

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 19 OF THE CONVENTION**

**Concluding observations of the Committee against Torture**  
*(Extracts for follow-up of CAT/C/AUS/CO/6)*

**AUSTRALIA**

(...)

**C. Principal subjects of concern and recommendations**

(...)

**Mandatory immigration detention, including children**

(...)

**28. The State party should take the necessary measures to:**

(a) **Repeal the legal provisions establishing the mandatory detention of persons entering its territory irregularly;**

(b) **Ensure that detention is only applied as a last resort, when determined to be strictly necessary and proportionate in the light of the individual's circumstances, and for as short a period as possible;**

(c) **Establish statutory time limits for immigration detention and ensure access to an effective judicial remedy to review the necessity of the detention;**

(d) **Ensure that children and families with children are not detained solely because of their immigration status;**

(e) **Intensify its efforts to expand the use of alternatives to closed immigration detention;**

(f) **Guarantee that refugees with adverse security or character assessments and stateless persons whose asylum claims were refused are not held in detention indefinitely, including by resorting to non-custodial measures and alternatives to closed immigration detention and by providing for a meaningful right to appeal against such indefinite detention;**

(g) **Improve the conditions of detention in immigration facilities, including by guaranteeing access to adequate social, education, mental and physical health services, refraining from applying force or physical restraint against migrants, refugees and asylum-seekers and ensuring that all allegations of excessive use of force against them are promptly investigated, that**

**perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims are offered reparation;**

**(h) Ensure that individuals held in immigration detention can bring complaints to an effective, independent, confidential and accessible oversight mechanism.**

**(...)**

**Conditions of detention**

**(...)**

**32. The State party should:**

**(a) Continue its efforts to improve conditions of detention in all places of deprivation of liberty and alleviate the overcrowding of penitentiary institutions and other detention facilities, including through the application of non-custodial measures. In this regard, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the Tokyo Rules and the Bangkok Rules;**

**(b) Urgently adopt practical measures to remedy the lack of recreational and educational activities to foster rehabilitation of detainees;**

**(c) Improve the provision of gender- and age-specific medical services to all persons deprived of their liberty, particularly those with intellectual or psychosocial disabilities;**

**(d) Increase the number of trained and qualified prison staff, including medical staff, and strengthen the monitoring and management of inter-prisoner violence;**

**(e) Ensure that means of restraint are used only as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail to satisfactorily contain the risk;**

**(f) Ensure that strip-searches of persons deprived of their liberty are not performed routinely and are conducted in private and in a manner that respects the inmate's dignity by appropriately trained staff members of the same sex as the inmate. Search and admission procedures for visitors should not be degrading and should be subject, at a minimum, to the same rules as those applied to inmates;**

**(g) Ensure that solitary confinement, in both federal and state and territory correctional facilities, is used only in exceptional cases as a last resort, for as short a time as possible (but no more than 15 consecutive days) and subject to independent review, and only pursuant to authorization by a competent authority. The Committee wishes to draw the State party's attention to the fact that solitary confinement should be prohibited in the case of prisoners with intellectual or psychosocial or physical disabilities when their conditions would be exacerbated by such measures.**

(...)

### **Juvenile justice**

(...)

**38. The State party should bring its child justice system fully into line with the Convention and:**

**(a) Raise the minimum age of criminal responsibility, in accordance with international standards;**

**(b) Take all necessary measures to reduce the incarceration rate of indigenous children and ensure that children with disabilities are not detained indefinitely without conviction and that their detention undergoes regular judicial review;**

**(c) Explicitly prohibit force, including physical restraints, as a means of coercion or disciplining children under supervision, promptly investigate all cases of abuse and ill-treatment of children in detention and adequately sanction the perpetrators;**

**(d) Immediately end the practice of solitary confinement for children across all jurisdictions;**

**(e) Actively promote non-judicial measures, such as diversion, mediation and counselling, for children accused of criminal offences and, wherever possible, the use of non-custodial sentences such as probation or community service;**

**(f) Ensure, in cases in which detention is unavoidable, that children are detained in separate facilities and, for pretrial detention, to ensure that detention is regularly and judicially reviewed;**

**(g) Provide children in conflict with the law with information about their rights, ensure that they have access to effective, independent, confidential and accessible complaint mechanisms and protect complainants from any risk of reprisals.**

(...)

### **Follow-up procedure**

**53. The Committee requests the State party to provide, by 25 November 2023, information on follow-up to the Committee's recommendations on mandatory immigration detention, including of children; conditions of detention; and juvenile justice (see paras. 28, 32 and 38 above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the present concluding observations.**

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