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## Committee on Economic, Social and Cultural Rights

Sixty-first session

29 May-23 June 2017

Item 6 (a) of the provisional agenda

**Consideration of reports: reports submitted by States parties  
in accordance with articles 16 and 17 of the Covenant**

### **List of issues in relation to the fifth periodic report of Australia**

**Addendum**

### **Replies of Australia to the list of issues\***

[Date received: 10 March 2017]

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\* The present document is being issued without formal editing.

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## **I. General information**

**1. Please indicate if and when the State party intends to introduce an overarching human rights act, which includes the protection and justiciability of economic, social and cultural rights, across all state and territory jurisdictions.**

1. The Australian Government considers that existing mechanisms provide for the protection and promotion of human rights.

2. The Queensland Government has committed to introducing a human rights act, modelled on the Victorian Charter of Human Rights and Responsibilities Act 2006. The Australian Capital Territory amended the Human Rights Act 2004 (ACT) in 2012 to include a right to education. The Act was amended again in 2016 to extend the right to education so that it is enforceable through an obligation on public authorities, and to include new protections for the distinct cultural rights of Indigenous Australians.

**2. Please provide examples of the work undertaken by the Parliamentary Joint Committee on Human Rights indicating whether its recommendations are regularly taken into account by legislators. Please provide updated information on the implementation and impact of the Human Rights Action Plan, 2012.**

3. The Parliamentary Joint Committee on Human Rights (PJCHR) examines bills and legislative instruments for compatibility with Australia's international human rights obligations and reports to the Parliament on its findings. Ministers regularly engage with, and provide further information to, the PJCHR. The PJCHR's work is considered in developing and refining legislation. For example, in 2015 the PJCHR raised concerns about the Norfolk Island Legislation Amendment Bill 2015. As a result, the Australian Government amended the legislation to ensure it did not limit the right to equality and non-discrimination and the right to social security for New Zealand citizens who were Australian permanent residents on Norfolk Island.

4. The Human Rights Action Plan 2012 was the policy of the former Australian Government.

**3. Please provide information on measures taken to reinforce the mandate of the Australian Human Rights Commission so as to cover all the Covenant rights, and to increase its resources. Please also indicate how the State party has acted upon recommendations put forward by the Commission.**

5. The Australian Human Rights Commission (AHRC) has statutory functions relating to the protection and promotion of human rights in Australia. Under the Australian Human Rights Commission Act 1986 (Cth) (AHRC Act), 'human rights' are defined by reference to rights and freedoms recognised in the International Covenant on Civil and Political Rights, and other international human rights instruments. The statutory definition does not include the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Australian Government does not intend to expand the AHRC's legislative mandate to require consideration of ICESCR. However, under the AHRC Act, both the Aboriginal and Torres Strait Islander Social Justice Commissioner and the National Children's Commissioner must have regard to ICESCR when performing their functions.

6. The challenging fiscal environment requires savings from all government agencies. As with most other agencies, the prospect of increased resources for the AHRC is low. The Australian Government is confident that the AHRC is appropriately resourced to undertake its independent functions.

7. The Australian Government considers all recommendations made by the AHRC. For example, in 2013, the Australian Government issued guidelines in response to recommendations made by the AHRC in their report entitled, Sex files: The legal recognition of sex in documents and government records. The guidelines provide a consistent sex and gender classification system for Australian Government records and a

consistent standard of evidence for people to change their gender or establish sex on personal records.

8. The Australian Government recognises the expertise of the AHRC and, in certain circumstances, will ask the AHRC to inquire into matters of national importance. For example, in March 2015, the Attorney-General requested that the AHRC undertake a national inquiry into employment discrimination against older Australians and Australians with disability. The Australian Government is currently considering the recommendations made by the AHRC in its report, *Willing to Work*.<sup>1</sup>

## II. Issues relating to general provisions of the Covenant (arts. 1-5)

### Article 1 (2) — Right to freely dispose of natural wealth and resources

4. **Please provide information on the results of the inquiry launched late 2013 by the Australian Law Reform Commission on the effectiveness of the Native Title Act, as well as on the outcomes of the investigation into indigenous land administration and land use launched by Council of Australian Governments in 2014. Please also describe measures taken to ensure prior, free and informed consent of those concerned in relation to their right to freely dispose of natural wealth and resources.**

9. The Australian Law Reform Commission (ALRC) released the *Connection to Country: Review of the Native Title Act 1993 (Cth) (ALRC Review)* on 4 June 2015. It made 30 recommendations, most of which were aimed at improving connection requirements and authorisation processes, and clarifying the content of native title rights.

10. The Report to the Council of Australian Governments on the Investigation into Indigenous Land Administration and Use (COAG Report) was delivered in December 2015. It took into consideration the ALRC recommendations, and the Australian Government's commitment to consult on options to use exclusive native title rights for commercial purposes, made in the *Our North, Our Future: White Paper on Developing Northern Australia* (June 2015).

11. The Australian Government is currently working to implement some of the recommendations of the ALRC Review and COAG Report, including through legislative amendment. The recommendations not being implemented immediately will be the subject of further consideration and, in some cases, consultation.

12. Consistent with the recommendations of the COAG Report, the AHRC is facilitating the Indigenous Property Rights Project. The Project is consulting with Indigenous and non-Indigenous stakeholders to formulate legal and policy reform options to improve native title holders' economic development opportunities. Further consultation is planned for 2017.

13. The Australian courts have recognised the existence of native title rights to take and use resources for any purpose, including commercial purposes. Recognition of such rights will depend on the traditional laws and customs of each claim group.

14. The Native Title Act 1993 (Cth) requires proponents of acts affecting native title rights and interests, to negotiate with, or notify, native title holders before the acts can be carried out. In some circumstances, native title holders are entitled to compensation for acts affecting their native title.

<sup>1</sup> <https://www.humanrights.gov.au/our-work/disability-rights/projects/willing-work-national-inquiry-employment-discrimination-against>.

## **Article 2 (1) — Obligation to take steps to the maximum of available resources**

### **5. Please provide information on the measures taken to ensure that companies based, or with headquarters, in the State party, respect economic, social and cultural rights throughout their operations, including when operating abroad.**

15. While Australia notes that the Guiding Principles state that ‘States are not generally required under international human rights law to regulate the extraterritorial activities of businesses domiciled in their territory and/or jurisdiction’; the Australian Government is currently undertaking a national consultation on the implementation of the UN Guiding Principles on Business and Human Rights. Initial consultations were held with business and civil society in mid-2016.

16. In October 2016, the AHRC and the UN Global Compact Network Australia convened the third Australian Dialogue on Business and Human Rights, which included a Government-led session on implementation of the Guiding Principles. The Australian Government is currently establishing a multi-stakeholder advisory group, and is undertaking a stocktake of Australian laws, policies, and business practices relevant to the Guiding Principles.

17. In addition, the Australian Government encourages and equips Australian businesses to take action against possible exploitation in their supply chains and to ensure Australia continues to support efforts to combat human trafficking and slavery in our region.

### **6. Please provide information on measures taken to consult relevant stakeholders, including affected populations, in the elaboration, negotiation and ratification of trade agreements, such as the Trans-Pacific Partnership Agreement, to ensure the protection of economic, social and cultural rights and compliance with international human rights obligations.**

18. The Australian Government undertakes extensive stakeholder engagement to inform whether to enter negotiations, to determine negotiating priorities, and to develop approaches to work programs under existing agreements. Consultations occur before and during negotiation, as well as during implementation of free trade agreements.

19. In relation to the negotiation of the Trans-Pacific Partnership (TPP) Agreement, the Australian Government consulted extensively with a wide range of stakeholders, including representatives from peak industry bodies, individual companies, academics, unions, consumer groups, special interest groups and other organisations representing civil society.

20. Consistent with Australia’s long-standing treaty-making process, the TPP has been tabled in Parliament and an inquiry has been completed by the Parliamentary Joint Standing Committee on Treaties (JSCOT). The JSCOT undertook five public hearings and received over 200 submissions from various stakeholders. In its report, released on 30 November 2016, JSCOT recommended that Australia ratify the TPP. The Australian Government is preparing its response to this JSCOT report. Further to this, any implementing legislation for the TPP will be examined for compatibility with human rights by the PJCHR.

## **Article 2, paragraph 2 — Non-discrimination**

### **7. Please provide information on progress in achieving the Closing the Gap Strategy with a view to improving life expectancy, health, education and employment indicators of indigenous peoples. Please also provide more information on the implementation of the Indigenous Advancement Strategy.**

21. The Closing the Gap targets are a shared priority for all Australian governments. At the December 2016 Council of Australian Governments (COAG) meeting, leaders committed to work together and with Indigenous leaders, organisations and communities to refresh the agenda with renewed emphasis on collaborative effort, evaluation and building on what works in each jurisdiction.

22. The Prime Minister's 2017 Closing the Gap Report showed that the target to halve the gap in child mortality by 2018 is not on track. Over the longer-term (1998 to 2015), the Indigenous child mortality rate declined by 33%. The child mortality gap narrowed (by 31%) over the same period. Continued improvements in key factors that influence the health of Indigenous children, such as access to antenatal care and rates of smoking during pregnancy, have the potential to support the achievement of this target by 2018.

23. The target to close the gap in life expectancy by 2031 is not on track based on data since the 2006 baseline. Over the longer term, the total Indigenous mortality rate declined by 15% between 1998 and 2015, with the largest decline from circulatory disease (the leading cause of Indigenous deaths). However, the Indigenous mortality rate from cancer (the second leading cause of death) is rising and the gap is widening. Recent declines in smoking rates will lead to improvements in health outcomes into the future. There has been a 9 percentage point decline in Indigenous smoking rates for those aged 15 years and over between 2002 and 2014-2015.

24. The renewed target of 95% of all Indigenous four-year-olds enrolled in early childhood education by 2025 includes new baseline data from 2015 and cannot yet be assessed. However the data shows that in 2015, 87% of all Indigenous children were enrolled in early childhood education the year before full-time school, compared with 98% of their non-Indigenous counterparts. South Australia, Western Australia and the Australian Capital Territory are showing 100% enrolment rates for both Indigenous and non-Indigenous children.

25. The new target to close the gap in school attendance by the end of 2018 is not on track. The attendance rate for Indigenous students in 2016 was 83.4%, similar to 2014 (83.5%). The attendance rate for non-Indigenous students remained steady at 93.1%.

26. The target to halve the gap in reading and numeracy for Indigenous students by 2018 is not on track. The latest data shows of the eight areas measured (reading and numeracy for Years 3, 5, 7 and 9), only one (Year 9 numeracy) is on track. That being said, half of the eight areas showed statistically significant improvements in the proportion of Indigenous students at or above the national minimum standard between 2008 and 2016. The four areas with significant improvement were Year 3 and 5 reading, and Years 5 and 9 numeracy.

27. The target to halve the gap in Year 12 attainment by 2020 is on track. Nationally the proportion of Indigenous 20-24 year olds who had achieved Year 12 or equivalent increased from 45.4% in 2008 to 61.5% in 2014-2015. Over the same period, the rates for non-Indigenous attainment did not change significantly.

28. The target to halve the gap in employment by 2018 is not on track. While there has been an increase in the Indigenous employment rate since 1994, there has been a decline since 2008. In 2014-2015, the Indigenous employment rate was 48.4%, compared with 72.6% for non-Indigenous Australians. Geography is an important factor in Indigenous employment — in 2014-2015, only 35.1% of Indigenous people of working age in very remote areas were employed, compared with 57.5% of those living in major cities.

29. The Indigenous Advancement Strategy<sup>2</sup> (IAS) commenced on 1 July 2014. The Australian Government confirmed its \$4.9 billion investment over the four years to 2018-2019 under the IAS in its 2015-2016 Budget. More than 150 individual programmes and activities have been consolidated into five programs: Jobs, Land and Economy; Children and Schooling; Safety and Wellbeing; Culture and Capability; and, Remote Australia Strategies. The IAS is changing the way the Australian Government funding is delivered, to ensure it is more flexible and better designed to meet the aspirations and priorities of individual Indigenous communities.

**8. Please provide information on trends in budget allocations to Indigenous Affairs and to the National Congress of Australia's First Peoples since 2013.**

30. Figures for all governments' Indigenous expenditure since 2013 will be published in the next Indigenous Expenditure Report, which is currently being compiled. The most

<sup>2</sup> <http://www.dpmc.gov.au/indigenous-affairs/indigenous-advancement-strategy>.

recent data is from the 2014 Indigenous Expenditure Report (IER), which estimated that in 2012-2013 total Commonwealth, State and Territory government Indigenous expenditure was \$30.3 billion or 6.1% of total direct government expenditure. The IER found that governments spent \$43,449 per head of population on Indigenous Australians compared to \$20,900 for non-Indigenous Australians (a ratio of 2:1)

31. The IER found that the vast majority of government services for Indigenous Australians are provided through programs that also provide support to non-Indigenous Australians. In 2012-2013, mainstream services accounted for \$24.7 billion (81%) of Indigenous expenditure, with the remaining \$5.6 billion (19%) provided through Indigenous specific (targeted) services. The report also found that more than half of total government Indigenous funding in 2012-2013 (53%) came from state/territory governments (\$16.2 billion). In comparison, the Australian Government contributed 47% in direct expenditure on services/assistance to Indigenous Australians (\$14.1 billion). The majority of Indigenous expenditure in 2012-2013 was from mainstream programs (77% or \$10.85 billion) with 23 % (\$3.28 billion) coming from Indigenous specific programs.

32. The National Congress of Australia's First Peoples (the Congress) is an independent company owned and controlled by its membership and directors. The Australian Government, following a report by a national steering committee to develop a preferred model for a national representative body for Indigenous Australians, established the Congress in 2009. The 2009 report (Our future in our hands), articulated a plan for the Congress to become self-sustaining. Since 2009, the Congress has received \$29.3 million from the Australian Government to support its establishment and operations, although the original funding agreement did not refer to ongoing funding. In response to recommendations made by the National Commission of Audit in 2013, the Australian Government decided not to proceed with an additional \$15 million of funding committed in the 2013-2014 Budget. The Australian Government recently allocated the Congress with funding totalling \$0.54m to facilitate high-level community consultation and assist with developing future funding opportunities.

- 9. Please explain how the State party reconciles its obligations under the Covenant, notably articles, 2, 11 and 12, with its policy of indefinite mandatory detention of all migrants and asylum seekers, including families and unaccompanied children. Please provide information on measures taken to expedite asylum procedures, and to introduce alternatives to detention. Please also inform about measures being taken to address the immigration detention conditions, also in light of the recently published 'Nauru files' and the inquiry report published in 2015 by the Australian Human Rights Commission on children in immigration detention.**

33. Australia does not have a policy of indefinite mandatory detention of all migrants and asylum seekers. Immigration detention is used only in limited circumstances and bridging visas are issued in most cases once security checks have taken place.

34. The Detention Capability Review, completed in 2016, involved an examination of immigration detention and related systems. The Review formed part of a body of reforms already under way to ensure that immigration status resolution is at the heart of immigration processes, with detention being only one tool among others that will be used to manage unlawful non-citizens. The Detention Capability Review proposes an improved risk-based placement model that assesses individuals on the basis of risk rather than cohort or mode of arrival. The risk-based detention model is focussed on the effective and efficient resolution of an individual's immigration status while also protecting the community from potential harm including increased use of community placements. Under the model, held detention is used primarily for high-risk individuals and for as short a period as possible to facilitate timely status resolution.

35. Australia maintains one of the largest annual intakes of migrants and humanitarian entrants relative to its population. Australia provides extensive support to help migrants, particularly those entering under our humanitarian program, access employment.

36. All people in Australian immigration detention are provided with health care that is broadly commensurate with the standard available under Australia's public health system.

The health care provided includes mental and physical health screening upon entry to detention and the provision of regular onsite health clinics. Specialist and allied health services are also provided, with acute care provided by hospitals. Detainees who disclose a history of torture and/or trauma are offered referral to specialist torture and trauma counselling.

37. Children who arrive illegally are not held in immigration detention centres, but are accommodated in alternative places of detention or community detention, wherever possible. Australia has developed a Child Safeguarding Framework to enhance its policies and procedures in support of the protection of children in immigration pathways and to promote their welfare.

38. Regional processing centres (RPCs) are located in Nauru and Papua New Guinea (PNG), and are subject to the laws of those countries. The centres are open centres and people are not detained pending processing of their claims. Australia has contracted specialist garrison, and health and welfare providers to support Nauru and PNG to deliver services to transferees, pending the processing of their protection claims. Transferees have access to medical treatment, including mental health services delivered through psychiatrists, psychologists, and mental health nurses.

39. The Australian Government has made efforts to expedite immigration procedures. All children who were detained on Christmas Island were transferred to the mainland with their families by December 2014. A fast track assessment process has been established for eligible unauthorised maritime arrivals. This includes a limited form of merits review by the Immigration Assessment Authority, established within the Migration and Refugee Division of the Administrative Appeals Tribunal, for certain applicants.

40. The Australian Government is not currently considering alternatives to immigration detention, which it considers an essential component of strong border control. Australia's strong immigration and border protection policies have enabled Australia to commit to increasing its intake of refugees in response to the humanitarian crisis in Syria and Iraq.

41. Immigration detention is subject to regular review and scrutiny to ensure detention continues to be lawful and appropriate. The Office of the United Nations High Commissioner for Refugees, [Office of the High Commissioner for Human Rights](#), and the International Committee of the Red Cross perform independent scrutiny of Australian immigration detention and of RPCs. In recent years, there have been two parliamentary inquiries into regional processing circumstances in PNG and Nauru, as well as several independent commissions' reviews and inquiries. In addition, Australian government agencies including the Commonwealth Ombudsman, Australian National Audit Office, Comcare, and the AHRC perform independent scrutiny of Australian immigration detention.

42. The RPC in Nauru is subject to Nauruan law. Australia has contracted service providers to support Nauru to deliver services to transferees. In 2016, 2123 incident reports prepared by staff of service providers in the RPC in Nauru were publicly released by the media. These were titled the 'Nauru Files'. This cache of incident reports included reports that had already been responded to by service providers under the Department of Immigration and Border Protection's incident reporting framework. Under the framework, service providers are responsible for the immediate response and management of all incidents involving transferees and residents of a RPC. Service providers are contractually required to report and record all incidents to the Department of Immigration and Border Protection. They are also required to notify the Nauruan Government of all incidents occurring that are defined as reportable under the framework.

43. The Department maintains a record of all reported alleged incidents. The Department continues to assist and support service providers, the Nauruan Government, and local Nauruan authorities to continuously improve incident response and reporting practices, including referrals for additional services or referrals to the Nauru Police Force in cases of possible criminal wrongdoing. These continuous improvement processes have seen a significant strengthening of incident response and management capabilities.

44. The AHRC report *The Forgotten Children*, on children in immigration detention, investigated the impact of immigration detention on the health and wellbeing of children.

The Department of Immigration and Border Protection launched its Child Safeguarding Framework on 17 October 2016, which is the blueprint for how the Department will continue to build and strengthen its policies, processes and systems to protect children in the delivery of immigration programs and to maintain a child's safety and wellbeing. The framework outlines a set of safeguarding principles, and reinforces that the best interests of the child is a primary consideration in any action involving a child, and that children are only to be detained as a matter of last resort.

**10. Please provide information on the impact of the National Disability Strategy (2010-2020).**

45. The National Disability Strategy 2010-2020 (the Strategy) outlines a ten-year national framework for improving the life outcomes of people with disability in Australia. The Strategy aims to influence the planning, design, and delivery of mainstream policies, programs, services, and infrastructure, as well as the specialist disability services system, so that people with disability can participate as equal citizens in all areas of Australian life. The Strategy sets out six priority areas for action: (1) inclusive and accessible communities, (2) rights protection, justice and legislation, (3) economic security, (4) personal and community support, (5) learning and skills, and (6) health and wellbeing.

46. The Strategy's first implementation plan, Laying the Groundwork 2011-2014, established the foundations to drive reform in planning and delivering both mainstream and disability-specific policies and services across the six action areas. The Strategy's second implementation plan, Driving Action 2015-2018, released in December 2016, continues that commitment, as well as identifying four areas of additional national cooperation: improving employment outcomes; improving outcomes for Indigenous people with disability; continued implementation of the National Disability Insurance Scheme (NDIS); and promoting the intent of the Strategy throughout the community. The second implementation plan is supported by an Australian Government action plan, state and territory disability plans, local government plans, and an Australian Government plan to improve outcomes for Indigenous Australians with disability. The third implementation plan, Measuring Progress 2019-2020, will recognise existing commitments and consolidate actions that are driving ongoing improvement and better outcomes for people with disability.

47. Every two years, a high-level progress report tracks achievements under the Strategy, using national trend indicator data based on the Strategy's six outcome areas. The first of these progress reports was released in December 2015. During the first implementation phase, improvements were made across each of the six policy outcome areas; however, given the long-term focus of the Strategy, the report notes there is more to be done. Examples of notable progress include efforts to increase employer demand for people with disability; the provision of better support to assist people with disability to remain in employment; and, perhaps the most significant achievement, the development of the NDIS.

### **Article 3 — Equal rights of men and women**

**11. Please provide an assessment of the measures taken to ensure 'a whole-of-Government approach to mainstreaming gender policy', and of the remaining obstacles to achieve substantive equality between men and women.**

48. All Australian Ministers and Departments share a responsibility for delivering equality for women, and for considering the needs of different women, particularly those who may face multiple barriers to full participation in work and community life. To support these portfolios, the Office for Women, within the Department of the Prime Minister and Cabinet, works with agencies across government to progress policies and programs aimed at advancing gender equality across Australia.

49. The Australian Government has three priorities to address remaining obstacles to achieving substantive equality:

- Strengthening women’s economic security, including women’s workforce participation
- Supporting more women into leadership positions, and
- Ensuring that women and their children are safe from violence.

50. Domestically, Australia is committed to reducing the gap in workforce participation rates between men and women by 25% by 2025 — a target agreed by all leaders under Australia’s G20 presidency in 2014.

51. As at 30 June 2016, women accounted for 46.5% of the appointments made to Government boards during the period 1 July 2015 to 30 June 2016. To encourage more women into positions of leadership, the Australian Government launched a new gender diversity target of 50% women on Government boards for the period 1 July 2016 to 30 June 2017.

52. The Australian Government implements the BoardLinks Programme, which identifies board-ready women for Australian Government board appointments, and is working with industry to help increase women’s representation in leadership roles.

53. The Australian Government’s Balancing the Future: Australian Public Service Gender Equality Strategy 2016-2019 requires every agency to set targets for gender equality in leadership positions in the Australian Public Service, as well as encouraging flexible work arrangements for both men and women, and embedding gender equality in employment practices.

54. Progress is measured by Gender Indicators, Australia, and is developed and maintained by the Australian Bureau of Statistics and released annually. The report provides a summary of gender-specific data in six areas of social concern for gender equality. The latest report, released in August 2016, showed a gradual upward trend for women in leadership positions.

55. Among the broader Australian Stock Exchange (ASX 200) board positions, women now account for 25% of board positions, up from 8.3% in 2009. The Australian Institute of Company Directors target is to have 30% women in ASX 200 board positions by the end of 2018. The Business Council of Australia has also committed to have 50% of member organisations’ senior roles filled by women within a decade (2013-2023).

56. Further information on ensuring that women and their children are safe from violence is provided at question 20 below.

### **III. Issues relating to the specific provisions of the Covenant (arts. 6-15)**

#### **Article 6 — The right to work**

##### **12. Please provide statistical data on unemployment rates covering the years 2015 and 2016, disaggregated, to the extent possible, by age, sex, ethnic origin, disability, and geographic location.**

57. Labour market conditions in Australia have softened from 2015 to 2016. While the unemployment rate has declined, from 6.1% in 2015, to 5.7% in 2016, the fall has been driven by a decrease in the participation rate, which has fallen from 64.9% in 2015, to 64.8% in 2016.

58. The youth unemployment rate, at 12.8% in 2016, remains more than double the rate recorded for all persons (of 5.7%).

59. Those born overseas tend to have, on average, a higher unemployment rate than their Australian counterparts, although it varies by country of birth. For instance, the unemployment rate for those born in Australia (5.7% in 2016) is lower than the rate for those born overseas (5.8%).

60. Those born in Other than Main English speaking countries recorded a higher unemployment rate (of 6.3 % in 2016), than the 4.8 % for those born in Main English Speaking Countries.

61. Capital cities tend to perform better than 'Rest of State' or regional areas, with capital cities recording an unemployment rate of 5.6 % in 2016, compared with 6.0 % recorded for 'Rest of State' areas.

62. Please see Attachment A.

**13. Please provide information on the impact of measures, including those initiated under the 2014-2015 and 2015-2016 Budgets as well as the new Employment Services 2015 and the Remote Jobs and Communities Program, to address unemployment among groups and individuals who are more vulnerable to unemployment, notably the youth, indigenous peoples, asylum-seekers, and persons with disabilities.**

63. Youth: The Australian Government will deliver a range of initiatives as part of the Youth Employment Package in the 2016-2017 Budget. These include the jobactive PaTH initiative (commences in April 2017) to assist young people aged 15-24 years to gain employability skills, work experience and subsidised employment and a number of measures to support job seekers, including young people, who wish to start their own business.

64. The Australian Government is also delivering a range of programs announced as part of the Youth Employment Strategy in the 2015-2016 Budget. These include:

- A new Transition to Work service. This provides intensive pre-employment assistance to young people who have disengaged from work and study. Early survey data of participants shows improved chances of getting a job (81%), communication skills (70%), understanding of the workplace (77%) and work readiness (73%)
- Allocation of funding to the Empowering Youth Initiatives for 19 projects, to trial innovative approaches to support young people at high risk of welfare dependency, to find jobs, and
- Additional funding to improve education outcomes for early school leavers by ensuring they are working or studying.

65. Indigenous peoples: The Government is generating employment opportunities for Indigenous Australians through setting targets for government procurement, public service employment, and the efforts of employment services and corporate Australia. Indigenous employment rates are considerably higher in the major cities than in remote areas.

66. The majority of Indigenous job seekers receive assistance through the mainstream employment service, jobactive. The jobactive model features targets for increasing Indigenous employment outcomes, which form part of employment providers' ongoing performance assessments. Over the period 1 July 2015 to 31 December 2016, jobactive has achieved 45,518 job placements for Indigenous Australians.

67. The Government's Community Development Programme (CDP, which replaced the Remote Jobs and Communities Programme on 1 July 2015) offers job seekers in remote areas training, individualised support, attendance at work-like activities and placements in real work settings. The CDP supports around 34,000 job seekers each day, both Indigenous and non-Indigenous. Activities are broad, flexible and designed to contribute to community goals. Since July 2015, the CDP has supported remote job seekers into over 12,000 jobs (including nearly 9,000 jobs for Indigenous Australians). In the same period, the CDP supported job seekers to stay in over 4,100 jobs (including nearly 2,900 jobs for Indigenous Australians) for at least six months.

68. People with disability: Improving workforce participation for people with disability is a key objective of the National Disability Services (NDS). The Disability Employment Services (DES) provide assistance to job seekers to prepare for, find, and keep a job.

69. As part of the 2014-2015 Budget, compulsory participation requirements were introduced for Disability Support Pension recipients under the age of 35 who have a work capacity of eight hours per week or more.

70. As part of the 2015-2016 Budget, a \$25 million package was announced to improve pathways from school to employment for young people with disability. The 2015-2016 Budget also included \$17 million for business development to improve the viability of Australian Disability Enterprises, which assisted 19,858 consumers to achieve or maintain an employment outcome (13 cumulative weeks of employment for a minimum of 8 hours per week) in 2015-2016. Of these 2.4% were Indigenous and 8.5% were from a culturally or linguistically diverse background.

71. Asylum seekers: The Australian Government works to improve the lifetime wellbeing of migrants and refugees settling in Australia by placing a strong emphasis on supporting pathways to employment, education, and English language training.

72. The 2015-2016 Budget included an initiative (\$22.1 million under the Youth Employment Strategy) to pilot approaches to better support vulnerable refugee and migrant youth.

73. In the 2016-2017 Budget, the Australian Government committed \$5.2 million over three years to a new Career Pathways Pilot for Humanitarian Entrants. This will focus on helping newly arrived humanitarian entrants with professional or vocational skills or qualifications to find employment opportunities relevant to their previous work experience.

74. Older Australians: In the 2016-2017 Budget, the Australian Government announced a number of improvements to the design of wage subsidies, including Restart, to make them more attractive to employers who hire mature age jobseekers (50 years of age and over, including those on the age pension). These improvements build on the previous election commitments to help move mature age job seekers off income support and into sustainable employment. As at 10 January 2017, 10,220 older Australians had been assisted in a job through the Restart wage subsidy.

## **Article 7 — The right to just and favourable conditions of work**

### **14. Please explain the reasons behind the persisting gender wage gap in the State party and indicate measures taken in that respect. Please provide information on measures taken to assist women and men to balance work and family life.**

75. In November 2016, the average weekly earnings gender wage gap for full-time adult employees narrowed to 16.0%, a decrease of 2.5 percentage points from 2014.<sup>3</sup> Factors contributing to this gap include:

- Gender segregation (by industry, occupation, employment status)
- A lack of flexibility and gender diversity in senior positions
- Women's more precarious attachment to the workforce (largely due to their unpaid caring responsibilities)
- Differences in education, work experience, and seniority, and
- Direct and indirect discrimination.

76. Various measures are in place to address the gender wage gap including:

- The Workplace Gender Equality Agency, which promotes and improves gender equality in Australian workplaces through annual workplace gender reporting

<sup>3</sup> Australian Bureau of Statistics (ABS), November 2016, Average Weekly Full-Time Earnings (cat. no. 6302.0). This figure has been between 15% and 19% for the past two decades. Note that this gender pay gap figure is measured using ordinary time earnings and does not account for differences in actual hours worked by men and women.

- The ‘Employer of Choice for Gender Equality’ citation and resources to assist employers to address workplace gender inequality
- Equal remuneration orders available under the Fair Work Act 2009 (Cth) (Fair Work Act) where workers are not receiving equal remuneration for work of equal or comparable value
- Family-friendly workplace entitlements under the Fair Work Act, including the right to request flexible work arrangements which may be agreed via common law contracts or individual statutory agreements under the Fair Work Act, unpaid parental leave and paid personal/carer’s leave
- Supporting working families through the Jobs for Families Child Care Package reforms that will provide more access to subsidised childcare to the families who work the most hours, and higher levels of financial support to the families who earn the least
- Supporting parents on Income Support to identify their education and employment goals through the ParentsNext Program in 10 Local Government Areas
- Working towards a G20 commitment to decrease the workforce participation gap between women and men by 25% by 2025
- Encouraging men and women to work in fields traditionally dominated by one gender through structural adjustment programs and mentoring schemes
- Supporting women to work in growth industries like Science, Technology, Engineering and Mathematics through investment in the National Innovation and Science Agenda, and
- Promoting gender diversity in leadership and decision-making roles.

## **Article 8 — Trade union rights**

- 15. Please provide information about the remaining legal barriers to the exercise of trade union rights by all workers. Please also update the Committee on the status and contents of the Building and Construction Industry (Improving Productivity) Bill 2013 and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 while indicating their bearing on trade union rights.**

77. Australia has ratified and remains compliant with the relevant ILO conventions — Freedom of Association and Protection of Right to Organize Convention (No. 87) and the Right to Organize and Collective Bargaining Convention (No. 98).

78. In addition to providing the rights to collectively bargain and take part in industrial action, the Fair Work Act gives union officials conditional rights to enter workplaces during working hours to investigate contraventions of the Fair Work Act, hold employee discussions, and perform workplace and health inspections. Union officials can enter a workplace if they have a valid right of entry permit issued by the Fair Work Commission and are entitled to represent workers at the workplace. Additional limitations on entry rights aim to balance the rights of organisations and employers.

79. The Fair Work (Registered Organisations) Amendment Act 2016 (Cth) was passed in November 2016 and will apply on proclamation. It will amend the Fair Work (Registered Organisations) Act 2009 (Cth) to improve the transparency of trade unions and employer organisations and their officials for the benefit of members.

80. The Building and Construction Industry (Improving Productivity) Act 2016 (the Act) and the Building and Construction Industry (Consequential and Transitional Provisions) Act 2016 commenced on 2 December 2016. The Act enhances workers’ right to freedom of association by prohibiting certain coercive actions the effect of which may be to coerce a person to join, or not to join, a union, or to discriminate against a person on the basis of union membership. The Act supports the right of employers and their employees to freely

negotiate terms and conditions that best suit their circumstances by limiting the application of certain project agreements.

81. The Act recognises that protected industrial action can be taken if certain requirements are met. However, unlawful picketing action is prohibited. That prohibition is necessary, reasonable and proportionate because of its impact on the building industry.

## **Article 9 — The right to social security**

### **16. Please provide information on the review of the welfare system carried out in 2013, indicating if and how it increased the protection of individuals and families with poor life outcomes.**

82. The Australian Government released the Final Report into the review of Australia's welfare system, A New System For Better Employment and Social Outcomes on 25 February 2015<sup>4</sup> (the McClure Review). The McClure Review concluded that a new social support system is needed to improve employment and social outcomes.

83. In response to a McClure Review recommendation, an investment approach to welfare was established as part of the 2015-2016 Budget. It uses actuarial analysis to identify groups at high risk of long-term welfare dependency. A Baseline Valuation Report was released on 20 September 2016, and provides a foundation to begin the investment process. Annual valuations of the welfare system will follow with the final valuation occurring in 2018. Groups identified as being at risk of long-term welfare dependency will be targeted through policy interventions that address barriers to work.

### **17. Please provide more information about eligibility criteria to social security benefits in particular for newly arrived migrants, asylum seekers and refugees. Please also provide statistical data on the legal limitations in access to social security by 'non-compliant job seekers'.**

84. The Australian Government provides a range of benefits and support services through the Department of Human Services (Medicare, Centrelink, and Child Support) and the Department of Veterans' Affairs. Different eligibility requirements apply to different benefits.

85. People who arrive in Australia under the Humanitarian Programme and are granted permanent visas are permanent residents, and can receive Medicare and social security payments under the same eligibility criteria as any other Australian permanent resident and citizen. Humanitarian entrants are also exempt from all waiting periods or qualifying residence periods for social security payments. The exemption recognises that most humanitarian entrants arrive with limited money, possessions and social networks to assist them to meet basic living expenses.

86. The Humanitarian Settlement Services (HSS) Program provides assistance with finding suitable accommodation, property induction, an initial food package and orientation to life in Australia. HSS providers also assist clients to register with Centrelink, Medicare, health services, banking, and schools.

87. The Australian Government provides a number of services to Temporary Humanitarian Stay (449), Temporary Humanitarian Concern (786), Temporary Protection (785), or Safe Haven Enterprise (790) visa holders. Services include:

- Social security payments such as Special Benefit, Rent Assistance, and family assistance payments
- Employment assistance
- Health services, including Medicare
- Mental health and emotional wellbeing services (including counselling for torture and trauma)

<sup>4</sup> <https://www.dss.gov.au/review-of-australias-welfare-system>.

- Education for children of school age, and
- Complex case support and free translating and interpreting services.

88. Job seekers: Mutual obligation requirements are activities that job seekers can be compelled to undertake under social security law to help them find work. Refusal to satisfy mutual obligation requirements provides grounds for disqualification from payment. Job seeker compliance provisions can also impose financial sanctions on job seekers who fail to meet mutual obligation requirements without having a reasonable excuse. The Australian Government has sought to strengthen compliance arrangements but the legislation needed to do so has not passed the Parliament.

89. Financial sanctions include payment suspension, generally applied following a failure to attend an appointment with an employment services provider. Payment is withheld until the job seeker attends an appointment, then the job seeker is back paid.

90. In some cases the provider will recommend a stronger sanction. The job seeker will not be back paid for the period of suspension. An eight-week non-payment period can be applied for a more serious failure, such as refusing an offer of employment (this can be waived).

91. The number of suspensions and penalties applied (noting that a job seeker can have multiple suspensions and penalties applied) from 1 July 2015 to 30 June 2016:

- 1,852,762 payment suspensions were applied
- In 21,103 cases, the job seeker did not receive back payment for the period of suspension
- 204,202 one day penalties were applied for not attending or participating in an activity or job interview
- 1,047 eight week non-payment periods were applied for refusing an offer of suitable work
- 23,130 eight week non-payment periods were applied for persistent non-compliance, and
- 93% of all eight-week non-payment penalties were waived.

## **Article 10 — protection of family and children**

- 18. Please provide data covering the period 2013-2016 on children placed in alternative care, indicating among others the ethnic origin and geographic location. Please provide information on the impact of the measures taken, including under the National Framework for Protecting Australia's Children (2009-2020) to reduce the overrepresentation of indigenous children in alternative care.**

92. The Australian Institute of Health and Welfare (AIHW) collaborates with states and territories to manage the national child protection data collection. The collection provides comprehensive statistical information on state and territory child protection and support services, and some of the characteristics of the children within these systems.

93. In 2013-2014:

- There were over 43,000 children in out-of-home care at 30 June 2014, a rate of 8.1 per 1,000 children; and
- At 30 June 2014, there were 14,991 Indigenous children in out-of-home care;
- Indigenous children were 9.2 times as likely as non-Indigenous children to be in out of home care (51.4 per 1,000 children compared with 5.6 for non-Indigenous children).

94. In 2014-2015:

- There were almost 43,400 children in out-of-home care at 30 June 2015, a rate of 8.1 per 1,000 children; and
- At 30 June 2015, there were 15,455 Indigenous children in out-of-home care;
- Indigenous children were 9.5 times as likely as non-Indigenous children to be receiving out-of-home care (a rate of 52.5 per 1,000 children compared with 5.5 for non-Indigenous children).

95. Child Protection Australia 2015-16 is scheduled for release in March 2017. This will include national data on children in out-of-home care at 30 June disaggregated by remoteness area and Indigenous status.

96. The National Framework for Protecting Australia's Children 2009-2020 (the Framework) focuses on addressing complex problems which require integrated, concentrated effort from Commonwealth and state and territory governments and the non-government services sector.

97. The Framework's Third Action Plan 2015 — 18 has a particular focus on Indigenous children and young people, and families dealing with multiple issues including mental health issues, alcohol and other drug misuse, or family and domestic violence. It refocuses efforts on early intervention and prevention, prioritising action in critical areas of children's wellbeing. Particular measures include:

- Community awareness raising activities focused on effective parenting practices to enhance safe and supportive environments in the early years, and
- Developing and trialling an effective model of services and support focused on a child's first 1000 days to better support Indigenous families and communities.

98. The Australian Government also supports integrating childcare, maternal and child health, and family support services in a number of disadvantaged Indigenous communities through the Community Child Care Fund.

99. Implementation of the Framework and Third Action Plan will continue to be monitored through annual reports. Reporting under the Framework is complemented by a range of other publications such as the Productivity Commission's report on Overcoming Indigenous Disadvantage and the National Children's Commissioner's Children's Rights Report.

**19. Please provide information on measures taken to prevent, combat, and investigate acts of violence and abuse against persons with disabilities in institutional and residential settings. Please also indicate how the State party intends to react to the 2015 Senate Report addressing the same issue.**

100. On 25 November 2015, the Senate Standing Committee on Community Affairs delivered its report on violence, abuse, and neglect against people with disability in institutional and residential settings, including the gender and age-related dimensions, and the particular situation of Indigenous and culturally and linguistically diverse people with disability.<sup>5</sup> The Australian Government is continuing to consider the Committee's recommendations, and will provide a response to the Senate in 2017.

101. A new NDIS Quality and Safeguarding Framework will play an important role in regulating the safeguards and quality of government funded supports provided to people with disability participating in the NDIS. The Australian Government and all states and territories agreed to the Framework at the COAG meeting on 9 December 2016.

102. The COAG Disability Reform Council also agreed on 2 September 2016 that the Australian Government would establish an independent, national, complaints and serious incidents system, and a NDIS Code of Conduct. The Australian Government will also

<sup>5</sup> [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Violence\\_abuse\\_neglect/Report](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Report).

establish a national registrar, responsible for registering providers and overseeing compliance with the registration requirements. States and territories are responsible for implementing worker-screening checks in their own jurisdictions. Governments share responsibility to reduce and eliminate the use of restrictive practices in the NDIS, including through the appointment of a national Senior Practitioner to enhance reporting and improve support for participants and providers.

**20. Please provide updated statistical data on domestic violence against women and girls, disaggregated among others by sex, age, ethnic origin, disability, and geographic location of victims, covering the period 2013-2016. Please provide information on the impact of the National Plan to Reduce Violence against Women and Children (2010-2022).**

103. The Australian Government does not have statistical data on domestic violence disaggregated in the format requested. However, work is underway to expand the quality and quantity of national research on violence against women and children, through the implementation of the National Research Agenda, national surveys and building the National Data Collection and Reporting Framework (DCRF). Once implemented, the DCRF will provide consistent and comparable administrative data across systems. The results of the 2016 Personal Safety Survey will not be available until late 2017. The Committee is referred to Concluding Observation 22 of Australia's Fifth Report under the ICESCR for the results of the 2012 Personal Safety Survey.<sup>6</sup>

104. The National Plan to Reduce Violence against Women and their Children 2010-2022 (the National Plan) provides the framework for action by all Australian governments and civil society, to reduce violence against women and children.

105. The National Plan recognises that violence against women and children is a complex problem that requires a long-term plan for action.

106. Positive achievements include the establishment of a National Sexual Assault, Domestic and Family Violence Counselling Service, which provides a confidential online and telephone counselling, information and referral service 24 hours a day, seven days a week. Of the calls made to this service, 80% are answered within an estimated 20 seconds, ensuring women who call the service get the help they need, when they need it.

107. The Stop It at the Start national campaign was launched on 20 April 2016 and has led to unprecedented levels of community awareness. The campaign aims to stop violence where it begins and brings together families and communities to influence positively young people's attitudes towards violence. The first phase of advertising resulted in over 32 million views of the television commercials, with more than 12 million views in the first week alone.

108. The 2015-2016 Annual Progress Report of the Second Action Plan 2013-2016: Moving Ahead was released in November 2016. This report outlines the vast amount of work and achievements undertaken during 2015-2016 under the five national priority areas of the Second Action Plan, and describes activities undertaken between July 2015 and June 2016 that are advancing the 26 practical actions under the Second Action Plan.

109. The National Plan has kept domestic, family, and sexual violence on the national agenda, and has led to an unprecedented level of community awareness of the issue.

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<sup>6</sup> <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4906.0>.

## Article 11 — The right to an adequate standard of living

- 21. Please provide statistical data on poverty rates in the State party, disaggregated by ethnic origin, sex, age, disability and geographic location. Please also update the Committee on whether the State party intends to adopt and implement a comprehensive poverty reduction and social inclusion strategy which fully integrates economic, social and cultural rights.**

110. The Australian Government places a high priority on ensuring the economic empowerment and social inclusion of all Australians. Social security payments operate in conjunction with taxation concessions, productivity initiatives, employment services and labour market strategies, as part of an integrated package to support social inclusion and equality of opportunity objectives.

111. Australia targets cash benefits more tightly towards those in the lowest quintile of incomes than any other developed country. In addition, Australia's heavy dependence on a highly progressive personal income tax to raise revenue ensures that the taxes needed to fund these benefits are less burdensome on lower income groups than in most developed countries. The net effect is that the Australian tax-transfer system reduces the Gini coefficient of market incomes by more than in any other OECD country.

112. No Australian Government has ever adopted an official poverty line. Australia has a safety net rather than an insurance based approach to social support. Unlike the social insurance systems of most other OECD countries, our benefits are paid at a fixed rate and do not vary with past earnings or premiums, so if that rate is a dollar below the chosen line then all those receiving the payment are "in poverty"; conversely if it is a dollar above, then none are.

113. There is thus no readily available data disaggregated in the formats requested by the Committee. However, there are a wide range of sources that help us understand living standards; for example, Census income data, special longitudinal surveys such as the Melbourne Institute's Household Income and Labour Dynamics in Australia, the Australian Bureau of Statistics' Survey of Income and Housing Costs and the Household Expenditure Survey. However, as serious disadvantage in Australia tends to be concentrated in small and specific sub groups, especially indigenous ones in remote areas, general national surveys of living standards and incomes tend not to capture the geographic distribution well, while specific surveys aimed at these sub groups do not generalise across Australia.

114. Poverty in developed countries is innately multidimensional with complex causes and remedies. Successive governments have tended towards considering a range of data on living standards when determining the adequacy of payments, not relying on any particular measure. Many popular measures of poverty, such as relative income poverty lines, do not necessarily correspond to living standards that most citizens may think of as 'living in poverty'.

- 22. Please explain the legal framework governing forced evictions and provide data on the prevalence of forced evictions in the State party, especially in Western Australia.**

115. The Western Australian Government has made a commitment not to close any remote Aboriginal communities in Western Australia. Residents of remote Aboriginal communities can choose where they want to live, and Aboriginal people will not be prevented from accessing their country.

116. About 12,000 Aboriginal people live in remote communities in Western Australia. Existing arrangements for the provision of essential and municipal services to these communities are complex, and the quality of services and infrastructure is generally poor. The Western Australian Government's Regional Services Reform Unit was set up to improve the lives of Aboriginal people in regional and remote Western Australia by bringing about long-term, systemic change. Regional services reform focuses on three main areas:

- Improved living conditions that enable families to prosper and don't hold them back

- Supporting families to build their skills, and overcome any barriers to doing so, through improved service redesign and delivery, and
- Education, employment, and housing opportunities, and support for families to take them up.

117. The reform process will ensure community consultation in committing to achieve social and economic stability in remote communities.

**23. Please provide data disaggregated by ethnic origin, sex, age, disability and geographic location on the extent of homelessness in the State party, and on the impact of measures taken in this respect, including the National Housing Strategy as well as the launch of the Specialist Homelessness Services Collection and the National Partnership Agreement on Remote Indigenous Housing.**

118. Housing is fundamental to the well-being of all Australians.

119. The Australian Government and states and territories share policy and funding responsibility and work together to improve housing affordability and homelessness outcomes for Australians, including:

- The National Affordable Housing Agreement (NAHA) which commits the Commonwealth and states to a shared objective where all Australians have access to affordable, safe and sustainable housing,
- The National Partnership Agreement on Homelessness complements the NAHA and provides funding for homelessness services. In 2015-2017, funding has been prioritised for women and children experiencing domestic violence and homeless youth.

120. Commonwealth Rent Assistance provides assistance to individuals and families renting in the private markets and community housing to reduce rental stress.

121. In 2008, the Australian Government allocated \$5.5 billion to the National Partnership Agreement on Remote Indigenous Housing (NPARIH) over 10 years to help address significant overcrowding, homelessness, poor housing conditions, and severe housing shortages in remote Indigenous communities. The NPARIH addresses the more than 40% of Indigenous Australians in remote areas that live in social and public housing.<sup>7</sup> In partnership with State and Territory Governments, as at 30 June 2016, the NPARIH has delivered:

- 3,233 new houses and 7,350 refurbishments/rebuilds across communities, and
- 178 houses and eight hostels (212 beds) to provide employment-related accommodation.

122. Of the houses touched under the NPARIH, more than 80% have three or more bedrooms, and 98% have tenancy agreements in place. As a result, ABS survey results suggest that remote Indigenous households needing one or more extra bedrooms decreased from 48% to 38% between 2008 and 2014. The NPARIH was replaced by the Remote Housing Strategy (the Strategy) in 2016. It will run until 30 June 2018. Between June 2016 and 2018, the Strategy is expected to deliver at least:

- An additional 788 new houses and 207 refurbishments, and
- At least 58 additional employment and education houses and hostels.

123. The Australian Government has commissioned an expert panel to undertake an independent review of the NPARIH and the Strategy. The Review will assess the effectiveness of these programs. It will also identify opportunities to use housing investment to leverage stronger outcomes in Indigenous education and employment, business engagement, home ownership and broader government priorities, including

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<sup>7</sup> <https://www.dpmc.gov.au/indigenous-affairs/housing/national-partnership-agreement-remote-indigenous-housing-nparih>.

COAG's Closing the Gap targets. The panel is due to report back to the Australian Government in early 2017.

124. Homelessness is a matter of concern for all Australian governments. Homelessness results from Australia's 2016 Census will be available in 2018. The 2011 Census reported 105,237 homeless people in Australia (49 homeless persons per 10,000 persons). Overall, 25 % of homeless people were Indigenous, 30% were born overseas and 56% were male. People with disability or long-term health conditions make up 11% of specialist homelessness service clients.<sup>8</sup>

125. From 2006 to 2011, the homelessness rate rose by 20% or more in New South Wales, Victoria, Tasmania and the Australian Capital Territory. Homelessness rates fell in Queensland and the Northern Territory with the largest fall being in the Northern Territory, down 8%.

126. In 2011, there were similar rates of homelessness in New South Wales, Victoria, Western Australia, Queensland and the Australian Capital Territory (ranging from 41 to 50 homeless persons per 10,000 persons), South Australia was lower (38 homeless persons per 10,000 persons), and Tasmania continued to have the lowest rate (32 homeless persons per 10,000 persons). The Northern Territory had the highest rate (731 homeless persons per 10,000 persons).

*Breakdown of the age of homeless people (expressed as percentage of all homeless people).<sup>9</sup>*

Age	Under 12	12-18	19-24	25-34	35-44	45-54	55-64	65-74	75 and over
%	17	10	15	18	14	12	8	4	2

127. Australia is maintaining its commitment to reduce homelessness and incidence of repeat homelessness, through a variety of programs and policies (as outlined in paragraphs 184 to 199 of Australia's Fifth Report under ICESCR).

128. The Specialist Homelessness Services Collection (SHSC), managed by the AIHW, continues to provide all Australian governments with information about people who are homeless and the services provided to them. The AIHW reports annually from the SHSC.<sup>10</sup>

## Article 12 — The right to physical and mental health

### 24. Please provide information on the implementation of, and the resources allocated to, the National Aboriginal and Torres Strait Islanders Health Strategy (2013-2023).

129. The Australian Government recognises the centrality of providing culturally appropriate primary health care to closing the gap in health outcomes between Indigenous and non-Indigenous Australians. The Australian Government's National Aboriginal and Torres Strait Islander Health Plan 2013-2023 (the Health Plan) is an overarching framework designed to focus investment and effort in improving health outcomes for Indigenous peoples, and includes specific strategies for improving the health of children.<sup>11</sup> The Implementation Plan<sup>12</sup> outlines the actions to be taken by the Australian Government, the Indigenous community controlled health sector, and other key stakeholders to give effect to the vision, principles and priorities of the Plan.

130. In support of the Health Plan, Australia is investing \$3.4 billion over the next four financial years through the Indigenous Australians' Health Program, an increase of over \$630 million when compared with the previous four years. Within this funding, Australia

<sup>8</sup> <http://www.aihw.gov.au/homelessness/specialist-homelessness-services-2014-15/>.

<sup>9</sup> <http://abs.gov.au/ausstats/abs@.nsf/Latestproducts/2049.0Mainper cent20Features22011>.

<sup>10</sup> <http://www.aihw.gov.au/homelessness/specialist-homelessness-services-2015-16/>.

<sup>11</sup> Further information can be found at <http://www.health.gov.au/natsihp>.

<sup>12</sup> National Aboriginal and Torres Strait Islander Social Survey 2014-15, Australian Bureau of Statistics, Canberra 2015, [http://www.health.gov.au/internet/main/publishing.nsf/Content/AC51639D3C8CD4ECCA257E8B00007AC5/\\$File/DOH\\_ImplementationPlan\\_v3.pdf](http://www.health.gov.au/internet/main/publishing.nsf/Content/AC51639D3C8CD4ECCA257E8B00007AC5/$File/DOH_ImplementationPlan_v3.pdf).

has committed \$1.4 billion over four years to approximately 200 organisations to deliver comprehensive and culturally appropriate primary health care services under the Indigenous Australians' Health Program.

131. The Australian Government also funds the National Aboriginal Community Controlled Health Organisation, to support the capacity of both the community controlled health sector and the mainstream health system to deliver high quality health care to Indigenous Australians.

132. There is additional spending on Indigenous-specific Medicare Benefits Schedule subsidies through private general practices, and extra subsidies for medicines through the Pharmaceutical Benefits Scheme for Indigenous patients with chronic conditions.

**25. Please provide information on steps taken to introduce alternatives to indefinite or prolonged detention in prisons or psychiatric facilities of persons with psychosocial disabilities who are deemed unfit to stand trial. Please also update the Committee on measures to improve access to mental health services, including in prisons.**

133. In response to the Report of the Working Group on Australia's Second Universal Periodic Review, the Australian Government voluntarily committed to improve the way the criminal justice system treats people with mental and/or cognitive disability. The treatment of people with mental and/or cognitive disability unfit to plead or found not guilty by reason of mental impairment has been the subject of attention and review at the Australian Government, state, and territory levels in recent years.<sup>13</sup> For example, in November 2016, the Australian Senate's Community Affairs References Committee tabled a report on indefinite detention of people with cognitive and psychiatric impairment in Australia. The Committee made recommendations relating to access to justice for people with cognitive and psychiatric impairments; development of training resources and screening and diagnosis tools; and, implementing supported decision-making models in favour of existing substitute decision-making models. The Australian Government is considering the report, and will respond in 2017.

134. In November 2015, the responsible ministerial council, the Law, Crime, and Community Safety Council (LCCSC), established a cross-jurisdictional working group to collate existing data across all Australian jurisdictions; consider the development of a data collection framework for use by police and courts; develop resources for national use on the treatment of people with mental and/or cognitive disability unfit to plead or found not guilty by reason of mental impairment and consider recommendations of recent jurisdictional reviews on fitness to plead and the defence of mental impairment. The Working Group will report back to LCCSC with recommended resources and data findings in mid-2017.

135. Victoria: The Victorian Government recently introduced legislation<sup>14</sup> to implement a number of recommendations made by the Victorian Law Reform Commission,<sup>15</sup> aimed at improving safeguards to prevent indefinite or prolonged detention for people unfit to plead or not guilty by reason of mental impairment. If passed, that legislation should minimise time spent on remand, introduce a system of mandatory, regular progress reviews of supervision orders, shift the onus to the State to demonstrate that continued detention is appropriate and provide for non-custodial supervision orders. The Victorian Government aims to provide alternative accommodation to persons with an intellectual disability found not guilty by reason of mental impairment, and will coordinate proposed care and services

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<sup>13</sup> For example: Australian Law Reform Commission, *Equality, Capacity and Disability in Commonwealth Laws* (DP 81), (2014); Australian Human Rights Commission, *Equal Before the Law* (2014); New South Wales Law Reform Commission, *People with Cognitive and Mental Health Impairments in the Criminal Justice System: Criminal Responsibility and Consequences*, Report 138 (2013); Victorian Law Reform Commission, *Review of the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997: Report* (2014).

<sup>14</sup> Crimes (Mental Impairment and Unfitness to be Tried) Amendment Bill 2016.

<sup>15</sup> Victorian Law Reform Commission, *Review of the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997: Report* (2014).

to support placing the person on a non-custodial supervision order, rather than a custodial supervision order.

136. Australian Capital Territory (ACT): The ACT has made a number of changes over the last 10 years in relation to mental impairment and processes for determining fitness to plead. Reforms to the role of the ACT Civil and Administrative Tribunal (ACAT) in the supervision of people found not guilty because of a mental impairment came into effect with the commencement of the Mental Health Act 2015. Under the Act, custody is to be regarded as a last resort and may only be continued if there are exceptional circumstances. The ACAT must review the detention, and consider the release of the person, as soon as possible and not later than seven days after the date of the court order. ACAT must also review the detention order as soon as practicable after the person has been in custody under the order for one month since the detention was last reviewed.

137. Northern Territory (NT): Secure care facilities are provided for offenders who are unfit to plead in both Darwin and Alice Springs and are co-located with the correctional centres. Darwin Correctional Centre also has a step down cottage for a transition back to the community for those offenders with cognitive and/or psychiatric impairment. On direction from the court or Parole Board, Community Corrections may obtain independent psychological/psychiatric assessment of an offender for the purpose of determining an appropriate sentence or release conditions. Correctional Services works closely with the Office of Disability to try and place these offenders external to the correctional facility. The community placements are limited meaning that some offenders are held in custody until a suitable secure facility is located.

138. New South Wales (NSW): The NSW Mental Health Review Tribunal (MHRT) review forensic patients every six months. The MHRT has power to determine when it is appropriate to release a person unconditionally or on supervised or unsupervised leave. As a further precaution, when the court determines that a person is unfit to stand trial, the court makes a limiting term which sets a maximum period that the person can be detained. The court then refers the person to the MHRT for review.

139. Australian governments are committed to mental health reform as a national priority, and all jurisdictions offer access to specialist mental health care in prisons. The Committee is referred to Appendix 1 of Australia's Fifth Report under the ICESCR, specifically Concluding Observations 29 and 30.

## Articles 13 and 14 — The right to education

### 26. **Please provide information on the implementation and impact of the Remote School Attendance Strategy (2014) and National Partnership Agreement on Universal Access to Early Childhood Education (2013-2015). Please also provide information on other measures taken to improve access to quality education in remote areas, including to early education.**

140. The Indigenous school attendance rate in very remote areas (67.4%) is much lower than in metropolitan areas (86.5%). In 2014, the Remote School Attendance Strategy (RSAS) was implemented to help ensure children living in remote communities go to school every day. RSAS is a flexible, place-based strategy which employs local community members who work closely with schools, families, parents and community organisations to develop local strategies to increase school attendance. The Strategy was initially funded for \$46.5 million for 2014 and 2015. For 2016 to 2018, \$80.1 million has been allocated for RSAS, with a small increase in sites. In 2016, it operated in 77 schools.

141. Since implementation, RSAS has achieved increased attendance rates in some of the lowest performing schools in Australia. Around 60% of RSAS schools had increased average attendance rates in Semester 1 2016 compared with Semester 1 2013. Through RSAS, the Australian Government has a deeper understanding of the challenges that impact school attendance in many remote communities including cultural practices (particularly those related to bereavement), chronic student disengagement, family mobility and community unrest.

142. Since 2008, the Australian Government has made available more than \$2.8 billion to support state and territory governments to increase children's participation in early childhood education programs. The National Partnership Agreement on Universal Access to Early Childhood Education, with a particular focus on Indigenous children, and vulnerable and disadvantaged children, provides funding to state and territory governments to deliver quality early childhood education programs for all children in the year before full-time school.

143. From 2016-2017, the Government is investing \$10 million annually in Connected Beginnings (through the Community Child Care Fund) to integrate early childhood, maternal, and child health and family support services, with schools in a number of Indigenous communities experiencing disadvantage. The focus is on supporting Indigenous families so their children make a positive transition to school. The Australian Government is working with state and territory governments, and other stakeholders, to identify locations to expand the delivery of integrated early childhood services.

144. A number of initiatives involve working with parents to be their child's first teacher:

- Families as First Teachers Program — provides quality early learning and family support and guidance to remote Indigenous families with young children from birth to three years. It has been operating in the Northern Territory since 2009 and is currently provided in 27 remote Indigenous communities. The Northern Territory will expand the program to 33 remote and very remote communities by 31 December 2017 as part of its A Share in the Future — Indigenous Education Strategy 2015-2024.
- Home Interaction Program for Parents and Youngsters — a two year, home-based parenting and early learning program that empowers parents and carers to be their child's first teacher. Once fully implemented, the program will operate in 50 communities with an Indigenous focus, and 50 non-Indigenous communities that experience high levels of disadvantage.

**27. Please provide information on measures taken to ensure access to education by migrant children, child asylum seekers and refugee children in the State party and in Nauru as well as in other offshore immigration facilities.**

145. Arrangements are in place for children of school age (generally 5 to 17 years of age) in held detention, alternative places of detention, community detention, and on bridging visas, to access school education in Australia.

146. Australia's Humanitarian Settlement Services Program provides intensive support after arrival to ensure that young humanitarian entrants access primary and secondary education. HSS providers assist humanitarian entrants to enrol their school-age children in primary or secondary school, no later than six weeks after arrival. The orientation program offered by HSS providers includes information designed to meet the needs of young humanitarian entrants and their parents — such as vocational planning, family relationships, health, understanding the law and adjusting to life in Australia. HSS case managers also identify the humanitarian entrant's educational, employment, recreational, social, sporting and orientation needs as well as strategies to achieve these goals.

147. Australia has regional processing arrangements in place with the Governments of Nauru and PNG; however, children and families are only transferred to Nauru. All refugee and asylum seeker children of school age (4 to 18 years) have transitioned to Nauruan Government schools. The education of children in Nauru is a matter for the Nauruan Government.

148. The Australian Government remains committed to supporting the Nauruan Government to develop its capacity to support the integration of refugee and asylum seeker children into Nauruan schools, and to improve educational outcomes for all children in Nauru. The Department of Immigration and Border Protection has contracted an education service provider to deliver professional development and teacher support services in Nauruan schools to support curriculum development and improved pedagogical practices.

## Article 15 — Cultural rights

### 28. Please provide information on measures taken to preserve and promote indigenous languages and cultures.

149. The Australian Government acknowledges the intrinsic value of Indigenous cultures, languages and art, and that these are essential to the wellbeing and identity of Indigenous Australians.

150. Targeted funds are delivered through the Indigenous Visual Arts Industry Support and Indigenous Languages and Arts programs to support a range of activities and organisations across Australia, including Indigenous-governed art and language centres, art fairs, training organisations, language research, the development of language resources and key Indigenous advocacy and service organisations. Funding also supports the employment of over 300 Indigenous arts workers.

151. From 2017, the Government will provide an additional \$10 million to support innovative community projects that utilise digital technology to bring languages to life through songs, theatre and literature.

152. Funding to support the maintenance and transmittal of Australia's Indigenous cultures is delivered through the Culture and Capability stream of the Indigenous Advancement Strategy.<sup>16</sup>

153. The Australian Institute of Aboriginal and Torres Strait Islander Studies, an Australian Government agency, further works to preserve and promote the cultural and linguistic heritage of our First Peoples through its collections, records, research, and publications.<sup>17</sup>

154. The Australian Government is also encouraging language learning in schools. The Framework for Aboriginal Languages and Torres Strait Islander Languages is the first national curriculum document (covering Foundation to Year 10) to provide a way for schools in Australia to support the teaching and learning of languages indigenous to this country.<sup>18</sup>

155. State governments also have initiatives aimed at protecting and promoting Aboriginal languages and culture. For example, the NSW policy, Opportunity, Choice, Healing, Responsibility, Empowerment recognises the right of Aboriginal Australians to preserve traditional languages as an integral part of their culture and identity.

### 29. Please provide information on measures taken to facilitate access to the internet by disadvantaged and marginalized groups and individuals. Please also provide information on internet coverage in remote areas.

156. Australia is committed to ensuring that disadvantaged and marginalised groups and individuals can access the internet on an equal basis with others. One of the central outcomes of the National Disability Strategy 2010-2020 is to ensure that people with disability live in accessible and well-designed communities with opportunity for full inclusion. There are a number of additional initiatives to facilitate people with disability accessing the internet, such as investment in the National Broadband Network.

157. Improved access to the internet and government digital services is now supported through the Digital Service Standard, which seeks to make government services simpler, clearer and faster for all users, including people with disability, older people, people from different linguistic and cultural backgrounds, and those otherwise disadvantaged or marginalised. Government agencies are required to comply with the Digital Service Standard for public-facing services including websites, applications or other digital tools.

<sup>16</sup> Information about work underway around the country can be found at <http://www.dpmc.gov.au/indigenous-affairs/culture-and-capability>.

<sup>17</sup> Information on the Institute can be found at <http://aiIndigenousAustralians.gov.au/>.

<sup>18</sup> Information about the curriculum is available at <http://www.australiancurriculum.edu.au/languages/framework-for-aboriginal-languages-and-torres-strait-islander-languages/what-is-the-framework>.

The Standard includes requirements for understanding users' needs as well as building accessibly and in a consistent and responsive manner.

158. Australia facilitates access to the internet for older Australians through programs such as Broadband for Seniors, which involves more than 1,600 kiosks across Australia, providing persons over the age of 50 with free access to computers and training.

159. The Indigenous Advancement Strategy (IAS) provides funding for telecommunications activities in remote Indigenous communities, including:

- \$8.1 million over three years to 2017-2018 for 245 Community Payphone and 301 WiFi Telephone services.
  - \$6.7 million over three years from 2015-2016 for the Remote Indigenous Internet Training activity, providing internet access, training and/or essential internet infrastructure to address barriers to access.
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