

AUSTRALIA

CESCR E/1994/23

143. The Committee considered the second periodic report of Australia on articles 13 to 15 of the Covenant (E/1990/7/Add.13) at its 13th, 15th and 20th meetings on 24, 25 and 28 May 1993 and, at its 20th meeting, adopted the following concluding observations.

A. Introduction

144. The Committee expresses its appreciation to the State party for the comprehensive report and for the delegation sent to discuss the report, which serve as an indication of the seriousness with which the Government of Australia takes its obligations under the Covenant.

145. The Committee notes with appreciation that the excellence of the written report, the additional written information as well as oral responses to questions raised have enabled the Committee to obtain a clearer understanding of the State party's performance of its obligations under the Covenant.

B. Positive aspects

146. The Committee notes with satisfaction the efforts made within the federal structure of Australia to establish the machinery to ensure compliance with the education related provisions of the Covenant. The Committee also notes with satisfaction that the State party, since the submission of its previous report to the Committee, has undertaken various initiatives and measures designed to redress imbalances in the provision of education for identified disadvantaged groups in Australia, including the Aboriginal and Torres Strait Islander populations, girls, person with disabilities and minority groups. The Committee welcomes the fact that numerous studies or reviews have been undertaken or are in preparation on education related matters and that the findings of these studies are taken into account in the determination of educational policy and national action plans. The Committee attaches particular importance to the development of a national strategy for equity in schooling, the impact on the teaching profession of the National Project on the Quality of Teaching and Learning, and the initiatives being taken concerning human rights education in curriculum development. The Committee also welcomes the development of appropriate indicators to monitor progress in the achievement of set objectives of national policy on education.

147. The Committee is encouraged by the development of programmes to promote multiculturalism and the recognition being placed on the racial and cultural differences in Australia.

C. Factors and difficulties impeding the implementation of the Covenant

148. The Committee notes that differences exist in legislation concerning education within the federal system of Australia. The Committee also notes that the State party has identified several groups as being disadvantaged with regard to their participation in education. In particular, the

Committee notes that socio-economic factors and the isolation of certain Aboriginal and Torres Strait Islander communities constitute major difficulties in the implementation of the Covenant.

149. The Committee recognizes that limited resources and the geographic isolation of certain Aboriginal communities have been the principal impediments to furthering cultural development and international contacts.

D. Principal subjects of concern

150. The Committee considers the situation of disadvantaged groups in the educational system to be of particular concern. The Committee specifically notes the situation of the Aboriginals and Torres Strait Islanders in education which affects their prospects for future employment, as well as the problems of illiteracy among the adults of this group, the majority of whom do not have primary and secondary education.

151. The Committee is concerned about the lack of opportunities available to persons with disabilities fully to enjoy their rights to education.

152. The Committee is also concerned about the effects of funding accorded to non-government schools on the quality of education in government schools.

153. As regards the implementation of article 15 of the Covenant, the Committee expresses particular concern that Aboriginals and Torres Strait Islanders do not have sufficient opportunities fully to involve themselves in creating awareness of their cultural heritage.

154. The Committee expresses concern about provisions of the Federal Customs Regulations which prohibit the import of certain materials as referred to in paragraph 310 of the report. The practical application of these provisions could run counter to the freedom of artistic creation and performance.

E. Suggestions and recommendations

155. The Committee underlines the importance, in the context of federalism in Australia, of close cooperation and coordination between different authorities and organizations for the effective implementation of the provisions contained in articles 13 to 15 of the Covenant.

156. The Committee suggests that activities be undertaken throughout the federal structure of Australia to sensitize society to the situation and different needs of persons with disabilities and other groups. As part of the efforts to be undertaken to change and influence attitudes towards vulnerable groups, the Committee recommends that further measures be taken to strengthen the human rights education component in formal and non-formal curricula.

157. The Committee considers it important that the State party take particular measures to involve different groups in the process of preparing reports for the Committee, to make these reports widely known and available to the public and to make available the summary records and concluding observations following the Committee's consideration of the report before it.

158. The Committee recommends that due attention be given to the development of indicators for measuring progress in the implementation of the rights covered by articles 13 to 15 of the Covenant. Information on the results and progress made in this area should be provided when the State party next reports to the Committee. In addition, the Committee emphasizes the importance of taking steps to monitor more closely the general situation of Aboriginals and Torres Strait Islanders and other disadvantaged groups particularly in education and culture. The Committee therefore appreciates that the Government of Australia is fully aware of the difficulties impeding the implementation of the Covenant.

159. The Committee emphasizes the appropriateness of the efforts being undertaken by the Government to identify the needs of disadvantaged groups and to continue to draw on the results of studies and reviews in the development of policy initiatives aimed at responding to the needs of such groups. The Committee underscores the importance which it attaches to the economic, social and cultural rights of persons with disabilities and of the elderly and therefore urges the Government to direct major efforts towards assessing and addressing the needs of these groups in relation to their rights under article 13 and 15 of the Covenant.

160. The Committee appreciates the expression of commitment by the Government to implement equity in schooling as a matter of public responsibility, and hence recommends that legislative efforts be undertaken to eliminate the remaining obstacles to the equitable access to educational establishments.

161. The Committee would welcome information, in the next report of the State party on the implementation of articles 13 to 15 of the Covenant, on any differences identified in the quality of education between government and non-governmental schools.

162. The Committee recommends that actions be taken to provide Aboriginal artists with opportunities to participate in international forums in order to promote awareness of their indigenous culture.

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366. The Committee considered the third periodic report of Australia on the implementation of the Covenant (E/1994/104/Add.22) at its 45th to 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

367. 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.

368. 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

369. 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.

370. 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.

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

372. 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.

373. 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 for Reconciliation towards

the development of measures to improve the position of the indigenous populations of Australia.

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

375. 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.

376. 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.

377. 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

378. 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

379. 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.

380. 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.

381. 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.

382. 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.

383. 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.

384. 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 (revised 1952) concerning maternity protection.

385. 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.

386. 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 2000 Olympic Games.

387. 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.

388. The Committee notes with concern that no steps have been taken to respond to its recommendation, made in its concluding observation on the second periodic report on Australia, to strengthen human rights education in formal and non-formal curricula.¹ 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

389. 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.

390. 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 their disadvantaged situation.

¹ See *Official Records of the Economic and Social Council, 1994, Supplement No. 3 (E/1994/23-E/C.12/1993/19)*, chap. V, para. 156.

391. 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.

392. 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.

393. The Committee recommends that the State party consider enacting legislation on paid maternity leave and ratifying ILO Convention No. 103 (revised 1952) concerning maternity protection.

394. 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 (1948) concerning freedom of association and protection of the right to organize, and, in the context of the civil service, to civil servants who exercise functions of State authority.

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

396. The Committee requests that the State party provide, in its fourth periodic report, detailed information on the work-for-dole scheme.

397. 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.

398. 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.

399. 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 (1991) concerning the right to adequate housing (art. 11, para. 1, of the Covenant) and No. 7 (1997) concerning forced evictions, 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.

400. 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 in its fourth periodic report to inform the Committee of the measures taken in this regard.

401. The Committee requests the State party to provide, in its fourth periodic report, 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.

402. 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.