

## ADVANCE QUESTIONS TO AUSTRALIA

### **CZECH REPUBLIC**

- Since 1990, the UN Human Rights Committee (UNHRC) has found that in 17 cases (out of 50) Australia violated the ICCPR rights. Several cases concerned the immigration law. The UNHRC stated that the mandatory immigration detention might be considered as arbitrary detention even though authorized by law; it might be considered still as arbitrary if it is inappropriate, unjust, unnecessary or disproportionate to the end sought – even if entry into Australia was unauthorized. How has the Government of Australia implemented UNHRC conclusion? The UNHRC further observed that review of the lawfulness of detention has to include consideration of the human rights listed in the ICCPR. Does court's review on the lawfulness of detention in Australia include a consideration of the human rights listed in the ICCPR?
- While we note that various Anti-discrimination Acts have been in force at federal level, we would like to know how the equal treatment, especially of vulnerable groups, including persons with disabilities, LGBT and national minorities, is guaranteed at local level?
- According to statistics, 29 per cent of young Aborigines are not “earning or learning”, compared with 9 per cent of non- Aborigines. In some areas, up to 70 per cent of indigenous students regularly do not attend school. Indigenous unemployment is three times higher than the non-indigenous rate. What steps has the Government of Australia taken to address the indigenous disadvantage? Could you elaborate further, what measures has been taken to reduce overrepresentation of Aboriginal and Torres Strait Islanders peoples within criminal justice system and to reduce high imprisonment rates of these peoples?
- How does the Government of Australia comply with its international obligations arising from the Convention on the Rights of Persons with Disabilities to which Australia is a state party, concerning the equal treatment of persons with disabilities? Does the Government of Australia consider reviewing strict health criteria required for granting a visa in order to ensure a full and equal enjoyment of the rights of persons with disabilities?

### **DENMARK**

- How does Australia intend to comply with the Concluding Observations of both the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination Against Women concerning the non-therapeutic sterilisation of people with disabilities, particularly girls and women?
- What measures will Australia take to ensure that the Northern Territory Emergency Response (NTER) is conducted in a manner fully consistent with

Australia's human rights obligations and to fully reinstate the Racial Discrimination Act?

- Please provide information on the steps taken at the Federal, States and Territorial levels to prepare for ratification and implementation of the Optional Protocol to the Convention against Torture (OPCAT). When does Australia intend to ratify OPCAT?
- Which steps will Australia take to secure that its counter-terrorism measures are consistent with Australia's international human rights obligations and do not infringe upon fundamental rights and freedoms?

## **NETHERLANDS**

- **Legal framework**

With respect to the concerns of five treaty bodies and four Special Rapporteurs, reiterated in paragraph 3 of the OHCHR compilation, about an inadequate incorporation of human rights treaties in the Australian legal framework, how does Australia ensure that its international treaty obligations are adequately incorporated into its domestic legal system?

- **International Treaties**

In light of the remarks in paragraph 146 and part V.B of the national report about the intended ratification of the Optional Protocol to the CAT, and in reference to the invitations reiterated in paragraph 1 of the OHCHR compilation to ratify a number of international treaties, could the Government indicate when it expects to ratify OPCAT and whether it is considering to sign and ratify OP ICESCR and ILO Convention 169?

- **Equality and non-discrimination**

With reference to the current harmonisation and consolidation process of the Commonwealth anti-discrimination laws described in paragraph 52 of the national report, will this consolidated Act incorporate all rights to equality and non-discrimination as contained in international human rights law?

- **Non-discrimination based on sexual orientation**

In light of the intentions, described in part III.B5 of the national report, concerning the rights of same-sex couples and the prevention of discrimination on the basis of sexual orientation and gender identity, what specific measures will the Government take to ensure equality before the law of all its citizens regardless of sexual orientation, and will this include allowing same-sex partners to marry and recognise same-sex marriages from overseas, as well as ensuring equal rights for same-sex partners seeking to become parents, or who are currently parenting?

- **Indigenous peoples and the rights of women and children**

Concerning the measures detailed in part III.B1 of the national report to improve the rights of indigenous peoples, and with reference to the concerns expressed in paragraphs 17, 18 and 19 of the OHCHR compilation on the situation of indigenous peoples, what progress has Australia made to reduce high incidences of violence and

abuse, improve health standards and life expectancy, and provide adequate education in relation to indigenous peoples, particularly women and children?

- **Detention of Asylum Seekers**

Noting paragraphs 133 to 140 of the national report which outline the immigration policy of Australia, and with reference to the concerns expressed in paragraphs 48 and 49 of the OHCHR compilation and paragraphs 61 and 62 of the stakeholder report about the mandatory detention of asylum seekers, and particularly of children and vulnerable families, what concrete measures is Australia taking to minimise the use of immigration detention and to ensure children are no longer detained?

- **Counter-Terrorism**

With reference to the concerns raised in paragraph 51 of the OHCHR compilation and paragraph 66 of the stakeholder report regarding the compatibility of Australian counter-terrorism legislation with human rights standards, and in particular concerns about the broad definition of terrorist offences, the detention of terrorism suspects before a formal charge or conviction and broad powers of Australian Security Intelligence Organisation to detain and question people, to what extent do recent changes to Australian counter-terrorism legislation, as mentioned in paragraphs 112 to 115 of the national report, address these concerns?

## **SWEDEN**

- Sweden would like to ask the Government of Australia to kindly elaborate on what actions are taken to combat discrimination, especially with regard to racial discrimination against persons belonging to indigenous communities?
- Sweden would like to ask the Government of Australia to elaborate on the status of refugees and asylum seekers, and on measures the Government is taking, in accordance with its international obligations, to reinforce existing legislation on the rights of refugees and asylum seekers?
- What is the Government's assessment of the situation for these people in view of your proposal to establish processing centers in other countries?

## **SWITZERLAND**

- **Women's rights**

What strategies have been and will be put in place to ensure that particular human rights issues such as domestic violence that affect vulnerable women groups such as rural women or women from culturally and linguistically diverse backgrounds are addressed?

- **Sexual and gender identity**

Which measures Australia has taken to ensure that all citizens live free from discrimination regardless of their sexual orientation or gender identity?

- **Refugees**

What concrete legislative and other measures is Australia taking to ensure that immigration detention is only rarely used and for the shortest period necessary?

- **Counter-terrorism**

According to the national report, the Australian Parliament established an Independent National Security Legislation Monitor in March 2010, which is notably tasked to assist ensuring that national laws conform to Australia's obligations under international law. What has been the contribution of the Monitor in ensuring that Australia's legislation conforms to international human rights law?

## **UNITED KINGDOM**

- Following the establishment of the National Congress of Australia's First People, what practical steps does Australia plan to take to ensure that the indigenous people of Australia have access to the same health services, education and to employment opportunities that non-indigenous Australians currently have? Does the Government have specific targets and a guided timeline to achieve their outlined goals?
- What action has Australia taken to address the discriminatory aspects of the Native Title system to ensure recognition, protection and enjoyment of the rights of Aboriginal and Torres Strait Islander Peoples to access and control traditional lands and take part in cultural life?
- Could you explain why Australia has placed a reservation on Article 4 (a) of the International Convention on the Elimination of All Forms of Racial Discrimination, which requires States Parties to "declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof"?
- Following the appointment of an Age Discrimination Commissioner, what plans does Australia have to appoint a commissioner dedicated exclusively to the rights of children within its NHRI?
- What steps is Australia taking to respond to the Concluding Observations of both the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination Against Women in relation to non-therapeutic sterilisation of people with disability, particularly girls and women with disability?
- How do you envisage Australia's Human Rights Framework will work without a legal basis upon which to start, such as a Federal Bill of Human Rights enshrined either within the Framework or within the Australian Constitution?

- Does the Australian Government plan to undertake a review of the country's Constitution and amend the issue of discrimination as implied by Sections 25 and 51 (xxiv)?
- What measures has the government taken to ensure consistency and equality across the individual States in recognising same-sex relationships?