A/HRC/14, paras. 75, 105).

29. In light of the earlier recommendation of the Committee (para. 23), please provide information on measures taken to reduce overcrowding in correction facilities across the State party, in particular in Western Australia, South Australia, Victoria and New South Wales, including initiatives to expand non-custodial detention programmes and to ensure strict compliance with the bail system. Please also provide information on progress made in Queensland to amend the *Powers and Responsibilities Act 2000* and the Queensland Police Service's operational procedures manual to reinforce the principle of arrest as a last resort (CAT/C/AUS/Q/4/Add.1/Rev.1, para. 646 (a)). Have such initiative, if successful, been replicated in other States and Territories?

30. In light of the previous recommendation of the Committee (para. 23), please provide information on steps undertaken to abolish, in law and in practice, mandatory sentencing in Western Australia and the Northern Territory, especially in view of its disproportionate impact on the Indigenous population.

31. Please provide information on measures taken by the State party to address the situation of overrepresentation of individuals suffering from mental illness in prisons. Do such measures include increased resource allocation for diagnosis, treatment and prevention of mental illnesses within prisons and a strengthening of community-based treatment-options, as recommended by the Special Rapporteur on the right to health (A/HRC/14/20/Add.4, paras. 69-71, 100)? Please provide specific information on the State party's response to mental illness among Indigenous prison population and those in immigration detention centres. In this regard, please also provide information to the Committee on measures to address the lack of specialist mental health and psychiatric services on Christmas Island.

32. In light of the previous recommendation of the Committee (para. 26), and as recommended by the Australian Human Rights Commission, please provide information on measures taken to codify minimum standards, based on international human rights obligations, for the conditions and treatment of persons in immigration detention.

33. Please provide information, in light of concerns and recommendations of the Special Rapporteur on the right to health (A/HRC/14/20/Add.4, paras. 68, 100), on steps taken to review the system of private health services in prisons according to which prisoners are denied access to Medicare or the Pharmaceutical Benefits Scheme and to renew assessment of, and investment in, primary health care throughout the prison system.

34. Please provide information on the outcome of the inquiry into the transportation of detainees launched by Western Australia Parliament in March 2010 following the death of Mr. Ian Ward and measures taken to ensure that transportation of prisoners and detainees in all jurisdictions of the State party comply with international human rights standards relating to the treatment and custody of persons deprived of their liberty.

### **Articles 12, 13 and 14**

35. In light of its previous recommendations (para. 27), and as also recommended by the Human Rights Committee (CCPR/C/AUS/CO/5, para. 21(a)), and in view of information on deaths in or immediately after police custody, please provide the Committee with information on steps taken to establish a mechanism to provide independent investigation into complaints concerning ill-treatment and excessive use of force by law enforcement officials in all jurisdictions of the State party. In this regard, please also provide information on, inter alia, whether Victoria State has established a human rights complaints mechanism to investigate deaths associated with police contact.

36. In light of the previous recommendation of the Committee (para. 27), and as recommended by the Human Rights Committee (CCPR/C/AUS/CO/5, para. 21), please provide statistical data, disaggregated by crime committed and by age, sex and ethnicity, on complaints relating to torture and ill-treatment, including excessive use of force, allegedly committed by law enforcement officials. Please provide information on related investigations, prosecutions, convictions and on the penal or disciplinary sanctions applied and on redress and compensation, including for the means for full rehabilitation, provided to victims and/or members of their families.

37. In view of concerns and recommendations by the Committee on the Elimination of Racial Discrimination (CERD/C/AUS/CO/15-17/CRP.1, paras. 19-20) and by the Human Rights Committee (CCPR/C/AUS/CO/5, paras. 13, 24) on limited access to justice of the Indigenous population, please provide information on steps taken by the State party to strengthen funding of the Aboriginal legal aid. Have clear funding responsibilities between the Federal and State Governments in Australia been established in this regard? Please also indicate steps taken by the State party to strengthen availability and accessibility of culturally-appropriate legal aid and justice services, including interpretation and translation services, adapted especially for Indigenous women in remote areas.

### **Article 15**

38. According to section 138 of the *Evidence Act*, evidence obtained improperly or in contravention of an Australian law “is not to be admitted unless the desirability of admitting the evidence outweighs the undesirability of admitting evidence that has been obtained in the way in which the evidence was obtained”. In light of the previous recommendation of the Committee (para. 30), and considering that the *Crimes Legislation*

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*Amendment (Torture Prohibition and Death Penalty Abolition) Act 2010* does not incorporate article 15 of the Convention, please provide information on measures taken by the State party to ensure uniform and precise legislation at Federal, State and Territories level that evidence obtained through torture is inadmissible and prohibited in any proceedings.

## **Article 16**

39. In light of the previous recommendation of the Committee (para. 11), and as also recommended by other United Nations human rights treaty bodies (E/C.12/AUS/CO/4, para. 25; CCPR/C/AUS/CO/5, para. 23; CERD/C/AUS/CO/15-17/CRP.1, para. 24(a), the Special Rapporteur on the right to health (A/HRC/14/20/Add.4, para. 100) and the Australian Human Rights Commission, please provide information on steps taken by the State party to abolish its mandatory detention system for irregular migrants (“unauthorized arrivals” and “unlawful non-citizens”). In this respect, please provide information on progress to retable before Parliament the *Migration Amendment (Immigration Detention Reform) Bill* and on measures taken to ensure that the Act, as adopted, will provide adequate legal safeguards, in particular the right to prompt judicial review of detention orders and of decisions to continue detention, and that the Act will apply to both onshore and offshore detention locations.

40. In light of the earlier recommendation of the Committee (para. 12), and as also recommended by the Human Rights Committee (CCPR/C/AUS/CO/5, para. 23), the Special Rapporteur on the right to health (A/HRC/14/20/Add.4, para. 100) and the Australian Human Rights Commission, please provide detailed information on steps taken to:

(a) End the use of excised offshore places, including closure of the detention centre at Christmas Island, and by repealing the *2001 Migration Amendment (Excision from Migration Zone) Act*;

(b) Repeal section 494AA of the *Migration Act* which bars legal proceedings against the lawfulness of the detention of offshore entry person and amend the Act to ensure that decisions to detain, or continue to detain a person, is subject to prompt review by a court.

41. In light of information on excessive, prolonged and indefinite periods of immigration detention, please provide comprehensive information on legislative, administrative and other measures to ensure effective implementation, in both onshore and offshore immigration detention centres (IDCs), of the key value under the ‘New Directions in Detention’ policy that “detention in [IDCs] is only to be used as a last resort and for the shortest practicable time as possible”. In particular, in light of information on conditions in Darwin, Curtin and Christmas Island immigration detention facilities, please provide information on steps taken to:

(a) Guarantee by law a maximum length of immigration detention;

(b) Ensure prompt access to independent and regular monitoring of all immigration detention facilities;

(c) Ensure prompt access to health care, including adequate mental health care services;

(d) Ensure adequate detention conditions, in light of reports on overcrowding.

42. In light of information provided by the State party in its follow-up response of 2009 to the Committee’s previous concluding observations, please provide information on

progress of visa options to ensure that “unlawful non-citizens” can lawfully resolve their immigration status in the community rather than in immigration detention. Please also provide information on measures adopted to ensure how the planned “risk-based method for determining placements for people in immigration detention” will comply with the State party’s international human rights obligations.

43. In light of the earlier recommendations of the Human Rights Committee (CCPR/C/AUS/CO/5, para. 24) and of the Committee on the Rights of the Child (CRC/C/15/Add.268, para. 5), and as recommended by the Australian Human Rights Commission (AHRC), please provide information on steps taken by the State party to ensure that children are not held in immigration detention facilities, especially in offshore detention facilities. In particular, please provide information on steps taken to implement the recommendations issued by the AHRC in 2009 relating to children held in closed immigration detention facilities on Christmas Island, including: (i) legal safeguards for periodic judicial review by independent court or tribunal on the detention of a child; (ii) clarification on which authority holds responsibility for the protection of their rights; and (iii) the appointment of independent guardians for unaccompanied children.

44. In light of the recommendation of the Human Rights Committee (CCPR/C/AUS/CO/5, para. 21), and in light of fatal incidents (Brandon incident and Rubuntja case) involving the use of Taser devices by law enforcement officials, please inform the Committee on steps taken by the State party to consider relinquishing the use of Taser devices. In light of information on increased discretionary powers of law enforcement agencies in State, Territory and local laws, please also inform the Committee on general measures to ensure that statutes, police operational procedures and manuals on the use of force are brought in line with United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and that law enforcement officers receive training on the same.

45. Please provide information on measures adopted by the State party to enhance the rights and protection of children in conflict with the law in places of detention and prisons, in light of earlier recommendations by the Committee on the Rights of the Child (CRC/C/15/Add.268, para. 74(a), (b), (c) (f), (g)) In particular, please provide information to the Committee on:

(a) Measures taken to consider raising the minimum age of criminal responsibility from 10 years to an internationally acceptable level;

(b) Steps taken to reverse the increase in number, and length of stay, of juveniles in detention, both sentenced juveniles and juveniles on remand;

(c) Measures taken to ensure that all juvenile justice legislation in the State party applies to persons under the age of 18 with a view to ensuring that persons under 18 who are in conflict with the law are only deprived of liberty as a last resort and tried and detained separately from adults and the intention of the State party to withdraw its reservation to article 37(c) of the Convention on the Rights of the Child;

(d) Statistical information on the number, disaggregated by age, ethnicity and sex, of juveniles convicted and sentenced pursuant to mandatory sentencing legislation during the reporting period.

## **Other issues**

46. Please provide updated information on measures taken by the State party to respond to any threats of terrorism and please describe if, and how, these anti-terrorism measures have affected human rights safeguards in law and practice and how it has ensured that those

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measures comply with all its obligations under international law, especially the Convention, in accordance with relevant Security Council resolutions, in particular resolution 1624 (2005). Please describe the relevant training given to law enforcement officers; the number and types of persons convicted under such legislation; the legal safeguards and remedies available to persons subjected to anti-terrorist measures in law and in practice; whether there are complaints of non-observance of international standards; and the outcome of these complaints.

**General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention**

47. Please provide detailed information on the relevant new developments in the legal and institutional framework within which human rights are promoted and protected at the national level, that have occurred since the consideration of the previous report, including any relevant judicial judgments.

48. Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level, that have occurred since the consideration of the third periodic report, including on any national human rights plans or programmes, and the resources allocated to it, its means, objectives and results.

49. Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of third periodic report in 2008, including the necessary statistical data.

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