



25 May 2015

Kevin Playford
A/g Assistant Secretary
Human Rights and Gender Equality Branch
Department of Foreign Affairs and Trade

KINGSFORD
LEGAL CENTRE

By email: humanrights@dfat.gov.au

Dear Mr Playford,

Australia's Draft Fifth Report under the International Covenant on Economic, Social and Cultural Rights

Thank you for inviting Kingsford Legal Centre to comment on Australia's draft report under ICESCR. We provided detailed feedback on the report at the consultation forum on 8 May 2015, and appreciate your responsiveness to feedback at that forum. In this submission we have focussed on general feedback about the consultation process and report.

Comments on the consultation process

While we appreciate being consulted on the draft report, it would also be valuable to consult on the implementation of the Committee's Concluding Observations prior to the drafting of the report. In addition, we recommend that the Government develop a public mechanism to monitor the implementation status of all UN human rights bodies' recommendations about Australia.

We also suggest that a wider range of organisations be consulted in the preparation of the report. In particular, consulting with Aboriginal and Torres Strait Islander organisations and social services would be particularly valuable in the context of considering Australia's implementation and realisation of economic, social and cultural rights. The Government should proactively seek the input of groups that represent Australians most affected by the issues raised by the Convention and the report.

Many of the issues raised at the May consultation forum have been raised previously with the Australian Government in the context of other periodic reporting processes as well as in other human rights consultation processes. It would be helpful if the feedback provided by non-government organisations could be retained and communicated across the various government departments and staff members that are responsible for these processes over time.

General comments on the report

We are concerned that Australia's report is already substantially overdue, and that this is a trend in relation to Australia's reporting obligations under other UN treaty bodies. We note that the Australian Government is yet to respond to the Human Rights Committee's 2012 List of Issues Prior to Reporting under the International Covenant on Civil and Political Rights, and that Australia's Common Core Document has not been updated since 2006.

We commend you for responding to the previous Concluding Observations in the draft report. However, we suggest that you also include details of:

- the measures that Australia has adopted and progress made in achieving all ICESCR rights, consistent with the obligations under Article 16(1); and
- factors and difficulties affecting the degree of fulfilment of ICESCR obligations, consistent with the obligations under Article 17(2).¹

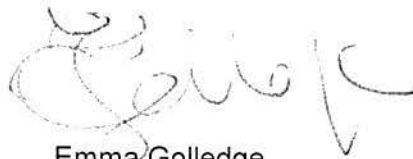
We note that the Committee expressed concern in the previous Concluding Observations about Australia's failure in its last report to provide a substantive report on the measures adopted to give effect to ICESCR rights and the progress made in achieving those rights (paragraph 2).

In addition, responses to Concluding Observations should specifically address the recommendations made in the Concluding Observations and, where those recommendations have not been implemented, include the reasons for this. Policy changes that could potentially be viewed as regressive measures, such as funding cuts to the Australian Human Rights Commission, should also be included along with reasons for these changes.

Throughout the report there is a need for more data, which should be disaggregated by gender, age, disability, ethnicity, Indigenous status and geographic location, to assess Australia's progress towards realising ICESCR rights (as required by Article 2(1)). Indicators and benchmarks should also be identified to assist in measuring progress. This is consistent with the requirements set out in the Committee's guidelines for states parties' reports.²

We look forward to the final Australian report being submitted in the near future. Please keep us updated on the schedule for the Committee's pre-sessional working group consideration of Australia's report.

Yours sincerely,
KINGSFORD LEGAL CENTRE



Edwina MacDonald
Solicitor

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¹ See also Committee on Economic, Social and Cultural Rights, *Guidelines on treaty-specific documents to be submitted by states parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights*, E/C.12/2008/2, 24 March 2009, pages 3-4.

² As above.