

Australia's Response to the COVID-19 Pandemic



Australian
Human Rights
Commission

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Background

Australia's response to the COVID-19 pandemic has justifiably placed significant emphasis on protecting the right to life and health of people in Australia. Tragically, Australia has seen some loss of life as a result of the pandemic, with the effects being disproportionately felt by older Australians and, particularly, those who reside in aged care facilities. Australia has not, however, experienced the widespread, or extreme, loss of life or ill-health that has been experienced by some nations around the world.

With the stated intention of preserving life and health, Australian governments have implemented significant restrictions on movement. There have also been restrictions on when and how people may visit friends or relatives in aged and disability care facilities and access to detention facilities. The Commission is concerned about the impacts of the

COVID-19 pandemic on vulnerable groups. You can read more about the effects of the COVID-19 pandemic in the following factsheets: factsheet: older persons; factsheet: asylum seekers, refugees and migrants; and factsheet: people with a disability.

The Commission is also concerned about increasing reports of racism throughout the COVID-19 pandemic. You can read more this in our factsheet: culturally and linguistically diverse people.

Key issue – Restrictions on civil and political rights

Since March 2020, Australian governments have introduced significant restrictions on movement and association, including by:

- closing overseas and interstate borders
- restricting when people are permitted to leave their homes, including by way of curfew in Victoria
- restricting the number of people who may gather in private residences, restaurants and businesses
- restricting the number of attendees at funerals and weddings
- restricting access to family members living in aged care facilities
- limited the size of public gatherings.



Some states have accompanied these rules with increased police powers to issue fines, close and search premises, and detain people ‘for as long as reasonably necessary to eliminate or reduce a serious risk to public health’.

The international travel ban has restricted people from leaving Australia without an exemption since 25 March 2020. Exemptions are granted only on the basis of specific criteria, including compassionate or humanitarian grounds, or essential business conduct.

While all Australian citizens and permanent residents are permitted to return to Australia, the Commission is concerned by reports of thousands of Australians facing difficulties returning. Since July, Australia has had in place a 4000 person a week cap on returning travellers as well as specific caps in place for each international airport. Australians are also facing difficulties securing flights into Australia. The provisions Australia has put in place risk breaching an implied constitutional right of return for Australian citizens and causing prolonged family separation.

Australian states and territories have also used travel bans to restrict internal travel in Australia. Some bans are in place to restrict those travelling from COVID-19 ‘hotspots’, others are blanket bans on all residents of other states. Reports have indicated some people struggling to access critical medical services across borders or to be reunified with family.

Some of these restrictions have been in place for lengthy periods of time. The Commission is concerned that some of these restrictions may have been justifiable on a short-term basis,

and where there is an evidenced public health threat. However, some measures may not continue to be justified into the longer term or meet criteria as reasonable, necessary and proportionate restrictions of human rights.

There has been limited transparency about decisions made to restrict human rights. Many of the emergency measures have been enacted using delegated legislation, which means they are usually made without the opportunity for public consultation / engagement or independent scrutiny prior to their passage. Parliamentary scrutiny of measures is also more limited and often occurs after the passage of the delegated instruments. Some of these provisions are not disallowable – meaning that they cannot be overturned by the Parliament.

Recommendation

All Australian Governments ensure that restrictions enacted to combat the COVID-19 pandemic are proportionate, the minimum necessary intrusion on rights at all times and are removed fully as soon as the public emergency is over

Key Issue – Economic and social rights

The Australian Government introduced a range of measures to provide additional financial support to Australian citizens and permanent residents during the COVID-19 pandemic.

The Commission welcomed the introduction of:

- the JobKeeper Payment, which supports businesses to continue to pay their employees some or all of their regular wages if a number of criteria are met
- the temporary COVID-19 supplement to the JobSeeker (formerly 'Newstart') Payment, Youth Allowance JobSeeker Payment, Parenting Payment, Farm Household Allowance, Special Benefit and the Abstudy, Austudy and Youth Allowance for Payments for full-time students
- the one-off stimulus payments for veteran income support recipients and eligible concession card holders.

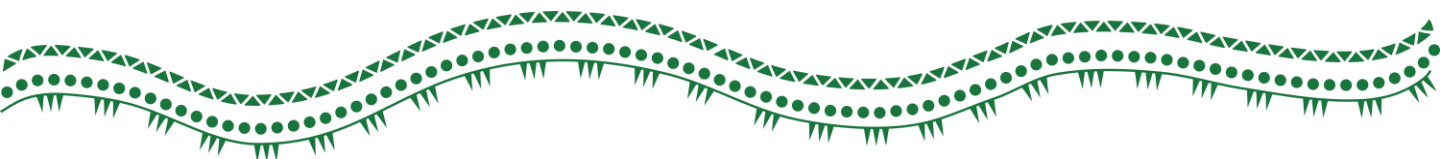
The Commission has expressed concern that these social supports are not available everyone living in our communities, including those on temporary visas.

The Commission commends initiatives from many states and territories to provide financial and other support to international students and those on temporary visas in light of the lack of access to these welfare measures.

Key Issue – Gendered impacts of COVID-19

Women and girls face particular challenges during the COVID-19 pandemic, including disproportionate economic impacts, increased violence at home, risks associated with their heightened representation among frontline health care and social workers, and the compounding effects of intersectional disadvantage. ¹

The Commission is concerned that job stimulus efforts may disproportionately benefit male-dominated industries, and that policies allowing early access to superannuation may compound existing financial disadvantages experienced by women. The Commission is also concerned that isolation measures may force victims of domestic and family violence to.



spend longer periods of time exposed to abusers, and existing protections, community support and access to assistance may weaken during a time of crisis.

The Commission commends the government for providing vital support to parents using childcare and the childcare sector as part of the initial COVID-19 response. This policy was designed to ensure childcare centres remained open through the early stages of the pandemic. The scheme ended in early July 2020. The Commission urges the government to consider ongoing improvements to the childcare system to remove barriers to women's full participation in the workforce.

The Commission considers that it is imperative that women be included in decision-making roles in the COVID-19 pandemic response, and that decision-makers and government meaningfully engage with organisations and people with gender expertise. Decisions are most effective when they are made by people with diverse experience and knowledge, and when they are based on full and gender-disaggregated data

Recommendation

Government implement evidence-based gender sensitive policies, including affordable access to childcare, equal investment in job creation efforts for men and women, improved efforts to prevent and respond to violence against women, and ensuring that women contribute to decisions affecting Australia's COVID-19 recovery.



Endnotes

¹ UN Women, *Policy Brief: The Impact of COVID-19 on Women* (9 April 2020).