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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on
Economic, Social and Cultural Rights

Australia

1. The Committee on Economic, Social and Cultural Rights considered the third periodic report of Australia on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1994/104/Add.21) at its 45th, 46th and 47th meetings, held on 24 and 25 August 2000, and adopted, at its 55th meeting, held on 31 August 2000, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of Australia, which has been prepared in conformity with the revised reporting guidelines established by the Committee. The Committee expresses its appreciation for the readiness of the State party to advance the date of the presentation of its third periodic report, which is indicative of the State party's willingness to cooperate with the Committee.

3. The Committee welcomes the constructive dialogue which took place between the delegation of the State party and Committee members. The Committee regrets, however, that, owing to the unexpected advance of the consideration of the State party's report, the written replies to its list of issues were not available to Committee members before the dialogue. The Committee also regrets that a number of questions were not answered to its satisfaction.

B. Positive aspects

4. The Committee acknowledges that, in general, the majority of Australians have a high standard of living and that the State party is continuing efforts to maintain this high standard of living in the country. This is supported by the fact that Australia is ranked fourth on the UNDP Human Development Index for the year 2000.

5. The Committee notes the introduction by the State party of policies for streamlining business regulation and the delivery of government services, in particular the implementation, beginning in July 2000, of the Goods and Services Tax, aimed at the reduction of income tax for the majority of working Australians.

6. The Committee commends the State party's contribution to resolving the recent Asian financial crisis.

7. The Committee notes with appreciation the State party's leadership role in maintaining peace and stability in the region, inter alia by providing economic and humanitarian assistance, particularly in East Timor.

8. The Committee notes that, in August 1999, the Parliament passed a motion expressing commitment to reconciliation with the indigenous populations of Australia as an important national priority, and a "deep and sincere regret" for past policies that have negatively affected them. The Committee also notes that, in May 2000, the Council for Aboriginal Reconciliation presented to the Australian people its final proposals for a Document of Reconciliation towards the development of measures to improve the position of the indigenous populations of Australia.

9. The Committee notes that the State party has allocated 2.3 billion Australian dollars for giving priority to indigenous programmes.

10. The Committee welcomes the partnership between the State party and indigenous communities in initiatives aimed at providing greater access for indigenous peoples to culturally appropriate health services and allocating significant resources for the improvement of indigenous health in general.

11. The Committee notes that, despite the persistence of disparities between men and women in the field of employment, there has been an increase in the percentage of women employed at higher levels.

12. The Committee welcomes the various programmes established by the State party to address domestic violence, among them “Partnerships against Domestic Violence”, the “Rural and Remote Domestic Violence Initiative”, the “Gender and Violence Project” and “Crisis Payment”.

C. Factors and difficulties impeding the implementation of the Covenant

13. In spite of existing guarantees pertaining to economic, social and cultural rights in the State party’s domestic legislation, the Covenant continues to have no legal status at the federal and state level, thereby impeding the full recognition and applicability of its provisions.

D. Principal subjects of concern

14. The Committee regrets that, because the Covenant has not been entrenched as law in the domestic legal order, its provisions cannot be invoked before a court of law.

15. The Committee expresses its deep concern that, despite the efforts and achievements of the State party, the indigenous populations of Australia continue to be at a comparative disadvantage in the enjoyment of economic, social and cultural rights, particularly in the field of employment, housing, health and education.

16. The Committee notes with regret that the amendments to the 1993 Native Title Act have affected the reconciliation process between the State party and the indigenous populations, who view these amendments as regressive.

17. The Committee notes with concern that the Workplace Relations Act of 1996 favours individual negotiation with employers over collective bargaining, thereby reducing the role of the Australian Industrial Relations Commission. The Committee is also concerned about the restrictions resulting from the Act with regard to the protection of wages, job security and temporary employment.

18. The Committee notes with concern that homeworkers, who are predominantly women, do not enjoy any form of social protection and are paid substantially lower wages than the minimum wage, which compels them to work excessively long hours in order to earn enough to ensure the daily subsistence of their families.

19. The Committee notes with concern that paid maternity leave is not provided for in law or in collective labour conventions, and that the State party has not ratified ILO Convention No. 103 concerning maternity protection.

20. The Committee regrets that the absence of an officially set poverty line in Australia has deprived the Committee of the criteria it needs to determine the progress achieved over time by the State party in its efforts to reduce poverty.

21. The Committee is concerned that the current Residential Tenancies Act 1987 (in New South Wales) does not provide adequate security of tenure and protection against eviction and arbitrary rent increases, and that, consequently, rents in Sydney have increased substantially and forced evictions are reported to have taken place, especially in connection with the forthcoming Olympic Games.

22. The Committee expresses its deep concern that, despite the guarantees of coverage for all under the Medicare system, the problem of long waiting periods for medical services in hospitals, and in particular for surgery, has not been sufficiently addressed.

23. The Committee notes with concern that no steps have been taken to respond to its 1993 recommendation to strengthen human rights education in formal and non-formal curricula. Furthermore, while the State party has given information relating to the funding of private and public schools, it has not provided sufficient information on the difference in quality of schooling available to students in public and private schools.

E. Suggestions and recommendations

24. The Committee strongly recommends that the State party incorporate the Covenant in its legislation, in order to ensure the applicability of the provisions of the Covenant in the domestic courts. The Committee urges the State party to ensure that no conflicts occur between Commonwealth and state law in this respect. The Committee encourages the State party to follow the High Court's position concerning "legitimate expectations" arising from the ratification of the Covenant.

25. The Committee encourages the State party to pursue its efforts in the process of reconciliation with Australia's indigenous peoples and its efforts to improve the disadvantaged situation they are in.

26. The Committee recommends that the State party ensure that the legislative provisions concerning job security are strengthened and effectively implemented, especially for the most vulnerable groups, such as fixed-term contract workers, temporary workers and casual workers.

27. The Committee strongly recommends that the State party undertake measures to protect homeworkers and to ensure that they receive the official minimum wage, that they benefit from adequate social security and that they enjoy working conditions in conformity with the legislation.

28. The Committee recommends that the State party consider enacting legislation on paid maternity leave and ratifying ILO Convention No. 103 concerning maternity protection.

29. The Committee recommends that the State party limit its prohibitions on the right to strike to essential services, in accordance with ILO Convention No. 87, and, in the context of the civil service, to civil servants who exercise functions of State authority.

30. The Committee recommends that the State party ensure that labour in private prisons is voluntarily undertaken and is properly remunerated.

31. The Committee requests that the State party provide detailed information on the work for dole scheme in its fourth periodic report.
32. The Committee calls upon the State party to ensure that the two-year waiting period for the receipt of social security assistance by new immigrants does not infringe upon their right to an adequate standard of living.
33. The Committee strongly urges the State party to establish an official poverty line, so that a credible assessment can be made of the extent of poverty in Australia. The Committee requests further that the State party provide information on this issue in its fourth periodic report.
34. The Committee strongly recommends that the State party, at the federal level, develop a housing strategy in keeping with the Committee's General Comments No. 4 and 7, including provisions to protect tenants from forced eviction without reasons and from arbitrary rent increases. In addition, the Committee recommends that the State party ensure that all state and territory governments establish appropriate housing policies in accordance with this strategy.
35. The Committee calls upon the State party to take effective steps to ensure that human rights education is included in primary and secondary school curricula and requests the State party to inform the Committee of the measures taken in this regard in its fourth periodic report.
36. The Committee requests the State party to provide additional, more detailed information, including statistical data which is disaggregated according to age, sex and minority groups, concerning the right to work, just and favourable conditions of work, social security, housing, health and education, in its fourth periodic report.
37. Finally, the Committee requests the State party to ensure the wide dissemination in Australia of the present concluding observations and to inform the Committee of measures taken to implement the recommendations contained herein in its fourth periodic report, to be submitted by 30 June 2005.
