



Law Council
OF AUSTRALIA

Australia's Sixth Periodic Report: Parallel Report

UN Committee on Economic, Social and Cultural Rights

9 January 2026

Executive summary

1. The Law Council of Australia represents the Australian legal profession at the national level. As part of its mission to uphold the rule of law, the Law Council promotes compliance with Australia's international human rights obligations, including under the International Covenant on Economic, Social and Cultural Rights (**ICESCR**),¹ which Australia ratified in 1976.²
2. This submission, made in advance of the 2026 State Party dialogue with Australia, builds on the Law Council's recent submission to the Fourth Cycle Universal Periodic Review of Australia (**UPR submission**).³ That submission addressed several issues relevant to the mandate of the **Committee** on Economic, Social and Cultural Rights—highlighting in particular the need for Australia to adopt a federal Human Rights Act, the crisis state of Australia's child justice system, and the over-incarceration of First Nations Australians—and should be considered alongside this submission.
3. The purpose of this submission is to identify for the Committee, from the perspective of the legal profession, economic, social and cultural rights issues currently facing Australia. Those issues include:
 - the ongoing need for a federal Human Rights Act;
 - funding for legal assistance services;
 - the human rights implications of climate change;
 - housing and homelessness policies;
 - business and human rights;
 - rights protections for First Nations Australians;
 - piecemeal reform of anti-discrimination laws;
 - policy relating to asylum seekers, refugees and other migrants, and
 - further issues identified by Royal Commissions of inquiry in recent years.
4. The Law Council thanks members of its National Human Rights Committee, its Business and Human Rights Committee and its Equal Opportunity Committee, as well as the Law Society of New South Wales and Law Society of South Australia, for their input into this submission.

¹ Opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976).

² [1976] ATS 5 (entered into force for Australia 10 March 1976).

³ Law Council, [Submission to the Fourth Cycle Universal Periodic Review of Australia](#), 16 July 2025.

Commentary

Legal Protection for Human Rights

5. In its Sixth **Periodic Report**, the Australian Government states that it is:⁴

... committed to ensuring its human rights framework protects ... human rights, and considers that its existing mechanisms sufficiently and appropriately provide for this purpose. Australia has a strong framework for protecting and advancing human rights through the Australian Constitution, legislation, administrative measures, policy and practice, and institutions such as its independent courts and the common law.

6. However, there remain differences in the availability of those protections and mechanisms across jurisdictions in Australia's federal system of government. To support more effective and consistent legal protection of human rights in Australia, the Law Council's longstanding position is in favour of a federal Human Rights Act, which would explicitly protect human rights and implement Australia's international obligations, including under the ICESCR,⁵ as recommended by the Committee.⁶

7. The Periodic Report mentions that the federal Parliamentary Joint Committee on Human Rights (**PJCHR**) was asked to review Australia's human rights framework in 2023, for report by 2024.⁷ On 31 May 2024, the PJCHR published the report of its inquiry, recommending among other changes:⁸

- the establishment of a Human Rights Act at the federal level;
- a significant and ongoing commitment to national human rights education;
- review of existing laws, policies and practices for compliance with human rights, and
- measures to monitor progress on human rights.

8. The Law Council's submission to that inquiry set out the legal profession's united stance in favour of stronger human rights protections, and reinvigoration of Australia's entire human rights framework, which has not been updated since 2010.⁹ The PJCHR even provided a draft Human Rights Bill for the Australian Government to use as a model, adapted from existing state and territory Human Rights Acts with input from some of Australia's most qualified human rights experts.¹⁰ At the time of writing, more than 18 months after the PJCHR's report was published, the Australian Government has not introduced a Human Rights Bill, nor has it responded to the report.

⁴ Sixth periodic report submitted by Australia under articles 15 and 17 of the Covenant, UN Doc E/C.12/AUS/6 (20 November 2023).

⁵ Law Council, [Federal Human Rights Charter](#) (Policy Position, November 2020).

⁶ CESCR, *Concluding Observations on the fifth periodic report of Australia*, UN Doc E/C.12/AUS/CO/5 (11 July 2017), [6].

⁷ Periodic Report, [7].

⁸ JCHR, [Report of Inquiry into Australia's Human Rights Framework – List of Recommendations](#) (May 2024).

⁹ Law Council, [Inquiry into Australia's Human Rights Framework](#) (Submission to PJCHR, 3 July 2023).

¹⁰ PJCHR, [Appendix 5 – Example Human Rights Bill 2024](#) (May 2024).

9. It is also important from the perspective of economic, social and cultural rights for Australian states and territories to enact human rights legislation, given their primary responsibility for areas such as crime, health, education, housing and homelessness. However, not all jurisdictions have done so. For example, despite being Australia's most populous jurisdiction, New South Wales does not have a Human Rights Act;¹¹ nor does Tasmania, South Australia, Western Australia or the Northern Territory.
10. The lack of a cohesive national human rights legal framework undermines reform efforts in response to significant rights crises in recent years, which have led to Royal Commissions, including into unacceptable treatment of young detainees in the Northern Territory,¹² recipients of aged care,¹³ and Australians with disabilities.¹⁴ There have been efforts to incorporate human rights standards into legislation to address these issues, but these efforts are piecemeal, without a coherent framework underpinned by a federal Human Rights Act for all Australians.¹⁵
11. In addition, the ICESCR has still not been incorporated into the *Australian Human Rights Commission Act 1986* (Cth), and Australia has not ratified the Optional Protocol to the ICESCR, despite the Committee's recommendations.¹⁶ As a result, complaints of violations of economic, social and cultural rights can only be made where permitted under Human Rights Acts or subject matter-specific legislation in most Australian jurisdictions.¹⁷

Funding for Legal Assistance Services

12. The Periodic Report mentions the *National Legal Assistance Partnership (NLAP)* 2020–25, which provided more than AU\$2.4b over five years to the states and territories for the delivery of legal assistance services.¹⁸ The Report also notes that the NLAP was due to be reviewed in 2023 and expires in 2025. An independent review of the NLAP made 39 recommendations to address significant unmet legal assistance need around the country.¹⁹

¹¹ NB a Private Member's Bill (non-Government Bill) for a Human Rights Act in NSW was introduced into NSW Parliament in 2025: [Human Rights Bill 2025 \(NSW\)](#). See also NSW Bar Association and Law Society of NSW, [Legal profession unites for a public inquiry into a NSW Human Rights Act](#) (Media release, 6 November 2025).

¹² Royal Commission into the Protection and Detention of Children in the Northern Territory, [Final Report](#) (November 2017).

¹³ Royal Commission into Aged Care Quality and Safety, [Final Report](#) (March 2021).

¹⁴ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, [Final Report](#) (September 2023).

¹⁵ See eg Australian Government Department of Health, Disability and Ageing, [About the new rights-based Aged Care Act](#).

¹⁶ See most recently CESCR, *Concluding Observations on the fifth periodic report of Australia*, UN Doc E/C.12/AUS/CO/5 (11 July 2017), [10] and [59].

¹⁷ Exceptions include, for example, non-discrimination rights in every jurisdiction; work rights under the federal *Fair Work Act 2009*; rights to education and health services in the *Human Rights Act 2019* (Qld) ss 36, 37; rights to culture and property in ss 19, 20 of the *Charter of Human Rights and Responsibilities Act 2006* (Vic); and rights to education, work and a healthy environment in the *Human Rights Act 2004* (ACT), ss 27A, 27B, 27C.

¹⁸ Periodic Report, [13].

¹⁹ Dr Warren Mundy, [Independent Review of the National Legal Assistance Partnership](#) (Final Report, March 2024).

13. As stated in our UPR submission, Australia's legal assistance sector remains significantly underfunded. The commencement of the new *National Access to Justice Partnership (NAJP)* on 1 July 2025 (to replace the NLAP) was an important and welcome development to provide additional and ongoing Commonwealth funding across all legal assistance services. However, this funding remains far from what is required to rectify outstanding shortfalls and to address ongoing sector pressures. The Australian Government should provide a comprehensive response to the recommendations made by the NLAP review, and provide significant additional funding to legal services under the NAJP to expand current means testing arrangements and increase grants of legal aid, particularly where there is substantial unmet need.
14. At the time of writing, jurisdictions such as the Northern Territory are facing particularly acute shortfalls in publicly funded legal representation as a result of increasing reliance on 'tough on crime' measures. For example, Legal Aid NT was unable to provide services (which are already strictly limited to those already in custody) over the 2025–26 holiday period as a result.²⁰

Human rights implications of climate change

15. The Law Council acknowledges the Australian Government's efforts, as set out in the Periodic Report, to achieve 82% renewables by 2030 and net zero emissions by 2050.²¹ Without adequate action, the impacts of climate change and its far-reaching consequences will adversely impact human rights, including under the ICESCR, as recently identified by the International Court of Justice.²² In 2022, the UN Human Rights Committee found that Australia's climate change policies breached its human rights obligations, including to implement adequate adaptation measures to protect home, private life and family and to protect the right to culture in the Torres Strait.²³ Australia's response to climate change must offer long-term solutions with higher levels of ambition in order to comply with Australia's international obligations, including under the Paris Agreement,²⁴ and to respect, promote and fulfil human rights.

Housing

16. Australia is facing an acute shortage of adequate and affordable housing, resulting in high levels of homelessness with disproportionate impacts on certain groups, including women and children escaping family violence, First Nations people, older people and people with disability. Australia should enshrine the right to adequate housing through a federal Human Rights Act to address homelessness and other forms of housing insecurity.

²⁰ Lillian Rangiah, '[Low-income adults and children in jail denied lawyers over Christmas](#)', ABC News, 24 December 2025.

²¹ Periodic Report, [16]-[19].

²² [Obligations of States in respect of Climate Change](#) (Advisory Opinion, 23 July 2025) [372]-[376]; [379]-[380].

²³ Human Rights Committee, Views: Communication No. 3624/2019, 135th sess, UN Doc CCPR/C/135/D/3624/2019 (22 September 2022) (Billy et al v Australia).

²⁴ Paris Agreement, opened for signature 22 April 2016, 3156 UNTS (entered into force 4 November 2016).

Business and human rights

17. The Law Council acknowledges the significant progress made by the Australian Government in combating modern slavery in business supply chains, including through the *Modern Slavery Act 2018* (Cth) and the newly established office of the Australian Anti-Slavery Commissioner. The Australian Government is currently consulting on the implementation of a 2023 review of the Act which called for the reporting regime to be strengthened, including by the addition of fines for non-compliance. The Law Council supports implementation of the 2023 review recommendations, and further consideration of the need for due diligence obligations on business.²⁵ We also recommend that Australia adopt a National Action Plan on Business and Human Rights.
18. We further note that the UN Guiding Principles on Business and Human Rights are not only about modern slavery, and we wish to see efforts towards the creation of a robust system of remedies for victims of all human rights violations, by both business and government.²⁶ The Australian National Contact Point is a positive step in this regard, but more could be done.

First Nations Australians

Closing the Gap

19. The National Closing the Gap Agreement contains 19 national socio-economic targets.²⁷ The Productivity Commission measured 15 of 19 of those targets under the Agreement in 2025.²⁸ Of those, only four are on track to be met (including in relation to early childhood education rates, economic participation and First Nations' rights and interests in land and waters). Other indicators such as health, wellbeing and housing are not on track to be met.²⁹ Some measures, including with respect to First Nations adult incarceration and First Nations children in out-of-home care, are worsening.
20. The Law Council is very concerned about the overrepresentation of First Nations adults and children in the justice system, and has made that a focus of our advocacy efforts in recent years.³⁰ We strongly support an approach to criminal justice reform that prioritises social supports (including education and healthcare) over punitive justice responses to help close the gap in this area.³¹ There also continues to be a need to implement outstanding recommendations of the Royal Commission into

²⁵ Law Council, [*Strengthening the Modern Slavery Act*](#) (Submission, 8 September 2025).

²⁶ Related recommendations were made in CESCR, *Concluding Observations on the fifth periodic report of Australia*, UN Doc E/C.12/AUS/CO/5 (11 July 2017), [14].

²⁷ [*National Agreement on Closing the Gap*](#), Outcomes 10, 11 and 12.

²⁸ Productivity Commission, [*Closing the Gap: Annual Data Compilation Report*](#) (July 2025).

²⁹ Ibid, 1.2: *Progress towards Closing the Gap*.

³⁰ Many of our relevant publications are collected on a dedicated [*Youth Justice*](#) resource page. See also Law Council, [*Measuring Outcomes for First Nations Communities*](#) (Submission, 7 March 2025).

³¹ See eg Law Council, [*Australia's Youth Justice and Incarceration System*](#) (Submission to Senate Inquiry, October 2024). President of the Australian Human Rights Commission endorsed a similar approach recently – see Hugh de Kretser, [*Speech to National Access to Justice and Pro Bono Conference 2025*](#) (30 October 2025).

Aboriginal Deaths in Custody³² and the Australian Law Reform Commission's Pathways to Justice report.³³

Cultural heritage and Native Title

21. Following the destruction of 46,000-year-old caves at Juukan Gorge in Western Australia and a subsequent parliamentary inquiry,³⁴ the Australian Government has accepted a recommendation to legislate for new and overarching protection of cultural heritage at the national level, "within the framework of the [United Nations Declaration on the Rights of Indigenous Peoples], particularly the principle of self-determination".³⁵ However, consultations on those reforms paused in mid-2023 and have not resumed. Legislation for stronger and more effective First Nations cultural heritage protections remains necessary.
22. The Periodic Report notes that the Australian Government had agreed in principle to a review of the "future acts" regime of the *Native Title Act 1993* (Cth) as part of its response to the Juukan Gorge inquiry.³⁶ On 4 June 2024, then Attorney-General the Hon Mark Dreyfus KC MP referred this review to the Australian Law Reform Commission, which is due to provide its final report by 31 March 2026.³⁷

Constitutional recognition

23. The Periodic Report raises the long process of constitutional recognition for First Nations Australians, including the 2017 Uluru Statement from the Heart calling for a 'Voice'—a body to represent First Nations perspectives to the Australian Parliament.³⁸ That proposition was put to a referendum in 2023. The referendum proposal was not supported. Among other reasons for this outcome, analysis identified poor civics education (along with misinformation and disinformation) as contributing to voter confusion about the proposed constitutional amendments in that context.³⁹ Civics education, including about Australia's legal system and First Nations peoples' history, is necessary to combat misinformation and disinformation, and to support the effective implementation and protection of First Nations rights in Australia.⁴⁰

³² Royal Commission in to Aboriginal Deaths in Custody, Final Report (Vol 5), [Recommendations](#) (1998).

³³ Australian Law Reform Commission Report 133, [Pathways to Justice—An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples](#) (Final Report, December 2017).

³⁴ Joint Standing Committee on Northern Australia, Parliament of Australia, [A Way Forward: Final report into the destruction of Indigenous heritage sites at Juukan Gorge](#) (Report, October 2021).

³⁵ Australian Government, [Australian Government response to the Joint Standing Committee on Northern Australia's: A Way Forward: Final report into the destruction of Indigenous heritage sites at Juukan Gorge and Never Again: Inquiry into the destruction of 46,000 year old caves at the Juukan Gorge in the Pilbara region of Western Australia](#) (November 2022).

³⁶ Periodic Report, [54].

³⁷ Australian Law Reform Commission, [Review of the Future Acts Regime](#) (2025).

³⁸ Periodic Report, [48]-[50].

³⁹ See, eg, The Australia Institute, [Polling – Misinformation and the referendum](#) (October 2023). See also Australian Broadcasting Corporation, [Hope truth-telling through education will improve understanding of Indigenous issues after failed Voice referendum](#) (15 April 2024); The Guardian, [The Voice referendum turned into an overdue civics lesson. Sadly, many failed the test](#) (16 October 2023).

⁴⁰ See further Law Council of Australia, [Submission to Joint Standing Committee on Electoral Matters, Inquiry into Civics Education, Engagement, and Participation in Australia](#) (18 June 2024).

Anti-discrimination laws

24. In 2010–12, the Australian Government was working towards consolidation and modernisation of federal anti-discrimination laws.⁴¹ Progress stalled on that project and reform since then has primarily focused on amendments to existing laws.
25. For example, significant amendments were made to the *Sex Discrimination Act 1984* (Cth) in 2022 and 2023 as a result of the Australian Human Rights Commission’s *Respect@Work* report on workplace sexual harassment.⁴² This included the addition of a positive duty to eliminate harassment, sexist conduct and related victimisation.⁴³
26. The Australian Government is also conducting a review of the *Disability Discrimination Act 1992* (Cth),⁴⁴ in response to related recommendations of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (**Disability Royal Commission**), which handed down its final report in September 2023.⁴⁵ The Law Council welcomes this review, noting the Act had not been significantly reformed in the three decades since its original adoption, and considers that it presents several opportunities to improve economic, social and cultural rights protections for persons with disability.⁴⁶
27. However, gaps in the federal anti-discrimination framework remain, including its capacity to address all forms of discrimination (for instance, discrimination on the basis of faith—despite commitments in this regard in the Periodic Report⁴⁷—and intersectional discrimination).
28. The Law Council continues to call on the Australian Government to “pursue greater consistency and accessibility across Australia’s federal anti-discrimination law framework, to simplify the existing provisions, reduce regulatory burdens and address key protection gaps”, while noting that this “should not occur at the expense of lowering existing protections in the framework that are based on Australia’s international obligations.”⁴⁸

⁴¹ See, eg, the Hon Nicola Roxon MP and Senator the Hon Penny Wong, [Clearer, simpler, stronger anti-discrimination laws](#) (Media Release, 20 November 2012).

⁴² AHRC, [Respect@Work – Changes to the Sex Discrimination Act 1984 \(Cth\) and the AHRC Act](#) (Web resource, December 2022).

⁴³ AHRC, [The positive duty in the Sex Discrimination Act](#) (Web resource, continually updated).

⁴⁴ Australian Government Attorney-General’s Department, [Review of the Disability Discrimination Act](#) (Web page, 2025).

⁴⁵ Law Council, [Disability Discrimination Act 1992 Review](#) (Submission to Attorney-General’s Department, 14 November 2025); official documents available at the [Disability Royal Commission website](#).

⁴⁶ See further Law Council, [Disability Discrimination Act 1992 Review](#) (Submission to Attorney-General’s Department, 14 November 2025); also [Submission to the Fourth Cycle UPR of Australia](#) (July 2025), 4-5.

⁴⁷ Periodic Report, [84].

⁴⁸ Law Council, [Call to Parties 2025](#), 27-28.

Asylum seekers, refugees and migrants

29. Australia continues its policy of mandatory administrative detention of asylum seekers, including in offshore detention centres, in defiance of long-standing UN treaty body recommendations and findings of violations.⁴⁹ Most of the underlying issues in this area will be familiar to the Committee, and some are addressed in the Periodic Report.⁵⁰ This section provides a necessarily brief update.

30. The Law Council welcomed some much-needed reforms in migration law and policy since the Periodic Report was published.⁵¹ However, in late 2024, the Law Council had strong reservations about migration reforms rushed through Parliament, each of which had serious human rights implications.⁵² The Law Council has called on the Australian Government to:⁵³

- ensure that international human rights and refugee law principles are fully observed in its migration law and policies—including economic, social and cultural rights (such as work and healthcare rights);
- reform asylum-related laws and policies to end those incompatible with Australia’s international obligations;
- pursue long-term, durable solutions for all refugees and asylum seekers who are or have been subject to Australia’s offshore processing policy; and
- establish and fully resource an independent migration law monitor.

Further issues identified by Royal Commissions

31. In addition to the Disability Royal Commission mentioned above, there have been Royal Commissions established into a number of important human rights issues in recent years in Australia, including into aged care quality and safety,⁵⁴ the “Robodebt” Scheme,⁵⁵ and defence and veteran suicide.⁵⁶ These inquiries have revealed significant abuses of Australians’ human rights, including economic, social and cultural rights.

⁴⁹ Recent relevant Human Rights Committee decisions include Human Rights Committee, Views: Communication No. 2749/2016, 142nd sess, UN Doc CCPR/C/142/D/2749/2016 (31 October 2024) (*M.I. et al v Australia*); Human Rights Committee, Views: Communication No. 3663/2019, 142nd sess, UN Doc CCPR/C/142/D/3663/2019 (25 October 2024) (*Nabhari v Australia*). A comprehensive overview of Australia’s immigration detention policies and practices, and their compatibility with international law, is provided in Global Detention Project, [Immigration Detention in Australia: Turning Arbitrary Detention into a Global Brand](#) (Country Report, February 2022). See further UNHCR, [Inquiry into the Ending Indefinite and Arbitrary Immigration Detention Bill 2021](#) (Submission to Joint Standing Committee on Migration, 28 January 2022).

⁵⁰ Periodic Report, [134]-[149].

⁵¹ For example, the abolition of temporary protection visas, the removal of the fast-track process and the Immigration Assessment Authority, reforms to the Administrative Appeals Tribunal (now completely reconstituted as the Administrative Review Tribunal), the more rigorous selection and appointment of qualified Tribunal members and judicial officers to hear migration matters, and increased funding to assist with the processing of protection visa applications.

⁵² Law Council, [Migration Bills are bad law](#) (Media release, 27 November 2024).

⁵³ Law Council, [Call to Parties: 2025 Federal Election](#) (March 2025), 34.

⁵⁴ Australian Government, [Royal Commissions – Aged Care Quality and Safety](#) (Website).

⁵⁵ Australian Government, [Royal Commissions – Robodebt Scheme](#) (Website).

⁵⁶ [Royal Commission into Defence and Veteran Suicide](#) (Website).

32. For example, the Disability Royal Commission found serious instances of disability discrimination and many apparent violations of health, work, social security and related rights, as well as serious gaps in accountability for these breaches,⁵⁷ culminating in 222 recommendations to improve the inclusion of people with disability in Australia. The Australian Government has accepted 130 of 172 recommendations for which it has primary or shared responsibility, and is further considering 36 recommendations.⁵⁸ The Law Council continues to call upon the Government to realise its human rights obligations through its response to these recommendations.

33. The Royal Commission into Aged Care Quality and Safety found many disturbing cases of elder abuse and discrimination, which prompted the *National Plan to Respond to the Abuse of Older Australians* (as mentioned in the Periodic Report⁵⁹) and replacement of the *Aged Care Act 1997* (Cth) with a new *Aged Care Act 2024* (Cth), which came into effect on 1 November 2025.⁶⁰ In our submissions on the proposals for the new Aged Care Act, the Law Council welcomed the explicit inclusion of a Statement of Rights in the revised law, but noted that enforceable obligations on providers would be required for meaningful change in the industry.⁶¹

34. The Royal Commission into the Robodebt Scheme found that automation of the process of generating social security debts contrary to statutory requirements had resulted in gross injustices; in some cases, causing immense mental distress and even leading to self-harm. The Law Council welcomed the Australian Government's commitments to implement reforms to restore trust in administrative authorities.⁶² As of November 2024, many of the recommendations were on track for implementation.⁶³

35. The Royal Commission into Defence and Veteran Suicide found serious breaches of rights in work, including dealing with reports of bullying, harassment and victimisation, as well as supporting those who are injured or ill as a result of their military service (and their families). The Australian Government has accepted most of the Royal Commission's recommendations and is working on implementation. However, the Australian Government has warned that "reform will take time" in this area.⁶⁴

⁵⁷ Disability Royal Commission, [Final Report – Executive Summary](#) (September 2023).

⁵⁸ Australian Government, [Australian Government Response to the Disability Royal Commission](#) (July 2024).

⁵⁹ Periodic Report, [121]-[123].

⁶⁰ Department of Health, Disability and Ageing, [About the new rights-based Aged Care Act](#) (Website).

⁶¹ Law Council, *A New Aged Care Act: the foundations—Consultation paper No. 1* (Submission to Department of Health and Aged Care, 29 September 2023); also *A New Aged Care Act: Exposure Draft—Consultation paper No. 2* (Submission to Department of Health and Aged Care, 13 March 2024). Some relevant regulatory powers were enacted in Chapter 6 of the *Aged Care Act 2024*.

⁶² Law Council, [Public must be able to trust government will act with integrity and transparency](#) (Media release, 14 November 2023).

⁶³ Senator the Hon Katy Gallagher (Finance Minister), [Update on Robodebt royal commission reforms](#) (Media release, 7 November 2024).

⁶⁴ Department of Veterans' Affairs, [Government's response to the Royal Commission's Final Report](#) (Official policy document, 19 August 2025).