

Distr.: General  
7 April 2022Original: English  
English, French and Spanish only**Committee on Economic, Social and Cultural Rights****List of issues prior to submission of the sixth periodic report of Australia\***

1. The State party is requested to submit in writing the information requested below (21,200 words maximum) by 1 September 2023. The State party's replies to the list of issues prior to reporting will constitute its sixth periodic report under article 16 of the International Covenant on Economic, Social and Cultural Rights.

**A. General information**

2. Please report on the measures taken to fully incorporate the provisions of the Covenant into domestic legal order and indicate any steps taken to introduce a federal charter of rights guaranteeing the full range of economic, social and cultural rights. Please also report on cases in which the provisions of the Covenant are invoked by domestic courts. Furthermore, please report on the measures taken to strengthen the capacity and the process of the Parliamentary Joint Committee on Human Rights, in order to ensure the compliance of domestic legislation with the Covenant; and to enhance the consideration of the views of the Parliamentary Joint Committee.

3. Please report on any steps taken to provide the Australian Human Rights Commission with an explicit mandate to deal with the rights enshrined in the Covenant; and to increase the budget allocated to the Commission to fully carry out its mandate. Please also provide information on the measures taken to improve access to judicial remedies for violations of economic, social and cultural rights and on free legal aid provided for those in need to claim these rights.

4. Please report on any steps taken by the State party to reconsider its climate change and energy policies and commitments, especially its emission reduction target, to make them compatible with the requirements of the Paris Agreement. Please also indicate the measures taken to limit the use of fossil fuels and to replace them with renewable energy and the efforts made to reconcile its continuing support of coal mines and coal exports and its obligations under the Covenant, both in the State party and extraterritorially. Please also report on the measures taken to address the adverse effects of climate change on the enjoyment of economic, social and cultural rights, particularly by indigenous peoples, people living in disaster-prone areas and other disadvantaged and marginalized individuals and groups. Furthermore, please report on the contributions that the State party has committed to and made to the Green Climate Fund.

5. Please report on the framework policy and legislation to ensure that business entities domiciled in the State party or under its jurisdiction respect the rights enshrined in the Covenant, and indicate whether they provide for legal obligations of those business entities to exercise human rights due diligence. Please also report on the measures taken to ensure access to remedies in the State party by non-nationals whose rights have allegedly been

\* Adopted by the pre-sessional working group at its seventieth session (7–11 March 2022).



violated by Australian companies abroad and include any exemplary cases thereof. Furthermore, please provide information on the extent to which the awareness of business entities has been raised regarding their human rights due diligence.

6. Please indicate any review carried out on the adverse impact of the restrictive measures taken in response to the coronavirus disease (COVID-19) pandemic, including the entry ban on people returning from overseas trips, and on the enjoyment of Covenant rights, and indicate any measures taken to provide remedies for those whose rights have been disproportionately restricted. Please provide information on the measures taken to facilitate universal and equal access to COVID-19 testing, treatment and vaccination, particularly by indigenous peoples, people living in remote areas and persons held in immigration and detention facilities. Please also provide information on the measures taken to ensure that persons with disabilities who are exempted from vaccination or wearing a mask due to the nature of their disabilities have access to public services.

## **B. Issues relating to the general provisions of the Covenant (arts. 1–5)**

7. Please report on the steps taken to provide for constitutional recognition of indigenous peoples and to incorporate the principle of free, prior and informed consent in the Native Title Act and other relevant legislation; and on the progress made in reforming the Native Title Act, as recommended by the Committee. In light of the letter that the Committee sent to the State party under its follow-up procedure, please report on the implementation of the renewed Closing the Gap strategy and the results thereof. Please also provide information on the steps taken to support a national representative mechanism for indigenous peoples, as freely determined by them.

8. Please provide information on the evolution over the past 10 years of the following:

- (a) The proportion of the population living below the nationally defined poverty line, before and after taxes and transfers;
- (b) The levels of inequality, defined both as the ratio between the total income accruing to the richest decile of the population and the total income of the poorest 40 per cent, before and after taxes and transfers; and as the ratio between the assets owned by the richest decile of the population and the assets owned by the poorest 50 per cent;
- (c) The proportion of public revenue that is generated through taxes;
- (d) Tax rates levied on corporate profits and on personal income, the value added tax rate (exclusive of value added tax on certain items, including luxury items) and the percentage of total revenue that is generated from personal income tax collected from the richest 10 per cent of the population;
- (e) Public expenditure as a percentage of gross domestic product and, within total public expenditure, the proportion of the public budget that is allocated to social spending, including social security, food, water and sanitation, housing, health and education;
- (f) Any fiscal policy adopted to respond to the COVID-19 pandemic.

9. Please provide information on any steps taken to reform anti-discrimination legislation at the federal and the state levels with a view to addressing the protection gaps in the existing legislation. In particular, please also indicate any steps taken to address the discriminatory effect of section 38 of the Sex Discrimination Act against lesbian, gay, bisexual, transgender and intersex teachers and students in religious educational institutions. Please also provide information on the measures taken to improve access to justice, including complaint mechanisms and procedures, in case of discrimination in the enjoyment of economic, social and cultural rights.

10. Please report on the progress made through implementation of the national disability strategy for 2010–2020 in realizing the rights of persons with disabilities, especially the rights to work, social security, housing, health and education; and the challenges faced in the new strategy and the measures envisaged to address them. In particular, please provide information on the implementation of the recommendations made by the Joint Standing

Committee on the National Disability Insurance Scheme and other measures taken to improve the National Disability Insurance Service. Please also provide information on the measures taken to improve the employment of persons with disabilities in the public and private sectors, including quotas and the supported employment; and to address discrimination they face at work, including as regards provision of reasonable accommodation in the workplace and wages. Furthermore, please report on the steps taken to provide for the prohibition of forced sterilization in legislation and to address the continuing practice of forced sterilization carried out on persons with disabilities.

11. Please provide information on the measures taken to address the pervasive ageism and discrimination based on age and the prevalent abuse against older persons; and the effectiveness of the national plan to respond to the abuse of older Australians for 2019–2023 in this regard. Please also provide information on the steps taken to respond to the Australian Law Reform Commission’s recommendations for law reform to strengthen the protection of older persons from abuse. Please also indicate the measures taken to improve access to employment by older persons and to address the discrimination they face at work.

12. As regards the issues relating to the State party’s offshore processing policy and asylum policy and the State party’s obligations under the Covenant over the private companies providing services in the regional processing centres, please report on the steps taken to implement the Committee’s previous recommendations.<sup>1</sup> Please also provide information on the measures taken to improve access to physical and mental health care in immigration detention facilities and explain the compatibility of the repeal of Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019 with the State party’s obligation to progressively realize the right to the highest attainable standard of physical and mental health. Please also provide information on the progress made in improving the living conditions of refugees and asylum seekers in the “legacy caseload” and providing durable solutions to their situation.

13. Please report on:

- (a) The measures taken to address the economic inequality between men and women, including as regards access to employment and livelihoods, wages and pensions, and the results achieved;
- (b) The progress made in increasing women’s representation in decision-making positions in the public and the private sectors, particularly in the armed forces;
- (c) The effectiveness of the measures taken to combat domestic violence and sexual harassment in schools and workplaces, including the national plan to reduce violence against women and their children; and on the steps taken to respond to the findings and recommendations contained in the Australian Human Rights Commission’s sexual harassment national inquiry report of 2020.

## C. Issues relating to the specific provisions of the Covenant (arts. 6–15)

14. Please report on:

- (a) The progress achieved and the challenges faced in increasing decent job opportunities, especially for the long-term unemployed, indigenous peoples and young people, through the measures taken;
- (b) The steps taken to address the discriminatory effect of employment support measures, including the Community Development Programme, the Work for the Dole Programme and the Social Services Legislation Amendment (Youth Employment) Bill 2016, in terms of the required working hours, minimum wages, occupational safety and health and access to income support programmes;
- (c) The measures taken to address the increasing incidence of underemployment along with the increasing number of workers in non-standard forms of employment.

<sup>1</sup> E/C.12/AUS/CO/5, paras. 14 and 18.

15. Please provide information on:

- (a) The effectiveness of the measures taken, including the national action plans to combat human trafficking and slavery for 2015–2019 and to combat modern slavery for 2020–2025, in preventing and addressing forced labour, investigating cases of forced labour, prosecuting perpetrators and providing victims with support and remedies;
- (b) The effectiveness of the Modern Slavery Act, especially the corporate reporting requirement provided therein, in combating forced labour;
- (c) The measures taken to improve the protection of migrant workers with temporary work visas from exploitative working conditions and to strengthen the enforcement of the Fair Work Amendment (Protecting Vulnerable Workers) Act.

16. Please provide information on the measures taken to ensure the application of the principle of equal pay for work of equal value in general and in the sectors where women are predominant in particular. Please also indicate whether protection provided in the Fair Work Act applies to all workers and, if any groups of workers are not covered, provide information on the measures taken to provide them with the same level of protection. Please also report on the measures taken to strengthen the enforcement of the Fair Work Act and other relevant labour legislation.

17. Please indicate the coverage of the Work Health and Safety Act. Please also indicate the groups of workers who are not covered by the Act and the extent to which legal protection is provided for those workers. Please provide information on the prevalence of occupational accidents and diseases, including relevant statistical data disaggregated by industry, sex, age and form of employment. Please also report on the measures taken to strengthen the enforcement of laws and regulations concerning occupational safety and health and to provide victims with remedies and compensation commensurate with the severity of their suffering.

18. Please report on the progress made in reforming the State party's legislation on trade union rights at the federal, state and territorial levels in compliance with article 8 of the Covenant and the relevant conventions of the International Labour Organization. Please provide information on the measures taken to protect workers from anti-union discrimination and on the cases of anti-union discrimination, including the sanctions imposed on the individuals responsible and the remedies provided to victims.

19. Please report on the measures taken to improve the adequacy and coverage of social security benefits, including unemployment benefits and income support benefits for single parents with children, to ensure the recipients a decent living. Please also report on the steps taken to maintain only an opt-in income management scheme with appropriate oversight of decision-making and monitoring and review existing conditionalities for eligibility to social assistance and unemployment benefits and penalties for non-compliance. Please also provide information on any new social protection programmes introduced or existing ones expanded to respond to the economic fallout due to the COVID-19 pandemic and on the effectiveness of those programmes, especially for those most disadvantaged and marginalized.

20. Please report on annual statistical data on the incidence and depth of poverty in the past six years, disaggregated by sex, age, disability, indigenous peoples, ethnicity and urban or rural area, as applicable. Please also report on the measures taken to reduce poverty, especially among children, indigenous peoples and other disadvantaged and marginalized individuals and groups, and on the results achieved. Please also indicate the measures taken to reduce the widening income and wealth inequalities and to address their adverse impact on the equal enjoyment of economic, social and cultural rights.

21. Please report on the legislative and policy framework on housing. In particular, please provide information on:

- (a) The measures taken to address the high and increasing housing and rental prices, especially those for those persons with low incomes; to increase the provision of affordable housing, including social and rental housing; and to improve precarious housing conditions in remote areas;

(b) The prevalence of homelessness in the State party, and the measures taken to prevent homelessness and to provide persons who are homeless with adequate housing in the short and long term;

(c) The implementation of a moratorium on evictions during the COVID-19 pandemic, including the compliance rates, the sanctions imposed in cases of non-compliance and the remedies provided to those evicted.

22. Please report on the measures taken to address the persistent inequalities in accessing quality health-care services and the gaps in health outcomes among groups who are socioeconomically disadvantaged, disadvantaged indigenous peoples, people living in remote areas, refugees, asylum seekers and migrants. Please also provide information on the measures taken to expand the scope of health-care services provided under Medicare. Please also indicate the measures taken to ensure that constraints on the health-care system owing to the pandemic do not significantly hinder the provision of other health care and services.

23. Please provide information on the framework legislation and policy on mental health. In particular, please provide information on:

(a) Any steps taken to reform the mental health system; measures taken to improve mental health-care services, including as regards early detection and diagnosis of mental health conditions and timely treatments; and any specific measures taken to reach out to young people aged 18–24 years;

(b) The measures taken to address the adverse impact of the COVID-19 pandemic on mental health, particularly with regard to persons held in immigration and detention facilities;

(c) The measures taken to tackle the disproportionately high incidence of suicide, particularly among men, indigenous peoples, lesbian, gay, bisexual, transgender and intersex persons, people in rural areas and children.

24. Please report on the measures taken to improve the availability, accessibility and quality of harm reduction services, including those targeted at high-risk populations. Please also indicate any measures taken to decriminalize drug possession for personal use and to bring its legislative and policy framework into line with international standards and best practices, and to address the adverse impact of disproportionate enforcement of drug legislation on disadvantaged and marginalized individuals and groups, including indigenous peoples, in enjoying their Covenant rights. Please also report on the provision of palliative health-care services and on the measures taken to facilitate the provision of such services to those who require severe pain management, including those with previous or current history of drug misuse or dependence, in timely manner.

25. In light of the Committee's previous recommendations as regards the right to education, please report on:

(a) The progress made, including through the implementation of the recommendations of the Gonski Review, in addressing the segregation in education and disparities in academic performance due to the income of the family, and in ensuring the equitable provision of quality education in all levels of public schools, including through an equitable school funding system;

(b) The progress made in improving the availability of culturally appropriate early education for indigenous children and the school attendance and educational achievements of indigenous children at all school levels;

(c) The measures taken to ensure that all refugee and asylum-seeking children within its territory or under its jurisdiction enjoy the right to education, without discrimination or harassment, and the results achieved;

(d) The progress made in improving the availability, accessibility and quality of inclusive education for students with disabilities, including those with cognitive impairments.

26. Please report on the measures taken to promote and preserve indigenous languages, including through the national Framework for Aboriginal Languages and Torres Strait Islander Languages, and the steps taken to ensure that indigenous languages are

systematically taught in schools with a significant presence of indigenous children. In light of the destruction of the Aboriginal heritage sites in Juukan Gorge by Rio Tinto in 2020, please provide information on the inquiry launched by the Joint Standing Committee on Northern Australia and the measures taken to respond to the findings and recommendations of the inquiry.

27. In light of the significant impact of new and emerging technologies, such as artificial intelligence, on the enjoyment of economic, social and cultural rights, please indicate any measures taken to ensure that human rights considerations and safeguards are embedded into the development and use of technology.

#### **D. Best practices**

28. Please provide information on good practices in policy formulation and implementation that have been developed by the State party during the reporting period and that have effectively contributed to the realization of economic, social and cultural rights, in particular for marginalized and disadvantaged individuals and groups. Please indicate how the Committee's previous concluding observations<sup>2</sup> have been taken into account in developing such practices.

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<sup>2</sup> [E/C.12/AUS/CO/5](#).