Collateral Damage:

What the untold stories from the COVID-19 pandemic reveal about human rights in Australia

March 2025

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Acknowledgements

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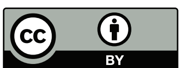

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Collateral Damage

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Table of Contents

Acknowledgements . . . 2

Table of Contents . . . 4

Support Services . . . 6

Foreword by the Australian Human Rights Commissioner . . . 7

Executive Summary . . . 8

1. Introduction . . . 9

1.1. Key findings . . . 10

1.1.1. Overall Key Findings . . . 10

1.1.2. The Commission's Quantitative Survey . . . 12

2. About the Project . . . 16

2.1. Objectives . . . 16

2.2. Methodology . . . 17

2.2.1. Quantitative Analysis . . . 17

2.2.2. Your Story Portal . . . 17

2.2.3. Stakeholder Interviews . . . 18

2.3. Scope of this research . . . 18

3. COVID-19 and Human Rights . . . 19

3.1. Challenges of emergencies . . . 19

3.2. Rule of law in emergencies . . . 20

3.3. Human rights in emergencies . . . 21

3.4. International human rights law and frameworks . . . 21

3.4.1. International human rights law . . . 21

3.4.2. International frameworks for disasters . . . 21

3.5. Australian laws and frameworks . . . 22

3.5.1 Human rights law . . . 22

3.6. Australia's COVID-19 response measures . . . 23

3.7. Australian COVID-19 Inquiries . . . 23

4. Everyone has a Story . . . 24

4.1. Balancing Act: Striking the balance of community and individual rights . . . 27

4.1.1. International border closures and right of return . . . 29

4.1.2. COVID-19 vaccine rollout . . . 37

4.1.3. Residential aged care . . . 47

4.1.4. End-of-life . . . 51

4.1.5. Mask mandates . . . 53

4.1.6. Human Rights in Action: India travel ban . . . 56

4.1.7. Human Rights in Action: Right to protest . . . 58

4.1.8. Human Rights in Action: Vaccinations and employment . . . 60

4.2. Falling through the cracks: A broad approach risks ignoring specific needs. 63
4.2.1. State and territory border closures 64
4.2.2 School & university closures and remote learning 67
4.2.3. Lockdowns and domestic and family violence 73
4.2.4. Mixed outcomes for people with disability 78
4.2.5. Regional, rural and remote areas vs cities 85
4.2.6 Temporary visa holders in Australia 88
4.2.7. Human Rights in Action: Asylum seekers and refugees 91
4.2.8. Human Rights in Action: Playground closures 92
4.3. Cutting through the noise: Key communication gaps 93
4.3.1. Communication for diverse communities 95
4.3.2. Communication for people with disability. 98
4.3.3. Communication for women who experience DFV 100
4.3.4. Technological divide 101
4.3.5. Discrimination against particular groups 102
4.3.6. Human Rights in Action: Misinformation and disinformation 104
4.4. Tunnel Vision: A narrow perspective leads to inflexibility 107
4.4.1. Police Powers 111
4.4.2. Outsourcing enforcement to businesses 114
4.4.3. Deprioritisation of normal healthcare 117
4.4.4. People facing homelessness 120
4.4.5. Essential workers 122
4.4.6. Human Rights in Action: Melbourne tower lockdowns 124
5. Guiding Principles and Lessons Learnt 126
6. Next Steps 127
7. Conclusion 128
Glossary 129
Appendix A: International Human Rights Law 130
Appendix B: Australian COVID-19 Inquiries. 131
National Inquiries 131
State and Territory Inquiries 131
Appendix C: Acknowledgements. 132

Support Services

We understand that the issues discussed in this report may cause distress.

Crisis and suicide prevention

- If you or someone else are in immediate danger, call **Triple Zero 000**
- **Lifeline:** 13 11 14 or visit www.lifeline.org.au

Mental health support and advice

- **Kids Helpline:** 1800 55 1800 or visit www.kidshelpline.com.au
- **Beyond Blue:** 1300 22 4636 or visit www.beyondblue.org.au
- **MensLine Australia**: 1300 78 99 78 or visit www.mensline.org.au
- **13YARN:** 13 92 76 or visit www.13yarn.org.au
- **QLife:** 1800 184 527 or visit www.qlife.org.au

Family domestic and sexual violence support

- **1800Respect:** 1800 737 732 or visit www.1800respect.org.au

Child sexual abuse support and advice

- **BraveHearts Support Line:** 1800 272 831 or visit www.bravehearts.org.au

Foreword by the Australian Human Rights Commissioner

It has been five years since the COVID-19 pandemic reached Australia.

Since then, there have been a range of inquiries and reports into different aspects of Australia's pandemic response. Despite this the human costs are still not well understood.

Many Australians feel as though their individual experiences during the pandemic have been pushed into the background, and that their voices haven't been heard.

That is why the Australian Human Rights Commission has produced this report, Collateral Damage. It is centred on the stories of everyday Australians, with thousands of people from all walks of life sharing their experiences of the pandemic with us.

There were many things that Australia got right in our pandemic response. Australia's overall COVID-19 mortality rate was relatively low from a global perspective, and our economic performance during the pandemic was comparatively strong. But that is not the full picture.

While government responses to the pandemic helped save lives, this report finds that human rights were not always considered or protected. Even where measures were necessary to safeguard public health, it is important to acknowledge the immediate and enduring aftermath of these decisions.

During the pandemic, Australians had to live with significant restrictions on our human rights. Measures such as international and interstate border closures, hotel quarantine, lockdowns, school closures, restrictions in aged care homes, vaccine mandates and mask mandates had a substantial – and often hidden – human cost that is outlined in this report.

For the people who were separated from loved ones by state border closures, found themselves stranded overseas, were unable to comfort elderly parents confined to aged care homes, or whose children have struggled to re-engage at school since lengthy lockdowns, framing Australia's pandemic response as an overall 'success' diminishes their personal experiences. These voices need to be heard if we want to ensure that future emergency responses are not only 'successful' in terms of public health and economic outcomes, but also in terms of fairness and compassion.

The stories reflected in this report also show that the impacts were not experienced uniformly across Australia. The pandemic created specific risks and concerns for different groups, and it was often already marginalised and disadvantaged communities who were required to bear a disproportionate burden.

This report calls on Australia to learn the lessons from the pandemic so that we can improve our future responses. It is the first phase of a broader project examining emergency responses in Australia, with the next phase focusing on natural disasters. The overall aim is to develop a human rights emergency response framework that puts rights and freedoms at the heart of how we respond to all future emergencies and disasters in Australia.

We want to ensure that no one is left behind when the next crisis comes.

This is not about placing blame or even pretending that decision making in an emergency is straightforward and simple. Rather, it is about learning the necessary lessons so that we can do better in the future.

Thank you to everybody who was prepared to share their story with us, and who contributed to this report. We hope that it contributes towards the necessary work of rebuilding trust, striking a balance between individual and community freedoms and public health, and placing human rights at the heart of emergency planning.

Lorraine Finlay
Human Rights Commissioner
Australian Human Rights Commission

Executive Summary

It has now been five years since COVID-19 reached Australian shores.

For over two years, a range of emergency measures were put in place to minimise the spread of the COVID-19 virus throughout the country. Federal, state and territory governments imposed measures such as border closures, travel restrictions, lockdowns, vaccine mandates and school closures, often executed with little notice to those affected, as authorities rushed to prevent the spread of COVID-19. These measures have now been lifted, but for many Australians the harms they experienced during this time have not faded, nor been addressed.

On the whole, there is 'a recognition that Australia was one of the most successful countries in its pandemic response'.[1] In particular, the country did not have the high mortality rates experienced by other countries. However, while recognising this, it is also important to note that thousands of Australians did die from COVID-19 and, at the same time, untold numbers suffered profoundly from the measures put in place to respond to this global health emergency.

This report tells the stories of thousands of Australians who were impacted by the country's COVID-19 response measures and asks how human rights can be better safeguarded during future emergencies. The Commission received over 2,300 story submissions, undertook a survey over 3,000 people and conducted 56 targeted consultation sessions as part of this project. Recurring criticisms of Australia's pandemic response measures were that they were applied inconsistently throughout the country, lacked viable exemption pathways, were not proportionate, were not localised, were not communicated effectively and that they failed to adequately mitigate their immediate and long-term impacts.

From this research, seven principles and additional lessons learnt have been developed to guide future emergency response decision making. It is critical that human rights are monitored closely during emergencies, such as pandemics, to protect against people falling through the cracks and becoming collateral damage to the overall response effort. Embedding human rights into all emergency response decision making will not only protect against people's rights from being breached, it will also help to ensure that emergency response measures are more successful in achieving their objectives.

Human rights matter at all times, even more so in an emergency. The measure of a country's human rights protections is seen during a crisis such as the COVID-19 pandemic. When it is found lacking, it the responsibility of governments and parliaments to actively listen and learn so as to be better prepared for when the next emergency arises.

> *"I was restricted from leaving WA to attend my Father's final weeks in hospital in NSW and his subsequent funeral. I attended the funeral in a suit and tie in my kitchen over a streamed video link... My Father was my best friend, I never got to say goodbye and comfort my mother during the time."*
>
> **Your Story Portal Submission - Male, 55-64 [Submission 199]**

1. Introduction

On 18 March 2020, COVID-19 was declared a human biosecurity emergency in Australia by the Governor-General, remaining in effect until 11 April 2022.[2]

2020 to 2022 is a period of time that many people would rather forget. It was a time of time of fear, confusion, and anxiety that led to loss, frustration and exhaustion as the COVID-19 pandemic transitioned from temporary restrictions into a protracted global crisis. No two peoples' experiences of the pandemic are the same, but everybody has a story to tell about the effect that it had on them and their loved ones.

Upholding human rights during an emergency such as the COVID-19 pandemic requires a delicate balance of safeguarding public health whilst mitigating against any unintended consequences of the measures being imposed. During the first weeks and months of the pandemic, it quickly emerged that measures that were put in place to protect public health were having disproportionate impacts on certain groups of people. Some of these impacts were temporary and others are still being felt now, years after the removal of pandemic restrictions.

From engaging with thousands of Australians about their experience of the pandemic, it is clear that many felt they became collateral damage to the nation's immediate objective of saving lives and preventing the spread of COVID-19. Measures implemented to protect the right to health and right to life of Australian communities did so by restricting other human rights such as freedom of movement, the right to enter your own country and rights to peaceful assembly and equality.

This report is the result of an examination by the Australian Human Rights Commission (the Commission) into the ways that people were personally impacted by Australia's COVID-19 pandemic response regulations. This report draws on existing reports, interviews and workshops with stakeholders, a quantitative survey and stories submitted to the Commission through the 'Your Story Portal'.

This report will support the development of a human rights emergency and disaster framework to improve responses to future emergencies and disasters in Australia. This project is intended to inform the Commission's advocacy for the human rights of all Australians to be considered as an integral part of planning for future emergency and disaster responses.

The COVID-19 pandemic caused many Australians to think deeply, perhaps for the first time, about their human rights and what it looked like when these rights were restricted. Now, five years on from the first case of COVID-19 being reported in Australia, it is time to reflect on people's experiences in order to prevent the same failures happening again in the future.

It will never be possible to produce a single report that perfectly captures every individual story from this period. While we recognise that the human rights impacts on people varied significantly, this report seeks to highlight the key issues that have been raised with us, and to give a voice to Australians who have repeatedly told us that they felt the personal impact that this period had on them has not been acknowledged.

This is what they told us.

> *"...[we] tend to look at emergencies as being this snapshot moment in time, but in actual fact, the way people respond to them depends on a whole lot of things that have built up over time."*
>
> **Stakeholder Consultation Session – 15 August 2024**

1.1. Key findings

1.1.1. Overall Key Findings

Over the past year the Commission has heard from thousands of Australians from right across the country. What we have learnt is outlined in this report, but can be distilled into the following 7 Guiding Principles and additional lessons learnt:

1. Human rights are not an afterthought

a. Consider and embed human rights in emergency response decision making from the outset.

b. Make sure emergency safety nets address practical needs and avoid unfair exclusions.

2. One-size does not fit all

a. Meaningfully consult with the people actually impacted around what is needed at a practical level to ensure emergency response measures meet their needs.

b. Provide support for at-risk groups to be able to self-advocate for their needs, especially those who have barriers accessing systems.

3. Emergency measures must always be proportionate

a. Continuously monitor and evaluate effectiveness of response measures and adapt as both context changes and new information becomes available.

b. Ensure that emergency response measures are only in place for the shortest necessary period of time.

4. Balance risk with compassion

a. Exemption mechanisms that are clear, fair and accessible must be integrated into all emergency response policies.

b. Authorities must exercise discretion with consistency, transparency, accountability, and compassion.

5. Effective communication is essential

a. Ensure the public have access to accurate, timely and comprehensive information. Decision-making must be transparent and justified.

b. Diversify communication strategies in consultation with stakeholders to address barriers. Make funding available to ensure effective communication during an emergency.

c. Ensure accurate and consistent information is delivered through trusted sources recognising that this may require different approaches in different communities.

6. Local knowledge creates better results

a. Empower local communities – including through local government, service providers and organisations – in emergency response measure development, localisation and implementation.

b. Engage and support local community leaders to distribute information in accessible ways to their communities.

7. Recovery planning can't just start after the emergency

a. Work towards preventing the 'funding cliffs' that are common during emergencies.

b. Review all responses post-emergency to ensure necessary lessons can be learnt.

c. Recognise useful innovations that could be adopted post-emergency.

1.1.2. The Commission's Quantitative Survey

The Commission undertook a quantitative survey (the survey) of over 3,000 participants to understand their opinions on various aspects of the COVID-19 pandemic in Australia. The survey was conducted from May to June 2024 and included a Maximum Difference Scaling exercise where participants were asked to rank what elements of the pandemic had the most and least negative impact on them. The survey results show that people in general felt a responsibility to follow public health guidelines throughout the pandemic, but that specific issues affected different groups of people in different ways with often significant consequences. Public health measures that were manageable for some people were extremely difficult for others. It is when looking at the impacts on different groups that the most acute human rights issues arose.

Here are the key findings from the survey.

The impact of the pandemic on Australians – summary:

The majority felt that **people generally acted for the greater good of the community during the pandemic,** and people largely felt a responsibility to follow public health guidelines, although there were **substantial pockets of dissent** particularly in relation to enforced wearing of masks and mandatory vaccination.

Around 3 in 5 agreed that the Australian Government did a good job in handling the pandemic, and that their state or territory government took appropriate steps.

However, those in Victoria were least likely to agree with either of these statements.

Overall, **around 2 in 5 people** said their experience during the pandemic was **'neutral' on balance**, around **2 in 5** said they were **disadvantaged by the pandemic.**
1 in 5 said they **benefited on balance.**

As might be expected, those more likely to feel they **benefited** were working full time, **able to do their work from home**, and did not lose income during the pandemic.

In contrast, those who were more likely to feel **disadvantaged** were doing part-time or casual work, particularly in hospitality or tourism, and were **unable to do their work from home.**

Key findings of the survey:

A lack of financial support caused distress for many

- The impact of experiencing a reduction in income during the pandemic, whether due to a business closure or otherwise, was significant for many Australians. Of these, many were either ineligible for government support or felt this was not sufficient to meet their financial needs.
- Financial instability added to an already stressful situation, with some forced to rely on their savings to stay afloat during this time.

Homeschooling posed significant challenges as well as surprising benefits

- For parents trying to manage working from home with young school-aged children, keeping their children engaged in schoolwork was particularly challenging.
- Children also missed out on interacting with peers which impeded their social development.
- Some parents commented that their children are still behind in their schooling now.
- However, there were positive comments about parents being able to spend more time with children

The fear of catching COVID-19 and/or long COVID was overwhelming for many

- In a quickly escalating world of uncertainty around the virus and its impact on our health - both short and long term – the survey revealed widespread fear, impacting the mental health and wellbeing of many Australians.
- The uncertainty surrounding the virus and its evolving variants created a pervasive sense of vulnerability and insecurity, altering daily behaviour and leading to increased social isolation.
  For some, these behaviours continue today, and mental health management is still very much front of mind.

Those in vulnerable positions need specialised support

- While many Australians now reflect on the overall experience of the pandemic in a neutral light, in the midst of the pandemic response measures exacerbated existing vulnerabilities.
- This included those who experienced racial discrimination and/or domestic and family violence through the pandemic. While this was not the majority experience, those who were affected indicated the magnitude of the impact.

Experiences of the pandemic that had the most negative impact – Maximum Difference Scaling ranking:

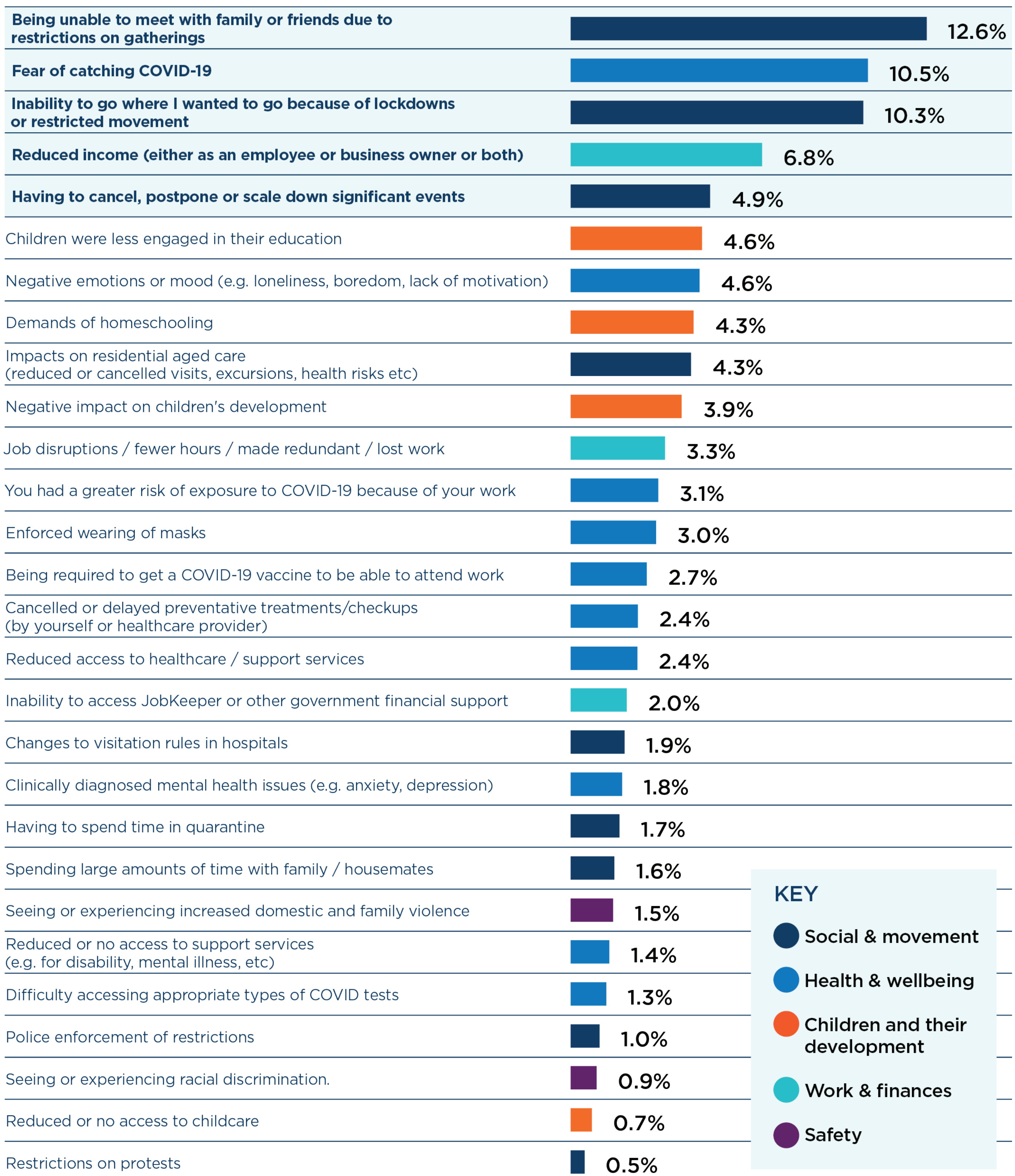


Figure 1: The Commission's Quantitative Survey – Maximum difference scaling results [*Q14. For the next questions, we will ask you to consider a range of things that may have had a negative impact on you personally during the pandemic from March 2020 to January 2023*].

The impact on our movement and social interactions

- Australia-wide, restrictions on gatherings emerged as having the most negative impact overall, ahead of an extensive list of other potential negative impacts.
- Restricted movement/ travel and having to cancel or postpone significant social and other events were the other items in the top five that related to this key impact.
- Additional comments provided by survey respondents told of the social isolation felt particularly by those living alone and/or being separated from family illustrate the impact of this during restrictions.
- This negative impact was particularly strong for those who had family or friends in residential aged care and were unable to spend time with them while their health deteriorated.

The impact on our health & wellbeing

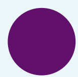
- The fear of catching COVID-19 was the impact that was ranked the second most negative.
- This was twice as impactful as generally feeling negative emotions or mood, the next-ranked health and wellbeing impact.
- In addition, apprehension about unknown long-term effects of COVID-19 caused heightened anxiety, especially for those with pre-existing conditions, ongoing mental health challenges, or those who had greater risk of exposure because of their work.

Impacts on children and their development

- Around 1 in 4 of those surveyed said they had children who had do their schooling from home during the pandemic.
- Of the items relating to children and their development, the impact of engagement in education was ranked as having the most negative impact during the pandemic.
- This was followed closely by the demands of homeschooling and negative impact on children's development.
- The fast pivot to remote learning placed immense pressure on working parents.
- However, while remote learning was challenging, many responded that the extra time spent with children was also cherished.

Impacts on work and financial stability

- Australia-wide, reduced income was ranked as the 4th most negative impact overall.
- For those who experienced reduced income, this became their top-ranked negative impact, surpassing all others including social restrictions and fear of catching COVID-19.
- Around 1 in 7 said they personally experienced a temporary or permanent business closure, and 1 in 3 said they experienced a reduction in their income because of the pandemic.
- Those impacted by business closure and/ or experiencing a reduction in income were significantly more likely to feel they were disadvantaged by the pandemic.



Impacts on safety

- Across the total sample, domestic and family violence and racial discrimination were less often selected as negative impacts.
- However, where people did experience these negative impacts, their comments indicate the magnitude of their negative impact.

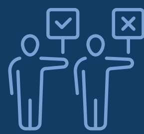
2. About the Project

2.1. Objectives

The objectives of this report are to:

Highlight the **human impacts** of the pandemic on Australians

Highlight **necessary lessons** from the pandemic response regarding **human rights**



Increase understanding about the different impacts that the pandemic had on **different individuals and groups**

Inform the **development of an emergency response framework** that **embeds human rights** into future emergency responses

Provide an opportunity for **individual stories** to **be heard**

2.2. Methodology

This report summarises extensive engagement undertaken by the Commission over the past twelve months. Beginning with a desktop review of relevant literature (including academic articles, reports, Australian Human Rights Commission materials, relevant inquiry reports and newspaper articles), this project was a multi-phase study which engaged thousands of Australians from around the country.

This project undertook:

- a quantitative survey of **3,032 participants**
- an online story submission portal receiving over **2,300 story submissions**
- **56 targeted stakeholder interviews/ workshops** with impacted groups, advocates and subject matter experts.

2.2.1. Quantitative Analysis

Quantum Market Research (QMR) were engaged by the Commission to undertake a quantitative analysis of over 3,000 Australians to understand the impact that the COVID-19 pandemic response has had on individuals' human rights in Australia. The Commission worked with QMR to design the survey and the objectives of the analysis were as follows:

- Understand the impact of the pandemic on Australians generally
- Understand the differential impact on particular subsets of Australians, based on attributes such as location, age, family status, health and more
- Identify the perceptions of Australians about any gaps in the community, state and national response to the pandemic
- Contribute evidence to inform the public consultation process.

The survey captured responses from 3,032 Australians from every state and territory, all aged over 18. Surveys were conducted from 24 May to 7 June 2024 with an average survey length of 15.1 minutes. Along with a range of questions about experiences of the pandemic, the survey also contained a 'Max Diff' exercise (Maximum Difference Scaling) to establish the most and least negative impacts of the pandemic for respondents.

The results from this survey have been incorporated throughout this report.

2.2.2. Your Story Portal

The Your Story Portal was open from 16 May to 30 June 2024. The portal, hosted on the Commission's website and widely publicised through the Commission's social media channels, asked the question *"In your own words, what would you like to tell us about your experience during the pandemic?"*

The portal was open to anyone over the age of 18 and aimed to capture personal stories and experiences. Over 2,300 story submissions were received from a wide variety of respondents. While individuals were not limited in the topics they could raise, a number of common themes emerged, including:

- isolation, loneliness and disconnection during lockdowns
- difficulties of family members living in aged care
- the impacts of domestic and international border closures and travel restrictions.
- financial impact of job loss caused by business closures and impact of vaccine mandates in certain industries
- the impact of vaccination and mask mandates
- challenges of homeschooling.

Story submissions also raised some positive experiences to come out of the pandemic including the increased access to services such as telehealth that have remained post-pandemic for some people, increased visibility of issues faced by people with disability and increased local community connections.

Quotes from story submissions have been used throughout this report to illustrate individual experiences from the pandemic period. As indicated on the portal website, names and identifying details have removed to ensure anonymity.

While not every story submission received has been quoted in this report, we would like to thank everybody who took the time to share their stories with us. Each and every story submission received was read and has been valuable in helping inform this report.

2.2.3. Stakeholder Interviews

Extensive stakeholder consultation was undertaken around Australia to inform this research. A total of 56 engagement sessions were undertaken both in-person and online to ask the following questions:

- What has been done well in Australia's pandemic response (particularly from a human rights perspective)?
- What have been the key challenges, and what could we have done better?
- Are there specific ongoing (human rights) challenges facing particular sections of the community?
- What are any lessons learnt from your experience during the pandemic?
- Any final thoughts on how human rights can be better protected during future emergencies?

Engagement sessions ranged from one-on-one interviews to small group sessions to large community groups and included impacted individuals, agency leads, academic experts, community leaders and government representatives.

Findings from this engagement has been incorporated throughout this report including de-identified quotes.

2.3. Scope of this research

This report is designed to highlight the human impacts of the COVID-19 pandemic response measures on Australians and examine key human rights issues. It is not a comprehensive inquiry into all aspects of Australia's pandemic response.

Extensive consultation was undertaken around Australia for this research; however the findings of this report are not representative of every personal experience of the COVID-19 pandemic. Some specific cohort gaps in consultation are noted, such as children and young people (below 18 years of age), in which case we have relied on existing reporting and research.

This report has ultimately been framed by those who engaged with the Commission throughout our research, and we would like to thank everyone who contributed to the Your Story Portal, completed the quantitative survey and took the time to speak with us to share personal stories and insights.

3. COVID-19 and Human Rights

Emergencies take myriad forms, such as natural disasters (including health emergencies), economic crises and violent situations.[3] They are understood in law as a 'a significant departure from a state of normalcy, triggered by an extreme event that is highly disruptive or threatening to the established order'.[4] Importantly, emergencies are temporary in nature and expected to 'come to a definite end'.[5]

3.1. Challenges of emergencies

Public emergencies present complex challenges to governments and response agencies; needing to assess risks, formulate emergency measures and mobilise resources. The nature of emergencies makes it even more difficult to consider the human rights impacts of all the decisions that must be made.

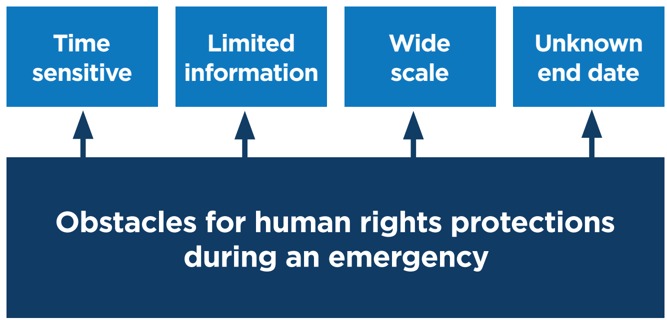


Figure 2: Characteristics of emergencies that make human rights considerations challenging.

This is firstly because emergencies are **time sensitive,** requiring action to address current harms and mitigate potential future harms within a short time frame.[6] Failing to respond sufficiently quickly could result in further injury, illness or loss of life. The demand for an immediate response makes tailored policies difficult, as time would usually be needed to consider potential impacts on various groups of people.

Additionally in emergencies, the 'factual circumstances underpinning the emergency are often unstable and quickly changing' – limiting the **availability of information, or expert consensus** upon which to base responses, particularly during the early stages of the emergency.[7] Essentially, decisions are being made with limited or incomplete information.

Some emergencies are also of a **considerable scale**,[8] impacting a whole population, as was seen during the COVID-19 pandemic, and require the mobilisation of significant and diverse resources and stakeholders. Deciding on and enforcing regulations for so many people will always result in challenges due to the range of individual circumstances and potentially result in tensions between community and individual rights and interests.

A final challenge is that emergencies often have an **unknown end date**, giving rise to difficulties in planning and sustaining emergency response efforts. It is usually impossible to know from the outset when an emergency situation will be over. Response measures are put in place at the beginning of a crisis with the intention of being temporary but may need to be extended either for a longer period, or even indefinitely.

In the midst of trying respond to a crisis, it may seem like there is no time to pause and allow for a human rights assessment of the proposed response measures. Critically, emergencies are often the times when people are most vulnerable to breaches of their human rights. Authorities must have the ability to respond quickly and effectively to emergencies, but there should be systems in place to minimise adverse human impacts of those response measures.

3.2. Rule of law in emergencies

While there is no single agreed-upon definition of the rule of law,[9] central to this concept is the principle that 'no one is above the law – it is applied equally and fairly to both the government and citizens'.[10] The rule of law is generally understood to encompass a range of key values and principles, including that:

- 'The law must be both readily known and available, and certain and clear;
- The law should be applied to all people equally and should not discriminate between people on arbitrary or irrational grounds;
- All people are entitled to the presumption of innocence and to a fair and public trial;
- Everyone should have access to competent and independent legal advice;
- The Judiciary should be independent of the Executive and the Legislature;
- The Executive should be subject to the law, and any action undertaken by the Executive should be authorised by the law;
- No person should be subject to treatment or punishment which is inconsistent with respect for the inherent dignity of every human being; and
- States must comply with their international legal obligations whether created by treaty or arising under customary international law'.[11]

Some scholars have emphasised that the protection of human rights is 'one of the core principles of rule of law'.[12] Emergency situations inevitably 'create an environment where rule of law safeguards are simultaneously more critical and difficult to uphold'.[13] Crises can make upholding the rule of law more difficult because 'they appear to invite and justify departures not just from the formal requirements of legality basic to any conception of the rule of law, but from the substantive ideals and values expressed in those formal requirements as well'.[14]

While there may be attempts to justify such departures from the usual processes as being necessary to allow effective emergency responses, 'it is important to ensure that emergency decision-making itself does not permanently undermine the rule of law and core democratic structures'.[15] It is also important to recognise that '[a]dherence to rule of law safeguards and other international principles, when adopting emergency measures, is expected to strengthen public trust in the institutions and the legitimacy of the measures. This should ultimately bolster their effectiveness through increased compliance.'[16]

At the same time, the law can structure and condition the use of powers, even in emergencies. For example, the law can set out how emergencies are defined, when they can be declared, the nature and scope of powers they give rise to, and when emergencies end.[17]

Although this may provide important safeguards to the use of power in emergencies, care must also be taken to ensure that emergency laws are not created or misused to provide legal cover for actions that erode respect for the rule of law.[18] In essence the concern is that this could lead to the normalisation of the exceptional, and may see extraordinary measures that were initially intended to be temporary, become permanent.[19]

3.3. Human rights in emergencies

Emergencies and disasters always give rise to human rights impacts, which may include access to basic needs such as to health services, housing, food and water, as well as exposing individuals to harms including abuse, discrimination and limited access to justice.[20] Consideration of human rights is therefore critical during an emergency.

Human rights frameworks are powerful tools in crises, because they require governments to carefully consider what is at stake for communities and individuals, and centre people in the development and implementation of their responses to threats and crises.[21] Human rights can guide authorities on how to effectively exercise their power for the benefit of people, and to minimise harm.[22] They can ensure that State responses to emergencies, such as the COVID-19 pandemic, preserve humanity and dignity while also dealing effectively with the emergency itself.[23]

Importantly, human rights law recognises that emergencies may require limits to be placed on the exercise of certain rights (see more detailed discussion of derogation and limitations below).[24] Human rights law sets out parameters for this to avoid harms and possible pitfalls, to shape more robust responses to crises, and to ensure that emergency responses are contained within a rule of law framework.[25]

KEY CONSIDERATIONS: SECURITY IN EMERGENCIES

There is a tendency to approach emergencies in a highly security-focused way. For example, experts have expressed concern about the securitisation of public health in emergencies.[26] This approach focuses on the security risks emerging from, for example, infectious diseases, including potential impacts on politics and governance, as well as economies,[27] which are then used to justify equipping public authorities with extraordinary powers to impose restrictions on human rights and freedoms.[28] A securitisation of public health is especially of concern where it allows long-term or even indefinite restriction of rights.[29] Such an approach also has the potential to lead to permanent curtailing of the scope of certain rights.[30]

3.4. International human rights law and frameworks

3.4.1. International human rights law

At the international level, human rights are primarily protected by treaties and other agreements between countries (States). States voluntarily accept legal obligations under international human rights law by agreeing to comply with these treaties. These treaties establish minimum human rights standards, and mechanisms to monitor, implement, and remedy breaches.

Australia is a party to seven core international human rights treaties (in addition to a range of other treaty obligations):[31]

- the International Covenant on Civil and Political Rights (ICCPR)
- the International Covenant on Economic, Social and Cultural Rights (ICESCR)
- the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- the Convention on the Rights of the Child (CRC)
- the Convention on the Rights of Persons with Disabilities (CRPD).

The relevant treaties are discussed throughout Chapter 4 of this report and a full list is included in **Appendix A**.

3.4.2. International frameworks for disasters

There are a number of international frameworks that provide guidance on how authorities should undertake disaster preparedness, response and recovery. These frameworks and plans outline priorities and targets for nations to reduce the impact of disasters on communities.

Specific guidance material was developed by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in response to the COVID-19 pandemic. This guidance material identified specific issues (such as housing, gender, food insecurity, indigenous peoples, older persons and privacy) where authorities should be aware of risks and aim to further human rights in their pandemic response measures.

A list of relevant frameworks, plans and guidance is included in **Appendix A.**

3.5. Australian laws and frameworks

3.5.1 Human rights law

While Australia has agreed to protect people's human rights under international law, it does not currently have a national Human Rights Act or similar legislation that comprehensively protects those rights. Instead, Australia has a patchwork of human rights protections in different federal, state and territory legislation, in the common law, and to a limited extent, in the Australian Constitution. For example, the Age Discrimination Act 2004 (Cth), the Disability Discrimination Act 1992 (Cth), the Racial Discrimination Act 1975 (Cth) and the Sex Discrimination Act 1984 (Cth) promote equality and prohibit discrimination against people on certain grounds.

The Australian Human Rights Commission is Australia's National Human Rights Institution, and investigates and conciliates complaints about discrimination and human rights breaches. As at 25 February 2025, the Commission had received 14,341 enquiries and 3,135 complaints relating to the COVID-19 pandemic. Key issues that were raised in the complaints received included mask wearing, mandatory vaccination requirements, and international travel restrictions.

The Human Rights (Parliamentary Scrutiny) Act 2011 (Cth) creates a process for reviewing bills introduced into the Australian Parliament for compatibility with human rights. In practice, bills are rarely changed if concerns around human rights compatibility are raised through this process. Further, many of the public health measures implemented by the Australian Government during the pandemic, such as travel bans, were done through legislative instruments for which a statement of human rights compatibility was not required.

Three Australian jurisdictions do have Human Rights Acts or Charters (Human Rights Acts) which protect a range of human rights – Victoria,[32] Queensland,[33] and the Australian Capital Territory.[34] These Human Rights Acts differ slightly, but all draw from Australia's obligations under international law. They require public authorities which include government departments, agencies and public servants, to properly consider and act compatibly with human rights when making decisions, delivering services and undertaking other actions. They allow public authorities to restrict or limit people's rights in certain circumstances. They provide people with ways to complain if their human rights are breached, and in some circumstances, to take court action to stop or respond to rights breaches. The Human Rights Acts only apply to state and territory public authorities in each jurisdiction. They do not apply to Australian Government public authorities.

The Australian Human Rights Commission has proposed the introduction of a national Human Rights Act as one way of strengthening human rights protections in Australia.[35]

3.6. Australia's COVID-19 response measures

Australia's response to the COVID-19 pandemic was extensive, varied and protracted. There were regulations at both the national and state and territory levels, and these response measures changed as the pandemic transitioned from a crisis situation into a multi-year event.

Australian jurisdictions implemented a variety of measures to address the COVID-19 pandemic. Given that primary responsibility for emergency management rests with Australia's states and territories, there was significant variation around the country regarding the type and duration of pandemic regulations implemented.

Measures included lockdowns, (including short-term 'hard' lockdowns),[36] inward and outward travel restrictions, mandatory quarantine measures,[37] restrictions on work and the opening of businesses;[38] mask mandates[39] and vaccine mandates.

Australia's approach to the COVID-19 pandemic evolved over time. At various points, Australia had objectives to 'flatten the curve' of infections, eliminate community transmission and then transitioning to management of the disease within the community.[40] Factors contributing to the change in strategy towards management include the high human and financial cost of attempting elimination of COVID-19, the virus becoming globally established, the widespread uptake of vaccines with acknowledgement of the incomplete vaccine protection against transmission and the high transmissibility of later variants of the disease.[41]

Australia's COVID-19 response measures and the impact they had are discussed in further detail throughout Chapter 4 of this report. Specific details about individual pandemic response measures are provided in the 'Summary of Measures' boxes throughout Chapter 4.

3.7. Australian COVID-19 Inquiries

There have already been a number of inquiries into the impacts of Australia's COVID-19 response measures, each focusing on either specific aspects of the pandemic response, or the response in a particular jurisdiction. A list of some of the major inquiries to date at the national and state and territory levels can be found in **Appendix B.**

Comprehensive human rights analysis is a gap which is evident in the existing COVID-19 inquiries and in the general discussion of how Australia responded to the pandemic. This report uses the lens of human rights to reflect on the impacts of the pandemic and consider how human rights can be better protected in future emergency responses.

4. Everyone has a Story

Everyone has a story to tell about the COVID-19 pandemic, and no two stories are the same. While an emergency perhaps naturally suggests a negative experience – and there is ample evidence of the significant harm and trauma experienced by many as a result of both the pandemic and the pandemic response measures – our survey results were surprising in revealing a more nuanced reality. Figure 3 shows that of the 3,023 people surveyed by the Commission, 42% felt the overall outcome of COVID was neutral, 40% of respondents felt the overall outcome was negative and 19% felt it was positive. This indicates a diverse range of experiences even at a very general level and suggests that there is a more complex story to be told.

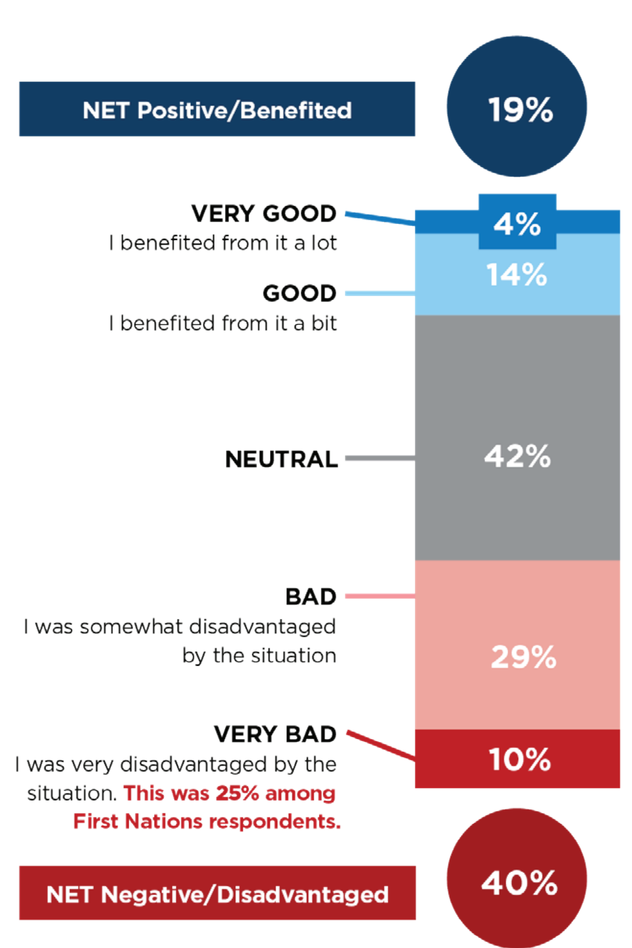


Figure 3: The Commission's Quantitative Survey [*Q15. Which of the following statements best applies to you? "For me, overall the COVID-19 situation was..."*].

It is recognised that in an emergency, governments need to be able to react quickly to respond to evolving situations, and people are generally open to accepting certain restrictions on their personal freedoms in order to prioritise wider community safety. However, a recurring theme that was expressed by many people was that Australia's COVID-19 response measures did not fully consider the needs of Australia's diverse population.

As set out in Figure 4, 74% of participants agreed that the greater good of the community should always be considered before individual rights. However, when asked about a particular health measure, specifically whether the COVID-19 vaccine should be mandatory for all except those with medical exemptions, the rate of agreement drops to 57%.

This demonstrates the potential gulf between theory and practice that needs to be accounted for in emergency planning. While people may agree in principle that the greater good should take priority, when the actual impacts of that approach are experienced in reality views may become more nuanced. Emergency responses need to be focused on practical outcomes and a realistic assessment of both necessity and proportionality. When a crisis, such as a pandemic, becomes protracted and there is no end date in sight, people start to question whether the harm that regulations are causing may begin to outweigh the harm they are attempting to prevent.

The impact that various COVID-19 regulations had on people must not be minimised by framing it as a temporary disruption that has now resolved. While the country is no longer in a heightened state of response, the decisions that were made during this time have had long-term consequences, some of which are yet to become fully apparent.

Some people spoke of the pandemic period being disruptive but manageable; setting up a home office, postponing holidays, checking in on neighbours and even picking up a new hobby. Even further, for some people the pandemic opened up the world to them in a way it never was before. Some people with a chronic illness or disability spoke of accommodations being made across society, almost overnight, that made them feel considered and protected. Acceptance

Attitudinal statements: Individual freedoms versus community benefit

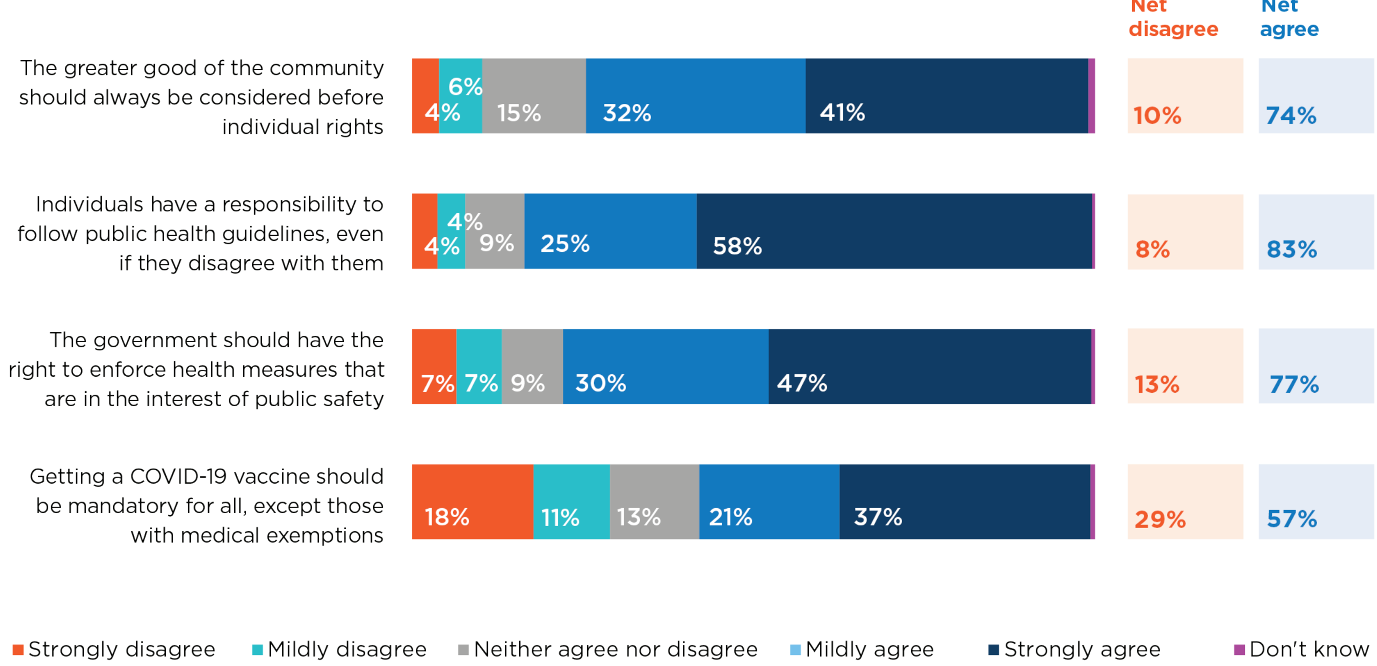


Figure 4: The Commission's Quantitative Survey [*Q7. To what extent do you agree or disagree with the following?*].

of fully remote work arrangements, the expansion of telehealth services or even smaller adjustments such as being able to order using just a QR code at a restaurant are some of the positive stories the Commission heard of changes made during the pandemic that people felt had a beneficial impact.

However, for many others, pandemic regulations caused immense suffering and hardship. Wide-scale inflexible policies such as those seen throughout COVID-19 failed to account for localised and individual circumstances. They often made assumptions that are not always correct: for example, that a person's home is always a safe environment, or that everyone can access all basic resources within a 5-kilometre radius of their home. This lack of consideration of individual circumstances resulted in the compounding of existing vulnerabilities and the possible infringement of human rights.

COVID-19 response measures such as lockdowns, travel bans, state and territory border closures, quarantining, contact tracing, business operating restrictions and school closures were imposed across the entire country to varying degrees between 2020-2022. Australia is a diverse country in terms of geography, employment, ethnicity, wealth, age and health. It is no easy task to try and anticipate the collective human rights impacts of such wide-ranging restrictions. However, the risk of failing to consider human rights is that people will start to fall through the cracks - people who were confined to a home with their abusers, First Nations people and migrants who could not find translations of current regulations, international students who lost their jobs and could no longer afford rent or food, mothers who had to give birth in hospitals alone and relatives who passed away without being able to say goodbye to their families – to name just a few examples.

It is important that we discuss these questions, rather than moving on without reflection. Numerous people the Commission spoke to said that this was the first time that someone had asked them about their experience of the COVID-19 pandemic. Without reflection, lessons cannot be learnt and mistakes will be repeated. The following sections identify the key themes that arose from the nation-wide consultations that the Commission undertook and aim to understand how some of these challenges could have been mitigated if the human rights of those affected had been more fully considered.

Themes

The issues that emerged during the consultation and research for this project have been organised into 4 key themes:

1. **Balancing act:**
   Striking the balance of community and individual rights

2. **Falling through the cracks:**
   A broad approach risks ignoring specific needs

3. **Cutting through the noise:**
   Key communication gaps

4. **Tunnel vision:**
   A narrow perspective leads to inflexibility

For each of the themes, key issues are discussed to illustrate the measures that were taken, how Australians were impacted by those measures and the impact on human rights. 'Human Rights in Action' case studies have been included throughout the chapter to provide more in-depth analysis on the human rights implications of specific events throughout the pandemic.

Emergency Response Framework

This report aims to inform the future development of an Emergency Response Framework, a framework to be used in future emergency scenarios (whether that be a pandemic or some other form of emergency) to ensure that human rights are better protected throughout the entire emergency response. This framework will take lessons from all phases of this project to better understand the underlying challenges of upholding human rights during and after a crisis.

Government agencies must be able to demonstrate that they have considered the human rights implications of their response measures before they are implemented. When it is anticipated that a person or group's human rights may be restricted or limited, provisions must be included to mitigate the impacts of this in a meaningful way.

It is becoming increasingly clear that what were historically considered to be once-in-a-lifetime events are no longer that. Global issues such as climate change, environmental degradation and urban growth are resulting in the increased frequency of disasters all over the world. Research from CSIRO warns that the frequency of viral disease outbreaks is increasing, and that many of these have pandemic potential.[42]

It is not possible to know when the next disaster will be, or what form it will take, but it is certain that there will be another widespread emergency at some point in the future. When that time comes, we need mechanisms already in place to prevent people becoming collateral damage in the subsequent emergency response.

4.1. Balancing Act: Striking the balance of community and individual rights

> *"...due to the rules and regulations in place, we were unable to visit my Grandmother in her aged care facility before she died. She died without being able to say goodbye to her Grandchildren."*
>
> **Your Story Portal Submission - Male, 35-44 [Submission 56]**

The balance of community and individual rights is at the very heart of human rights in emergency responses. Australia's response to the COVID-19 pandemic placed significant emphasis on protecting the right to life and health of people in Australia by initially aiming to eradicate the virus entirely and then aiming to restrict its spread. This prioritised those who were vulnerable to the virus, which research showed included people over 65, people with disability and people with underlying or chronic medical conditions.[43] In order to protect those who were most vulnerable, various restrictions were placed on the rights and freedom of all individuals.

Under international law, most human rights are not absolute. It is acknowledged that various human rights can be limited if the limitation is a reasonable, necessary and proportionate means to achieve a legitimate objective.[44] For example, the relevant Human Rights Acts in the ACT, Victoria and Queensland all provide (with slight variations on the exact wording) that human rights 'may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom'.[45]

There are, however, some human rights that are recognised as being absolute, which means that they cannot be limited for any reason (including during an emergency). Examples of absolute rights include freedom from torture, freedom from slavery, freedom from imprisonment for inability to fulfil a contractual obligation, the prohibition against the retrospective operation of criminal laws, and the right to recognition before the law.[46]

It is also recognised that there are some rights – known as derogable rights – that can be temporarily suspended or restricted during times of emergency.[47] These can be contrasted to non-derogable rights, which cannot be suspended or restricted under any circumstance and include the:

- Right to life
- Freedom from torture or cruel, inhuman and degrading treatment or punishment and freedom from medical or scientific experimentation without consent
- Freedom from slavery and servitude
- Freedom from imprisonment for inability to fulfil a contractual obligation
- Prohibition against the retrospective operation of criminal laws
- Right to recognition before the law
- Freedom of thought, conscience and religion.[48]

Derogation under art 4 of the ICCPR is only allowed 'in times of public emergency which threatens the life of the nation and the existence of which is officially proclaimed', and requires State parties to follow a notification process. They must immediately inform other States parties, through the United Nations Secretary-General, of the human rights being derogated from and the reasons for this and again provide notification when those measures are terminated.[49]

The UN Human Rights Committee noted that during COVID-19 many countries adopted pandemic measures which limited rights without formal notification.[50] Some countries did choose to formally derogate from certain rights during the pandemic, including Chile, Columbia and Romania.[51] Australia has never formally exercised its derogation power under Article 4,[52] including during the pandemic.

The protection of human rights during the COVID-19 pandemic required a balance to be struck between individual and community rights. Governments across the world imposed measures during the pandemic that limited human rights, with the Democracy Index 2020 describing citizens across the world in 2020 as experiencing 'the biggest rollback of individual freedoms ever undertaken by governments during peacetime ...'.[53] This was the case in Australia, with the significant restrictions being placed on a range of human rights throughout the pandemic being expressly done with the aim of protecting other human rights, (such as the right to life and the right to health) and protecting the Australian community as a whole.

An important aspect of this discussion is the length of time for which a response measure is put in place. People are often willing to have their personal freedoms limited for a certain length of time, for the 'greater good'. After a certain length of time however,

and especially if no end date is in sight, people become much less willing to have their personal freedoms infringed. This is particularly difficult in an emergency such as a pandemic when nobody knows precisely how events will develop or how long the emergency may last. For example, on 18 March 2020 when the Australian Government originally declared a human biosecurity emergency in response to the COVID-19 outbreak in Australia it would not have been envisaged that it would remain in force for a full 754 days before lapsing on 11 April 2022.[54]

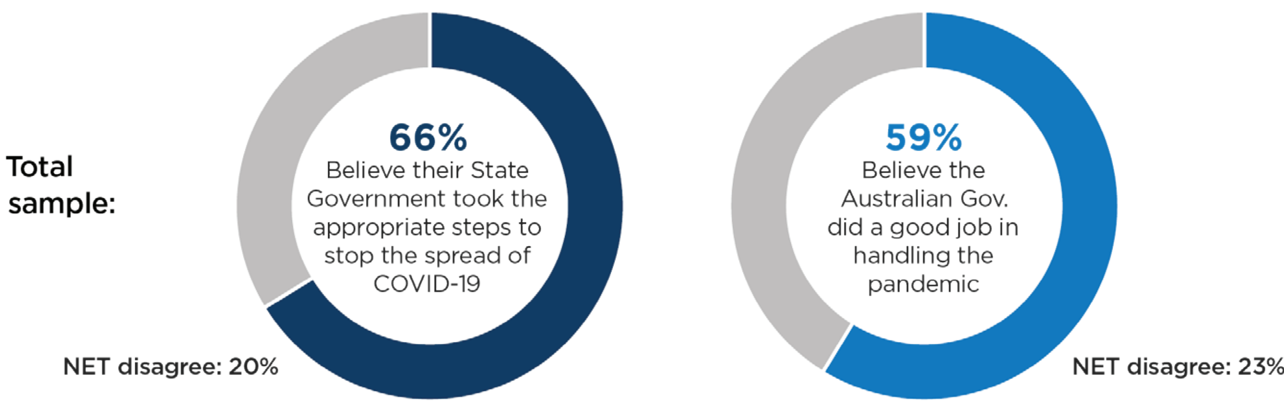
People are often quite willing to agree to limitations of their freedoms for the benefit of their wider community, but not indefinitely, and only to certain limits. Survey results illustrate that feelings towards the appropriateness of response measures and overall success of the country's pandemic response varied by state and territory. Figure 5 illustrates that Victorians were less likely to agree that their state government took appropriate steps to stop the spread of COVID-19 (54% compared to a national average of 66%) and also to be less likely to believe that the Australian Government did a good job handling the pandemic (49% compared to a national average of 59%). This reinforces the fact that different states had significantly different experiences of the pandemic.

In the survey, there was almost an even split of 40% of respondents believing that public health decisions should be able to overrule individual freedoms and 39% believing that individual freedoms should not be overruled even in the interest of public health. The split in opinion indicates, from the point of view of public sentiment, that there is no simple answer to this question. Rather, it must be approached with nuance, balance and compassion. This almost even split in opinion further indicates the importance of transparency and accountability in decision making. During a crisis, not everybody is going to agree with the decisions that are made – but if they can understand the reasoning behind the decisions, they are more likely to accept them.

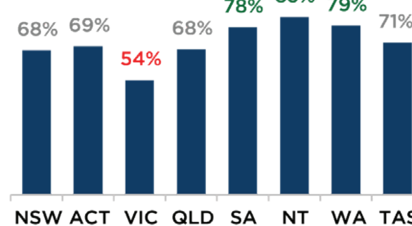
> *"On the whole, I understand there was a need to implement lockdown/restrictions in the absence of a vaccine. But in hindsight, I wonder if they really needed to be so extreme and so long-lasting. I'm unsure if the genuine health and mortality risks posed by COVID might not have outweighed the delayed, adverse effects we seem to be experiencing to population-level social cohesion, mental health, and education in particular..."*
>
> **Your Story Portal Submission - Female, 35-44 [Submission 136]**

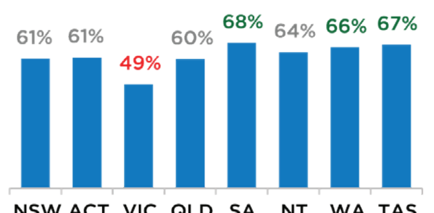
Attitudinal statements: Sentiment towards government response

Total sample:



By State/ Territory





Green - results that are significantly higher than the total.

Red - results that are significantly lower than the total.

Figure 5: The Commission's Quantitative Survey [*Q19. To what extent do you agree or disagree with the following?*].

4.1.1. International border closures and right of return

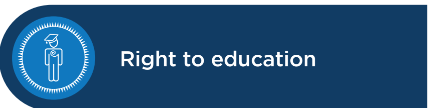
Some of the key human rights considerations:

Right to freedom of movement and liberty

Right to physical and mental health

Right to protection of the family as the fundamental unit of society

Right to life


Right to education

SUMMARY OF MEASURES:

In response to the global spread of COVID-19, Australia was one of the first countries to begin introducing travel restrictions in early 2020. At 9:00 pm on 20 March 2020, Australia's borders closed to everyone except returning nationals, residents and people granted exemptions.[55] All Australians were advised to return to Australia at this time unless they had secure arrangements overseas.[56] In March 2020, the Department of Foreign Affairs and Trade (DFAT) estimated that there was approximately 879,000 Australians abroad.[57] A limited number of emergency repatriation flights and facilitated commercial flights were organised from January 2020 to February 2022, with DFAT assisting in the return of 61,769 Australians during this time.[58]

From 28 March 2020, international arrivals to Australia were required to quarantine for 14 days at designated hotels or facilities.[59] In July 2020 the National Cabinet imposed caps on international arrivals at different ports of entry, with these passenger caps being set differently for each state, and changing throughout the pandemic.[60] At various points some states suspended all international flights from entering their state for periods of time.[61] Flight caps were imposed to manage the hotel quarantine systems that had been established, as there were a limited number of rooms that could be occupied at any one time.[62]

Australians' outward travel (those leaving Australia) was also restricted in late March 2020.[63] From 25 March 2020, Australian citizens and residents were not allowed to travel outside of the country unless they applied online to the Australian Border Force and met a strict set of exemption criteria.[64]

Eventually restrictions were gradually relaxed and in late 2021 international travel was once again permitted into Australia, provided a traveller was vaccinated against COVID-19. Those who remained unvaccinated required a travel exemption to return to the country and had to undergo hotel quarantine upon arrival to Australia.[65] The last hotel quarantine requirements were phased out in early 2022[66] and by July 2022, Australia's borders were opened for all eligible visa holders regardless of vaccination status.[67]

Currently, people entering or leaving Australia do not need to provide evidence of their COVID-19 vaccination status, and unvaccinated visa holders do not need to apply for a travel exemption to travel to Australia.[68]

The first case of COVID-19 was confirmed by Victorian Health Authorities on 25 January 2020.[69] On 20 March 2020 Australia closed its international borders to all non-citizens and non-residents. Restrictions on inbound and outbound travel were a key tool used by governments to control the spread COVID-19. The Commonwealth Government's COVID-19 Response Inquiry Report states:

> 'The early decision to close the international border demonstrated courage, leadership and agility by Australia's elected leaders and key officials. It protected Australia from a significantly higher COVID case burden and death rate.'[70]

But there were substantial human costs resulting from these measures.

Australians returning home – locked out

In the early days of the pandemic, the Australian Government urged Australians to return home unless they had secure arrangements overseas. Of the 879,000[71] Australians estimated to be overseas at the time Australia closed its international borders in March 2020, more than 300,000 had returned by May 2020.[72]

While Australia did not legally prohibit its own citizens and residents from returning home during the pandemic (except during the India travel ban – see **4.1.6 Human Rights in Action: India Travel Ban**), this does not mean that everyone who wanted to return was able to do so. The reality for Australians trying to come home during the chaos of the early months of the pandemic was attempting to navigate cancelled flights, inflated ticket prices and travel caps that differed depending on what day and what airport to which you were returning. This, in addition to the state-dependent quarantine requirements and state and territory border closures, made it especially difficult for anyone to navigate international returns at this time.

One consequence of the global pandemic travel restrictions was that flight ticket prices rose as numerous flights were cancelled and flight numbers became more restricted, with stories of airlines prioritising the sale of first class and business class tickets.[73] This meant that returning home was not financially possible for many Australians.[74] The combined effect of the financial and logistical barriers were impossible for many to overcome, and prevented many Australians from being able to return home during this time.

A woman living abroad during the pandemic, seeking to return to see her terminally ill mother described her "great distress" during the process: *"The tiny number of arrivals allowed into the country and the lack of clear direction and policy to airlines meant that finding a ticket to travel was extremely challenging ... commercial airlines could charge whatever they wanted and tickets were scarce ... Ultimately, she "ended up paying 10,000 euros to get home on a business class ticket. I was lucky to have those funds to use. Many Australians living overseas and trying to get home didn't".*

Your Story Portal Submission - Female, 45-54 [Submission 197]

A woman with Australian/British citizenship described the difficulty in returning to Australia due to passenger caps and cancellations. *"...my flight was postponed 3 times with the last postponement not having a rescheduled date offered. At one stage only business and first class fares were on offer and soon these were booked out resulting in the stark and scary reality that not even money could get me home and I was literally left stranded in the UK".*

Your Story Portal Submission - Female, 55-64 [Submission 1854]

People expressed their distress at not being able to understand the rapidly changing travel restrictions, particularly in the initial months of the pandemic. The result was extended family separation, people being stranded in countries where they were not citizens (and where the pandemic may have been more widespread than in Australia), extreme financial distress, people being unable to provide care and support for ill or dying relatives, and the associated distress and trauma of these experiences.

An Australian citizen residing in Japan said the following about international border closures due to the COVID-19 pandemic: *"The Federal and State restrictions on movement enacted during Covid prevented me and my Australian-citizen daughter returning to Australia for a period of about two years ... It meant that we were unable to visit and help support my ailing mother, and my daughter's education plans were severely disrupted ... by the time we were eventually let back into Queensland, my mother's dementia had progressed to the point that she no longer knew who we were".*

Your Story Portal Submission - Male, 55-64 [Submission 990]

HUMAN RIGHTS IN FOCUS:

Under international human rights law people have the right to enter their own country.

Article 12(4) of the ICCPR provides that 'no one shall be arbitrarily deprived of the right to enter his own country'.

This is a right which recognises the special relationship between a person and their country and provides them with a right to return home.[75] Citizens can only be lawfully denied the right to enter their country of citizenship in extremely limited circumstances. In fact, the UN Human Rights Committee has stated 'that there are few, if any, circumstances in which deprivation of the right to enter one's own country could be reasonable'.[76]

While Australia's entry bans technically exempted Australian citizens (with the exception of the Indian travel ban discussed in **4.1.6 India Travel Ban**), in practice their right to enter Australia was substantially curtailed during the pandemic by border closures, passenger caps, quarantine periods, and the reduced accessibility and affordability of travel.

By September 2021, over 45,000 Australians remained stranded overseas, with at least 54 known to have died of COVID-19 while waiting to be able to return home.[77] This experience unsurprisingly made people question the value of their Australian citizenship, with some claiming that it had lacked practical value during an emergency when it was needed the most, and that they felt abandoned by Australia.

An Australian man who moved to Norway in 2019 was unable to return to Australia during the pandemic and described his experience: *"The treatment of Australians living abroad was poor and I felt like I wasn't an Australian. The Australian passport says inside "...requests all those whom it may concern to allow the bearer, an Australian citizen, to pass freely without let or hindrance and to afford him or her every assistance and protection of which he or she may stand in need." It is quite devastating (even now) to read that, knowing that we were completely abandoned by our home country. The restrictions on the number of people allowed in severely restricted my ability to enter my own country and scares me about what might happen in the future if/ when another pandemic occurs."*

Your Story Portal Submission - Male, 25-34 [Submission 60]

Denying or obstructing citizens' right to return to their country of citizenship undermines the very purpose of their citizenship.[78] The right of return is a principle in international law which guarantees everyone's right of voluntary return to, or re-entry to, their country of origin or citizenship.[79] People felt further abandoned when they observed that celebrities and sports stars appeared to be granted exemptions to travel to Australia during the pandemic when thousands of citizens were still stranded overseas.[80] This offends the rule of law requirement that everyone is equal before the law, and highlights the importance of exemption processes being transparent and accountable.

Hotel Quarantine

SUMMARY OF MEASURES:

One of the key pandemic measures was the implementation of supervised hotel quarantine to reduce the impact of COVID-19 being 'imported' into the country. As COVID-19 began to spread rapidly, from 28 March 2020 the government introduced mandatory hotel quarantine.[81] International arrivals were required to isolate at a designated quarantine hotel for 14 days.[82] Australia was one of the first countries in the world to implement mandatory hotel quarantine.[83]

During this isolation period, travellers were not permitted to leave their quarantined space and were regularly tested for COVID-19. At the end of the 14-day period, if travellers could provide a negative COVID-19 test, they were permitted to return home.[84]

The cost of their stay was then invoiced to them at a charge of up to $3,200 per adult from July 2020 (although this differed across states and territories).[85] In the first 18 months of the program approximately 452,550 people were placed into mandatory hotel quarantine.[86]

In the Northern Territory, Howard Springs, formally a mining camp[87], was refurbished and repurposed as a quarantine facility. There were other examples of purpose-built quarantine facilities being constructed during the pandemic, including the Federal Government partnering with state governments in Victoria, Queensland and Western Australia to deliver Centres for National Resilience.[88] These kinds of facilities were built to achieve isolation while also allowing travellers to quarantine more comfortably and with access to fresh air and exercise, which was one of the major criticisms of hotel quarantine.[89]

A key component of Australia's pandemic response was mandatory hotel quarantine, which required people returning to Australia from overseas to quarantine in a designated hotel for 14 days and return a negative COVID-19 test at the end before they were allowed to return to their homes. The intention of hotel quarantine was to reduce the risk of people contracting COVID-19 from overseas and then transmitting the virus within Australia upon their return.

Mandatory hotel quarantine meant that tight caps had to be placed on how many travellers could return to each international airport per day. There were only a certain number of hotel rooms available for use and the number of returning international travellers could not exceed this. It is noted that Australia's quarantine arrangements operated with a mix of federal and state responsibility. The Australian Constitution specifies quarantine as the responsibility of the Commonwealth Government, exercised through the Biosecurity Act 2015 (Cth) while the implementation of quarantine measures was handled predominantly by public health authorities in induvial states.[90] International border closures and travel caps were also decided at the Federal level, providing an example of where federalism can result in uncertainty over responsibility and can lead to mixed messaging.[91]

The National Review of Quarantine report states that the use of quarantine as a principal defence against COVID-19 was key to Australia's success in terms of the nation avoiding the levels of infection seen in comparable countries.[92] The quarantine arrangements were perhaps most successful in early 2021 where there were weeks without locally acquired COVID-19 infections.[93] This success however was not absolute and it came with a human cost.

There were ongoing criticisms of Australia's hotel quarantine measures, with key concerns raised including the effects of prolonged isolation, lack of access to fresh air and outdoor spaces, concerns about the adequacy of healthcare provisions in hotel quarantine facilities (especially for individuals with pre-existing conditions), mental health impacts, inadequate living conditions in some facilities, family separation, insufficient communication and welfare challenges for vulnerable individuals.[94] There were additional specific criticisms of hotel quarantine being unsuitable for small children, with recorded instances of children being injured in accidents while in hotel quarantine facilities.[95]

The blanket approach that was initially adopted in Australia also led to differential treatment that did not appear to necessarily correspond to actual risk, with people arriving in Australia being subject to mandatory hotel quarantine while those contracting COVID-19 within Australia being allowed to isolate at home.[96]

A man who experienced hotel quarantine in Victoria tells his story: *"...I was forced to participate in hotel quarantine for 14 days in late 2020 in Victoria arriving from Canada. The experience caused a*

lot of mental and physical stress due to; no access to fresh air (no open window), not allowed to leave my room, could not go outside for fresh air or sunlight, could only exercise in my room, breakfast was not available (small amount of lunch and dinner), lack of nutritional food (originally meant to be given snacks every 3 days, but we were told at day 4 no more snacks were allowed), not allowed care packages from friends and family, could not go to a friends funeral and couldn't see my family."

Your Story Portal Submission - Male, 35-44 [Submission 805]

Stakeholder from Queensland speaking about the impact of mandatory quarantine on people with complex needs: *"At a time of crisis it isn't just about putting on masks and making sure [vulnerable people] don't get COVID, it's making sure they survive the processes that we've put in place to keep them safe from the disease."*

Stakeholder Consultation Session – 18 July 2024

One woman, who had returned to Australia from abroad to be with her terminally ill mother said: *"The enforced hotel quarantine was traumatic and amplified knowing that my mother only had a matter of days to live and not knowing whether I would see her again. Even after 2 negative PCRs I was not allowed to leave before the full 14 days. Ultimately, on release I had 6 days with my mother before she died. I found the whole experience inhumane. The security guards at the doors. The army and police escorts. Being confined to a room for 14 days without fresh air or exercise."*

Your Story Portal Submission – Female, 45-54 [Submission 197]

HUMAN RIGHTS IN FOCUS:

All people have the right to liberty and security of person.

Article 9 of the ICCPR establishes this right and provides that 'no one shall be subjected to arbitrary arrest or detention' and that 'no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law'.[97]

This means that if a person is detained it must not be arbitrary and it must be done under law. 'Arbitrariness' in this context 'is not to be equated with 'against the law' but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability, and due process of law'.[98] This right may be restricted during a public emergency, but any restriction must be justified, necessary and proportionate.

The use of mandatory hotel quarantine for international arrivals during the COVID-19 pandemic in Australia was a form of detention and raises questions about the application of Article 9. Mandatory quarantine during a pandemic is not inherently a violation of Article 9, noting that these measures in Australia were designed to protect public health and were established by law.[99] However, the application of mandatory quarantine with only extremely limited exemptions, the limited access to appeals or reviews of quarantine-related decisions (as well as such mechanisms not always being transparent or timely), and the reports that emerged of poor conditions and treatment in some quarantine facilities raises questions about arbitrariness and proportionality.

While mandatory hotel quarantine was introduced with the legitimate objective of protecting public health, if individuals were detained arbitrarily or under inhumane conditions it could be seen as a violation of the right to liberty and security of person.

Australians trying to leave the country – locked in

In addition to regulating who was entering the country, Australia implemented regulations to control who was leaving the country. People had to apply for and receive a formal exemption from Department of Home Affairs in order to leave Australia from March 2020 to November 2021.[100] Compelling reasons to leave the country included work for critical industries and business, to receive urgent medical treatment not available in Australia, for urgent and unavoidable personal businesses and on compassionate or humanitarian grounds.[101] Even though exemptions existed, not all applications were accepted and even those that were approved took weeks to process.[102] A common criticism was that the exemption process was difficult to navigate, and was neither consistent or transparent.

One woman described a lack of clarity around the granting of travel exemptions. Her mother was terminally ill in the Netherlands: *"I applied twice for an outward travel exception and both times knocked back by the Australian Department of Home Affairs because I did not meet the criteria for a travel exemption. This whilst "travel to a terminally ill, 1st degree relative" was one of the exemption criteria."*

Your Story Portal Submission - Female, 55-63 [Submission 1603]

The outward travel restrictions resulted in families being separated for extended periods and heartbreaking stories of people being unable to be with family and loved ones when needed, particularly in sickness and death, and missing key milestones and events.

"One of the most challenging aspects of the pandemic was being separated from my family in Malaysia. The closure of international borders meant that I couldn't travel home, even during university breaks. What was once a simple flight became an insurmountable obstacle. Despite video calls and messages, the physical distance weighed heavily on me. Missing important family moments and not being able to support each other in person during tough times was incredibly difficult."

Your Story Portal Submission - Male, 25-34 [Submission 182]

"My sister-in-law in New Zealand had just been diagnosed with terminal brain cancer. I never got to see her again as she died February 2021 when borders were still shut. The experience of seeing her funeral on Zoom and not being able to be with my brother and family there was heart breaking ... My daughter, who lives in

Japan, lost a baby when 21 weeks pregnant, She was not in a good way physically or emotionally. She needed me and I was unable to get to her. I felt totally trapped by the government's responses to Covid".

Your Story Portal Submission – Female, 55-64 [Submission 416]

"My partner and our daughter hold French passports and were not permitted to travel to see her family in France. This separation from loved ones caused immense emotional distress."

Your Story Portal Submission - Male, 35-44 [Submission 733]

A woman described not being able to travel to South Africa to be with her family following the passing of her mother during the pandemic: *"I couldn't even be with my family in their grief. And I had no idea whatsoever how to cope with my own. I have never, ever, ever, felt so isolated, lost and alone in my life."*

Your Story Portal Submission - Female, 55-64 [Submission 1119]

HUMAN RIGHTS IN FOCUS:

Everyone has the right to freedom of movement. This includes the right to leave any country, including your own.

The right to freedom of movement is protected under Article 12(2) of the ICCPR. While this right may be limited to protect public health, any restrictions must be necessary, justified and proportionate.[103] Freedom to leave a country must not be dependent on the purpose for leaving, duration of absence, or State of destination.[104] This freedom is also interconnected with a range of other rights, including the right to family life, right to work and the right to education.

The introduction of travel bans from March 2020 until November 2021 that restricted citizens and residents from leaving Australia without obtaining an exemption raised significant human rights concerns under Article 12(2). While the bans were intended to protect public health during a global pandemic, preventing citizens from leaving their own country was an extreme measure that was unique among democracies during the pandemic. The possible availability of less restrictive alternatives (such as strict re-entry criteria) that would have achieved similar outcomes, raises questions regarding the necessity and proportionality of the restrictions. Further, the limited scope for exemptions, and criticisms of inconsistency, arbitrariness and a lack of transparency in the management of the exemptions process, are additional factors relevant to any assessment of the proportionality of the measures.

While the travel bans that prevented Australians from leaving Australia were designed to protect public health during an emergency, the factors outlined above highlight concerns about whether the measures were consistent with Australia's international human rights obligations.

4.1.2. COVID-19 vaccine rollout

Some of the key human rights considerations:

Right to physical and mental health

Right to work and to good working conditions

Right not to be discriminated against

Right to freedom of opinion and expression

Right to privacy

Right to bodily integrity and autonomy

Right to life

SUMMARY OF MEASURES:

The progression of COVID-19 in Australia was cause for a highly regulated vaccine rollout. The COVID-19 vaccine rollout began in February 2021 and was one of the largest exercises in health logistics in Australian history.[105] By December 2022 approximately 20 million people over 16 years of age had received at least one dose of a COVID-19 vaccination.[106] As of January 2025, 72.6 million doses of COVID-19 vaccines have been administered in Australia.[107]

A number of different vaccines were developed by global pharmaceutical companies such as Pfizer, Moderna, AstraZeneca and Novavax. COVID-19 vaccinations were, and are, free to all people living in Australia, including those without a Medicare card.[108]

Although COVID-19 vaccinations were developed quickly, available vaccines in Australia must be approved by the Therapeutic Goods Administration and are subject to well-established evaluation processes.[109]

As supplies were limited, COVID-19 vaccines were initially prioritised for groups with high exposure risk (e.g. border and frontline healthcare workers), those potentially vulnerable to the disease (e.g. older Australians over 80 years, First Nations Australians over 55 and people with underlying medical conditions) and those working in critical roles (e.g. defence, police, fire, emergency services).[110]

The Australian Government's policy was that COVID-19 vaccinations were voluntary for most Australians, although its aim was to have as many people as possible choose to be vaccinated. However, when COVID-19 vaccines became available, all states and territories issued public health orders mandating COVID-19 vaccinations for certain industries including residential aged care workers, health care workers, disability service providers, education providers, care providers and airport workers.[111] Employees of these industries were determined to either have elevated risk of being infected with COVID-19 or to necessarily have close contact with people who were most vulnerable to severe COVID-19 health impacts.[112]

In industries where COVID-19 vaccinations were mandated, an employee could be exempted in cases where they could not be vaccinated due to a medical condition.[113] For industries where vaccinations were not mandated through government directions, employers could only require their employees to be vaccinated if it was lawful and reasonable to do so.[114] Safe Work Australia and the Fair Work Ombudsman released guidance in February 2021 suggesting that most employers would not have a right or obligation to require employees to be vaccinated against COVID-19.[115]

COVID-19 vaccinations were required for some workplaces and were also used by state and territory governments in order to begin opening up again through requiring proof of vaccination to allow for travel as well as access to certain businesses, services and public spaces.[116]

COVID-19 vaccine mandates have now been lifted but are still highly encouraged in some areas such as aged care.[117]

Vaccines are effective in saving lives, and to this end help to protect the right to life.[118] The rollout and uptake of COVID-19 vaccinations in Australia marked the point in which the country began to open back up, specifically when Australia reached 80% vaccination of eligible people in late 2021.[119]

While the COVID-19 vaccines helped to protect the right to life and health, at the same time people also have the right to bodily autonomy and integrity, privacy, freedom of expression, the right to work and the right not to be discriminated against. The discussion about vaccinations engages in the balance between competing individual and community rights during a national emergency.

Vaccine mandates are generally not the preferred approach to achieving health outcomes, with the Australian Government's Australian COVID-19 Vaccination Policy stating:

> 'While the Australian Government strongly supports immunisation and will run a strong campaign to encourage vaccination, it is not mandatory and individuals may choose not to vaccinate.' [120]

This statement highlights the pre-existing policy idea that persuasion is preferrable to mandates when it comes to vaccinations. It also demonstrates the broader communication issues that emerged from the pandemic, noting that this federal government advice did not accurately represent the decisions ultimately made by states and territories and individual businesses.

The COVID-19 vaccine mandate was not the first highly prescriptive vaccine policy implemented in Australia. Children must be up to date with their immunisations under the childhood vaccination schedule for their parents to receive Family Tax Benefit Part A or childcare fee assistance from the Australian Government.[121] Depending on the state, children who are not fully immunised are also not able to be enrolled in early education or childcare unless they have a medical exemption.[122] Some states mandate proof of vaccination for some preventable diseases, including annual influenza, before commencement in healthcare or aged care employment.[123]

HUMAN RIGHTS IN FOCUS:

The Commission emphasised throughout the pandemic that mandatory vaccination policies 'have significant implications for freedom of movement and association, access to everyday goods and services, privacy and autonomy, and equity and discrimination'.[124] For this reason, it is important to ensure that any mandates are targeted to risk rather than simply imposed in a blanket way.

The World Health Organisation (WHO) has acknowledged that 'mandatory vaccination policies constrain individual choice in non-trivial ways'.[125] In 2022 the WHO found that vaccines 'are one of the most effective tools for protecting people against COVID-19' and that vaccination mandates can – in certain circumstances – be ethically justified. However, despite this, the position adopted was that the WHO 'does not presently support the direction of mandates for COVID-19 vaccination, having argued that it is better to work on information campaigns and making vaccines accessible'.[126]

The view expressed was that it was better to persuade than to mandate. One key reason is the government distrust that stems from mandates, especially evident in Australia post-pandemic and which has caused a decline in vaccination rates for not just COVID-19 but other routine vaccinations as well.[127]

The Commission recognises that rights can be limited, but the starting point is that any limit in an emergency must be necessary, justified and proportionate. These principles necessarily lead to caution about any broad-based vaccine mandate. Human rights responses need to be targeted to risk and when the principles are applied to the pandemic, it isn't clear that a nation-wide mandate would have been proportionate (even when viewed against the limited information we had about the virus at the time it was introduced) while recognising that the proportionality analysis for a more targeted mandate will necessarily be different.

The speed of implementation of the COVID-19 vaccinations and the scale of the mandates however caused complex issues to arise throughout the rollout. The Commission's survey indicates that while 57% of participants agreed that getting a COVID-19 vaccine should be mandatory (barring medical exemptions), a sizeable proportion (29%) disagreed. There were very real consequences for people who chose not to have the COVID-19 vaccines in Australia. Mandatory vaccinations and the accompanying vaccine passports had implications for freedom of movement and association, access to goods and services, privacy and autonomy, and equity and discrimination.[128]

Key criticisms that people told the Commission about Australia's handling of the COVID-19 vaccinations are summarised below. This is not a comprehensive list of every issue that arose from the pandemic vaccine rollout, but a reflection of community sentiment expressed through online story submissions and stakeholder interviews. During this process it became clear that there was a wide spectrum of criticisms, ranging from the vaccines not being accessible enough to the opinion that there should not have been any consequences for vaccine refusal.

1. Prioritisation and access

There were criticisms that certain groups were not adequately prioritised to receive the initial rollout of vaccines, therefore delaying their access to the vaccines and potentially compromising their health.

> *"When people with ME/CFS [myalgic encephalomyelitis/chronic fatigue syndrome] get any infection, we are at risk of our condition worsening. Despite this, we were expressly excluded from early rounds of the vaccine rollout. Ridiculous! We needed that protection."*
>
> **Your Story Portal Submission - [Submission 899]**

People felt there was a lack of vaccination centres that accommodated for people with disability, including accommodating for the sensory needs for people with autism. The fact that vaccination rates in 2021 for people with a disability were 10 percentage points lower than other Australians would appear to support this conclusion.[129]

> *"As a person with a disability, it was clear that design and support at Covid testing, and vaccination centres presumed everyone attending was able-bodied. This caused people with disabilities, many at high risk, to not attend centres. This caused exacerbation of existing physical and mental health conditions and exclusion of people who are often the most vulnerable... Most facilities did not include building or disabled toilet access, queue priority, no chairs and no priority queues for people with special needs to go on arrival. Covid testing and vaccination centres often had huge queues of people standing in hot sun for hours on end with no seating or any consideration or recognition at all for people with special needs."*
>
> **Your Story Portal Submission - Female, 65-74 [Submission 307]**

Some also felt that centralised vaccination centres limited accessibility for rural and regional Australians who may have been required to travel significant distance to receive any vaccination.[130]

2. Bodily integrity and autonomy

Concerns were raised from people who expressed the view that they should not be forced to have a vaccination that has potentially unknown effects. Everyone has the right to bodily integrity and to make their own healthcare decisions. While the ICCPR does not include an express right to physical or bodily integrity, the UN Human Rights Committee has recognised that the right to privacy (Article 17) and the right to liberty and security of person (Article 19) include bodily integrity and autonomy.[131]

The COVID-19 vaccine rollout in Australia had significant implications for the right to bodily integrity and autonomy, particularly in the context of vaccination mandates being imposed in certain places. While the rollout was framed as a public health necessity, mandates requiring vaccination for employment, access to certain services, and participation in public life raised concerns about individual consent and the right to make autonomous medical decisions. These measures, justified on the grounds of protecting public health and vulnerable populations, led to ethical and legal debate about

proportionality, necessity, and the balance between collective welfare and personal freedoms.

> *"For the record, I did lose a relative to COVID. I know the illness is dangerous, yet so is the flu. A difference is the flu vaccine has been tested, is voluntary and recommended rather than mandated, whereas the untested COVID vaccines were made mandatory for many people."*
>
> **Your Story Portal Submission - Male, 45-54 [Submission 158]**

The Commission recognises the complexity of needing to uphold the right to bodily integrity and autonomy within the context of also protecting other people's right to life and right to health. For some individuals, mandates were perceived as coercive, limiting their ability to make voluntary health choices without facing severe social and economic consequences. However, these measures have generally been upheld by courts in Australia, who have emphasised the legitimacy of temporary restrictions in the face of a public health emergency.[132] The Australian experience highlights the complex interplay between public health imperatives and individual human rights, demonstrating the challenges of balancing individual autonomy with societal responsibility during emergencies.

3. Impact on employment

There were criticisms that COVID-19 vaccine mandates in certain industries forced people to choose between doing something they did not want to do and losing their job, amounting to coercion. People felt there should have been alternative options made available for those who did not want to take the vaccine. COVID-19 vaccine mandates did result in job losses and people told the Commission about the associated stress on relationships and finances, as well as related anxiety and mental health issues these situations caused for many Australians.

> *"Being forced to take a vaccine under the threat of losing your job does not constitute consent".*
>
> **Your Story Portal Submission - Female, 45-54 [Submission 524]**

> **A man who lost his employment after refusing the COVID-19 vaccine stated:** *"The stress of not being able to feed my kids or pay my mortgage was overwhelming."*
>
> **Your Story Portal Submission - Male, 45-54 [Submission 1735]**

See **4.1.8 Human Rights in Action: Vaccinations and Employment** for further analysis on the impact of COVID-19 vaccine mandates on employment.

4. Prevention from engagement in daily life

Additional regulations around COVID-19 vaccinations meant that people who refused the vaccine were not able to travel domestically or internationally during periods of the pandemic and were not able to engage in aspects of daily life such as going to some shops, restaurants and other businesses that required proof of vaccination status before allowing entry, although access to essential shops such as grocery stores was maintained. During the pandemic, businesses were required at various points to refuse entry for people who did not provide a COVID-19 certificate and did not have a medical exemption.[133]

> *"I wasn't allowed to go to the shops, pubs, or sporting events because I am unvaccinated."*
>
> **Your Story Portal Submission - Male, 45-54 [Submission 256]**

The Commission recognises that the use of vaccine passports and certificates had significant implications for freedom of movement and association, access to everyday goods and services, privacy and autonomy, and equality and discrimination.[134] People who chose not to receive the COVID-19 vaccines felt that this system was direct discrimination as unvaccinated people were only able to access 'critical retail' stores and were excluded from many parts of daily life.[135]

> *"...my choice meant I could not go to work (my passion since age 6), I could not earn a living to help support my family, I was not allowed in shopping centres, I could not go Christmas shopping, out to dinner, to the movies, catch up with friends in public places."*
>
> **Your Story Portal Submission - Female, 45-54 [Submission 819]**

One of the overarching criticisms of the COVID-19 vaccine rollout was that some people felt the vaccine mandates backed them into a corner where they had to choose between getting the vaccine or potentially losing their job and not being able to participate in society.

> *"We felt forced to take the vaccine because, without it, we couldn't open our business or work at our places of employment, which would have resulted in no income and potentially losing our home"*
>
> **Your Story Portal Submission - Male, 35-44 [Submission 733]**

Some people felt that they were not actually given a meaningful choice. They felt that deciding to be vaccinated meant you could continue your life as normal, while choosing not to take the vaccine meant that you may lose your job, not be let into shops and restaurants and not be able to travel domestically or internationally. This was particularly concerning to some given that the accelerated vaccination development and approvals process meant that there was not as clear an understanding of potential risks and side-effects as would ordinarily be expected of a vaccine being rolled out across the entire nation.

5. Vaccine side-effects

There have been many criticisms that not only have the COVID-19 vaccinations caused side-effects that have impacted the short- and long-term health of some individuals, but that these complaints have not been taken seriously by medical professionals, government authorities or the wider community.

As with any vaccine, there are potential side effects to the various COVID-19 vaccines ranging from headaches and fatigue, to anaphylaxis (allergic reaction).[136] More severe side-effects from the COVID-19 vaccines are very rare but have been recorded and include thrombosis with thrombocytopenia syndrome (blood clots) and myocarditis and pericarditis (heart inflammation).[137] The Commission received many story submissions in which people spoke of injury, harm and anger arising because their fears of vaccine side-effects were dismissed and that their claims of vaccine injury were ignored or undermined.

Any death or injuries caused by a vaccination should be carefully examined, and concerns about safety should never be minimised. It is, however, important to acknowledge that the TGA continue to advise that vaccination against COVID-19 is the most effective way to reduce deaths and severe illness from infection, and that the protective benefits of vaccination far outweigh the potential risks.[138] As at 29 October 2023 there had been 139,654 adverse events reported in connection with COVID-19 vaccinations in Australia,

with a total number of 68,864,839 doses having been administered.[139]

The Australian Government has set up a claims scheme to enable people who have received COVID-19 vaccines to obtain compensation for recognised moderate to severe vaccine-related adverse events.[140] Systems of compensation such as this are crucial for transparency and must be easily accessible to generate trust in the agencies administering vaccinations.

HUMAN RIGHTS IN FOCUS:

There were a number of human rights issues impacted by COVID-19 vaccination mandates. One specific question that was frequently raised was whether vaccination mandates could be considered a form of medical experimentation without consent.

Every person has the right not to be subjected to medical or scientific experimentation without their free consent.

This right is protected under Article 7 of the ICCPR and is an absolute right from which no derogation is permitted, even in times of emergency. It is designed to protect bodily autonomy and integrity, emphasizing the need for informed and voluntary consent for medical experimentation.

While COVID-19 vaccines were developed rapidly and were initially granted provisional approval, they were not a form of medical or scientific experimentation. The vaccines used in Australia were all approved by the Therapeutic Goods Administration (TGA) using the recognised assessment and approval processes.[141]

6. Lack of information

Another factor contributing to a feeling of vaccine coercion was a perceived lack of information that was available about the different variants of the vaccine and potential side-effects. This concern was enhanced for people with existing medical conditions.

A woman concerned about the lack of information around her daughter getting COVID vaccinations *"My daughter had childhood cancer and there was mixed information about vaccinating with her history. It all caused a lot of unnecessary stress and anxiety for people."*

Your Story Portal Submission - Female, 45-54 [Submission 786]

A woman described her experience with pre-existing health conditions: *"Upon the rollout of the Covid Vaccination Scheme, I consulted the official websites relating to my pre-existing autoimmune conditions, both being Sjogren's Syndrome and Crohn's Disease, to seek advice on any potential side effects or exacerbations these vaccines may have on my pre-existing conditions. Upon my online inquiries into any potential side effects, these official websites acknowledged that studies of the vaccines had not been undertaken on people with my conditions... I bravely made the alternative decision not to take these vaccinations due to the unknown short and long-term outcomes on my pre-existing conditions. As a result, I became known as a social pariah, an "anti-vaxxer," and was ridiculed by the public... despite my valid concerns and despite having every other vaccine recommended to me in the past."*

Your Story Portal Submission - Female, 45-54 [Submission 1525]

Further complaints related to the lack of information of the potential impact of COVID-19 vaccinations on pregnancies, causing vaccine hesitancy for pregnant women (and those planning a pregnancy) as illustrated in the following story submissions.

A woman who was pregnant during the pandemic described feeling forced to have the vaccine *"I was in my first trimester of pregnancy and was told if I did not have the vaccine I would lose my job. Under threat of termination and the flow on effect of that on my family, I relented and had the vaccine". At 17 weeks, she experienced a stillbirth and described having to deliver the baby while her husband was refused entry to the hospital, having tested positive to COVID-19 "My husband was refused entry and was not allowed to be at the birth of his son, was denied the only chance he had to hold his son...".*

Your Story Portal Submission - Female, 35-44 [Submission 610]

Speaking on the vaccine mandates, one woman said: *"I was hesitant about how hurried it was and also being pregnant and taking a rushed vaccine"*

Your Story Portal Submission - Female, 35-44 [Submission 1232]

While there has been no evidence to date that establishes causative linkages between COVID-19 vaccines and miscarriages,[142] when the vaccine roll-out first occurred – and when vaccination mandates were initially imposed – there was not as much information and as many studies available as there is now, post-pandemic.

People were also distressed by the short timeframes they had to decide about getting vaccinated, before they would start experiencing the consequences of vaccine refusal.

"I was told by my employer that I would not be able to come to work, nor would I be paid until I brought evidence of having a vaccine. This was considerably stressful as there were many inconsistencies concerning vaccines and only certain types were available in my area. I felt forced to have medication that I didn't trust".

Your Story Portal Submission - Male, 45-54 [Submission 158]

"Personally, though I did decide to get vaccinated, I felt pressured into it. I didn't have enough time to research or process the decision..."

Your Story Portal Submission - Female, 18-24 [Submission 1975]

People felt that this impacted their ability to give informed consent. The result was that there were people who told the Commission that they ended up taking the vaccine as they did not want to lose their ability to work, travel and engage in society, but they did so with considerable reluctance.

"I felt I was vilified for my opinions, ostracised from society, including family and friends, and had my basic human rights to make decisions around my own body, removed."

Your Story Portal Submission - Female, 55-64 [Submission 283]

With this reluctance came distrust of the authorities who had put people in this position. Some felt that their individual choices did not matter in this scenario.

7. Impact on visitations

The feeling of vaccine coercion related to other aspects besides employment. For example, many aged care facilities and hospitals denied people access to visit family members if they were not vaccinated against COVID-19, preventing some people from being about to say goodbye to loved ones before they passed away.

A woman describing the passing of her grandmother *"I chose not to be vaccinated and as a result was not able to be there as she passed or able to enter the facility to visit. She was my best friend. She was 104 and deserved to be surrounded by her loved ones and instead died on her own. The additional stress placed on the family during this time was immense."*

Your Story Portal Submission - Female, 55-64 [Submission 796]

"The discrimination, segregation and labelling has caused deep damage to the communities and ruined relationships, friendships and livelihoods.... I was personally denied access to visit my father in hospital as at the time I was not vaccinated was something I will never forgive."

Your Story Portal Submission - Male, 35-44 [Submission 220]

Similar restrictions applied to visitors to prisons and immigration detention centres.

A woman who had a son incarcerated during the pandemic *"[It] was a very stressful time as my son was incarcerated during Covid and was told he had to have the vaccination otherwise he would not be able to have visitors... I was then faced with no being able to visit my son unless I had the [vaccine]."*

Your Story Portal Submission - Female, 55-64 [Submission 138]

While many people have extremely strong views about the COVID-19 vaccinations, others expressed nuanced opinions about the vaccine rollout, with the following participant expressing the view that a range of public health measures are needed to achieve the best public health outcomes.

A person in Melbourne *"I have mixed feelings about vaccine mandates, they were right at the time but now we understand that vaccines don't mitigate spread of COVID as we had hoped, and that the virus is airborne rather than droplet spread, I think clean air mandates and mask education as well as work reforms to increase sick pay would have been a better focus (and easier to implement with less risk for susceptible individuals, and less impact on people's employment opportunities and individual choices)".*

Your Story Portal Submission – Non-binary, 35-44 [Submission 9]

8. Privacy infringements

SUMMARY OF MEASURES:

International COVID-19 Vaccinations Certificates ('ICVC') was the system used in Australia to prove a traveller's COVID-19 immunisation history. ICVCs were government issued and used a QR code that linked a person's information on the Australian Immunisation Register with their passport.[143] At the height of the COVID-19 pandemic, an ICVC was mandatory for entry into certain countries and was used to satisfy vaccine entry requirements. It is no longer a requirement for Australian travellers to have an ICVC when leaving or entering Australia.[144]

Proof of vaccination was not needed only for international travel, but was also required by state and territory governments for people to use services such as public transport as well as being used as a condition of entry to some businesses and facilities including hairdressers, restaurants, pubs, gyms and sporting and entertainment venues.[145] This was often done through locally issued 'vaccine passports' which were available digitally on smart phone apps.[146]

COVID-19 vaccine exemption forms could be provided by doctors for people who were unable to have the COVID-19 vaccinations for medical reasons.[147]

Vaccine passports and certificates were another element of the vaccine rollout. As vaccine uptake increased and the world was moving towards opening up again, proof of COVID-19 vaccination status was used for international travel (**see 4.1.1 International border closures and right of return for more information**) and for interstate travel within Australia, as well being used within Australia to allow people to access businesses again such as hairdressers, restaurants, hospitality, gyms and entertainment.

During particular periods, businesses were required to ask for proof of vaccination status upon a customers' entry, alongside the customer 'checking-in' at the location with a QR code. Based on government advice, businesses implemented these checks in order to provide protection to their staff as well as to other customers, which they have an obligation to do.

Some felt that the enforcement of vaccine certificates, vaccine passports and contact tracing was an infringement on privacy. A concern was that the use of QR check-ins for contact tracing infringed privacy as it kept a digital record of a person's movements.

> *"I lost my rights to privacy and autonomy, contact tracing took away my freedom."*
>
> **Your Story Portal Submission - Female, 35-55 [Submission 142]**

While digital contact tracing via QR check-ins claimed to be useful as a public health measure to prevent the spread of COVID-19 during the pandemic, it was a measure open to misuse. For example, in Western Australia police used data from QR check-ins during a murder investigation,[148] although legislation was later introduced to stop this.[149] This situation was alarming as the SafeWA COVID-19 contact tracing app was released with the assurance that the data it collected would only be accessible by authorised Department of Health contact tracing personnel. The fact that this data was accessed and used for other purposes resulted in public distrust.[150]

Although in many cases the actions of businesses were lawful, there were understandable concerns about privacy and accessibility. People felt concerned about being forced to share health information with third parties as well as concerns about how the potentially sensitive information was being stored and used. As vaccination certificates were accessed predominantly digitally, this also raised questions about inaccessibility for people who do not have easy access or knowledge of smartphones and the internet.

When imposing measures that impact the right to privacy – even during a public health emergency – governments have a duty to ensure that robust safeguards are in place, including limiting data collection to the minimum necessary, ensuring transparency about how data is used and protected, and providing reasonable alternatives.

Vaccines are and will continue to be an essential public health strategy to minimise the spread of certain diseases in Australia. It is preferable to encourage compliance rather than punish non-compliance and vaccine hesitancy concerns should not be undermined or dismissed. Mandatory vaccinations should ideally be considered only after other, less invasive, strategies have been implemented. Broad-based mandates run the risk of failing to consider individual circumstances and hence opens up the possibility of discrimination. More should be done to prevent feelings of coercion, as this erodes government trust and has ramifications for future emergency response.

HUMAN RIGHTS IN FOCUS:

Everyone has a right to privacy.

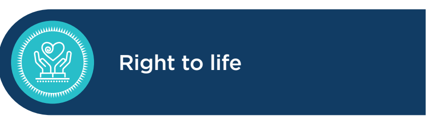
Article 17(1) of the ICCPR states that 'No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation'.

The right to privacy protects individuals' personal information, including health information, from arbitrary or unlawful collection, use or disclosure. The right can be limited in order to protect public health in an emergency, however any interference with privacy must comply with the principles of legality, necessity and proportionality, which includes being justified in light of the specific circumstances and balanced against the competing interests at stake.[151]

Health information, including vaccination status, is highly sensitive personal information that is protected under the right to privacy. There are many instances where people will legitimately not want their personal health information to be shared with others. As a result of public health orders imposed during the pandemic, people in Australia were required at various points to use QR check-ins or confirm their vaccination status in order to access particular places (including workplaces) or services. This raised a range of concerns about privacy, including broad disclosure requirements, data retention and misuse, and a lack of reasonable alternatives.

4.1.3. Residential aged care

Some of the key human rights considerations:



SUMMARY OF MEASURES:

Many of the most stringent and long-lasting pandemic regulations related to residential aged care facilities which were recognised as a 'sensitive setting' alongside other health care facilities. From early in the pandemic there were strict visitor rules, restricting the number of visitors and the duration of visits.

In particular, the regulation of visits in and out of residential aged care facilities proved to have significant impact on the residents and their rights. While there were some exemptions to such restrictions,[152] the harms to residents resulting from these restrictions had wide ranging impacts on both residents and their loved ones, from loneliness and depression to malnutrition and weight loss.[153]

In March 2021, the Aged Care Quality and Safety Commission released the Residential Care Visitor Access Survey Report which used results from a survey conducted between 16 December 2020 and 19 January 2021 – a period at the height of COVID-19 lockdowns.[154] Of its many recommendations, the report highlighted the importance of social contact and connection for aged care residents to have with their family and friends under the Aged Care Quality Standards.[155] Accordingly, the report called for the introduction of the use of technology and window visits during mandatory lockdown periods.[156]

Aged care was one of the early priority areas for the country's pandemic response as COVID-19 was being shown to cause more serious illness and death in older people and those with existing or chronic health conditions.[157] Restrictions were quickly put in place in Australian aged care facilities to minimise the risk of COVID-19. Even with these regulations, there were numerous outbreaks of COVID-19 in aged care facilities throughout Australia. Since the beginning of the pandemic, there have been close to 24,900 COVID-19 outbreaks in residential aged care homes in Australia, resulting in 240,000 resident cases and over 7,300 deaths (as of 6 February 2025).[158] Survey participants indicate that 1 in 4 Australians had family or friends living in residential aged care during the pandemic, showing why this way a major issue for many people.

HUMAN RIGHTS IN FOCUS:

Every human being has the inherent right to life.

Article 6(1) of the ICCPR protects the right to life, which has been described as 'the supreme right of the human being'.[159]

It is recognised as a jus cogens norm, which means that no derogation from the right is permitted, even in times of emergency.[160] Protecting the right to life requires governments to take 'preventative and positive measures to meet certain foreseeable threats to life',[161] including taking 'special measures of protection towards persons in vulnerable situations'[162] and taking appropriate measures to address '… the prevalence of life-threatening diseases'.[163]

Noting both the greater vulnerability of older people to COVID-19 and the evidence showing the significant risks of transmission in aged care facilities, imposing strict restrictions in an effort to minimise the outbreaks of COVID-19 in aged care facilities would appear to be consistent with the obligation to protect the right to life.

Protecting the right to life (and the related right to health) will – rightly – always be a priority during a pandemic. However, this right cannot be considered in isolation from other human rights. Any restrictions that are imposed on other rights in order to protect the right to life must always be a reasonable, necessary and proportionate means to achieve that goal.

These restrictions had significant impacts on those living in residential care and their relatives, especially as the pandemic became protracted. The Commission was told of the isolation and loneliness experienced by residents of aged care facilities throughout the pandemic.[164] This was compounded for residents who may have had conditions such as dementia and either did not understand why they were suddenly not able to see their families or had to be repeatedly reminded of this.

A woman whose mother lives in a nursing home and has advanced dementia: *"A dementia sufferer has no comprehension of the rules that didn't allow them to see their family and receive a hug and a kiss. It was cruel."*

Your Story Portal Submission - Female, 55-64 [Submission 181]

"My 98 year old grandmother couldn't have family [and] friends visit, we didn't know if we'd get to see her again. She felt lonely & wondered if everyone had forgotten about her."

Your Story Portal Submission - Female, 45-54 [Submission 663]

An aged care worker on the aged care restrictions: *"It was heartbreaking to see that the residents couldn't have visitors and they became so lonely and isolated".*

Your Story Portal Submission - Female, 45-54 [Submission 708]

"Covid lock downs happened not long after we placed mum into the home for respite, we were told we weren't allowed in to see her, this greatly affected our mothers mental health and was so distressing for my sister and myself. Mum went into a state of despair, due to not knowing anyone in the nursing home and not being able to see her daughters, except through a closed glass window. It was heartbreaking for us all ... Mum would ring and plead with us to get her out of there as she felt so isolated and scared not seeing us".

Your Story Portal Submission - Female, 55-64 [Submission 1030]

These restrictions could be seen as a prioritisation of the physical health of older Australians over their mental and emotional health. Stakeholders from the aged care sector told the Commission that there needed to be a better balance between protection of physical health and denial of social interactions, saying that the development of these regulations needed to ask residents themselves what their priorities were.[165] Sentiments repeatedly expressed to the Commission included that that these pandemic measures were top-down and failed to protect older Australians' right to dignity.[166]

One difficulty in aged care facilities is that residents may have differing priorities but still must comply with one policy. For example, some residents may have been willing to risk the potentially fatal consequences of COVID-19 to be able to spend time with their families towards the end of their life. At the same time, it must also be noted that the heightened risk resulting from these interactions would have also necessarily exacerbated the risk posed (at least to some extent) to other residents. These complex considerations highlight the intertwined nature of rights, and the challenge of ensuring that emergency responses strike an appropriate balance between competing rights and interests.

A woman from Victoria said: *"I could not visit my mother in the end stages of her life. And what did that really achieve? Did I save thousands of people from dying of COVID for not visiting her?"*

Quantitative Survey – Female, 60-69

"I was unable to be with my mother during last few months of her life she was in nursing home in Victoria. I live in Queensland. Only able to speak on [the] phone, heartbroken when she expressed her confusion about nursing staff wearing masks, unable to recognise them or understand what they were saying."

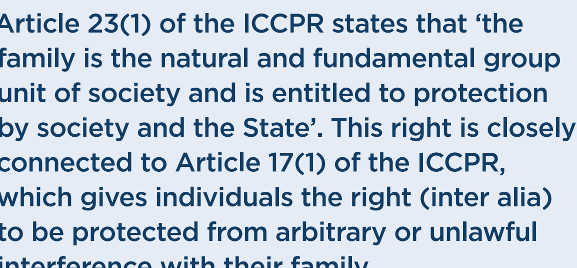
Your Story Portal Submission - Female, 55-64 [Submission 1856]

Employee from a social service provider speaking about the management of human rights in aged care facilities: *"... they have people in residential care who will not be vaccinated, as you know, is their right to choose, but it also means that they still have the risk of exposing other residents who were very vulnerable... And then the staff as well, they have a right to be safe as well."*

Stakeholder Consultation Session – 22 July 2024

Stakeholders in the aged care sector described what they saw during the pandemic as the 'infantilisation of older people', where the agency of aged care residents was all but taken away because they were deemed to be vulnerable.[167]

It was repeatedly suggested to the Commission that there needed to be a better balance in aged care facilities between the protection of health and the denial of social interactions.[168] These restrictions didn't just impact those living in aged care facilities, but also the relatives and other loved ones of those living there as one in four of the respondents to the Commission's survey said they had family or friends living in residential aged care during the pandemic.



HUMAN RIGHTS IN FOCUS:

The family is recognised as being entitled to specific protection under international human rights law.

Article 23(1) of the ICCPR states that 'the family is the natural and fundamental group unit of society and is entitled to protection by society and the State'. This right is closely connected to Article 17(1) of the ICCPR, which gives individuals the right (inter alia) to be protected from arbitrary or unlawful interference with their family.

Measures that prevent individuals from seeing or being in contact with family members are an interference with these rights.

The separation of older people in aged care facilities from their families during the pandemic raises important questions about the right to protection for the family. While the restrictions were intended to protect other human rights (such as the right to life and right to health), restrictions on the right to family life will only be permissible if they are necessary, justified and proportionate.

This was more likely to be the case in the early stages of the pandemic, where little was known about COVID-19 and there were no vaccines. However, in the later stages of the pandemic the rules restricting visitors in aged care facilities should have been adjusted to reflect the changing circumstances. At all times, a proportionate response would necessarily include ensuring that visitor restrictions were only in place for the shortest possible period, that practical alternatives (such as outdoor visits or regular testing for visitors) were implemented where feasible, and that the individual circumstances of residents were considered. For example, for residents in palliative care or with cognitive impairments family visits were particularly critical for overall well-being.

There was a clear need for pandemic policies in aged care facilities to balance protecting the health of residents and staff with also recognising and facilitating the right to family contact.

4.1.4. End-of-life

Some of the key human rights considerations:

Right to physical and mental health

Right to freedom of movement and liberty

Right to freedom of opinion and expression

Right to freedom of thought, conscience and religion

Right of minorities to enjoy their own culture

Right to be treated with humanity when detained

Regulations that restricted movement and limited gatherings of people resulted in many stories of people who were not able to be with family and loved ones during their end of life, and who had to deal with significant restrictions being imposed on funerals. International and domestic border closures, visitor restrictions in hospitals and aged care, restrictions on funeral numbers, and difficult exemption processes resulted in deep hurt and suffering throughout the pandemic.

Restrictions on visitation and travel

SUMMARY OF MEASURES:

A combination of measures during the pandemic prevented people being present for loved ones' sickness and death, specifically domestic and international travel restrictions, aged care visitor restrictions, hospital visitor restrictions, and funeral restrictions.

While the restrictions on visitors in the residential aged care setting were stringent, there were recognised exemptions. This includes visiting a resident on compassionate grounds such as a loved one receiving end-of-life care.[169] There were also exemptions permitting visits from an 'essential care visitor' or 'partner in care' (someone who regularly visits a resident to provide essential care and companionship).[170]

One of the prominent issues regarding such restrictions is that aged care homes were interpreting the restrictions in different ways. For example, in 2021, a residential aged care facility based in Victoria had stated that all visits to residents were suspended other than for end-of-life care, which was in direct contravention of the Chief Health Officer's orders which provided that if guests were fully vaccinated and RAT tests were available, visitations should be permitted.[171] This meant that visitors and residents had to deal with conflicting information when going about obtaining an exemption to visiting restrictions and make life-changing decisions like leaving a residential facility to live at home.[172]

As with aged care facilities, restrictions on hospital visitations fluctuated throughout the pandemic. When visitor numbers were restricted, exemptions were generally available on a case-by-case basis for compassionate grounds such as palliative care.

The Commission was told a considerable number of stories about the hurt that people endured because they were not able to be with a relative or loved one in their final days, due to pandemic regulations.

"This was the most frustrating, heartbreaking and devastating thing a family can ever go through, to be denied the chance to say goodbye to their loved ones at end of life. Words cannot describe my anguish and the ongoing trauma and grief this has caused me and my family."

Your Story Portal Submission - Female, 55-64 [Submission 1164]

A man who was unable to travel to see his grandfather before he passed away said:
"I longed to hold his hand, to sit by his bedside and tell him how much he meant to me. Instead, I had to say my goodbyes through a pixelated screen, feeling utterly helpless and distant. The grief of not being there physically haunted me long after he passed away."

Your Story Portal Submission - Male, 35-44 [Submission 1182]

Visitation restrictions in hospitals and aged care facilities are complex as the restrictions were put in place to provide increased protection for people particularly vulnerable to COVID-19, including older Australians and those with chronic health issues and co-morbidities. But these same restrictions also prevented humane treatment and dignity in people's final days.

Preventing hospital visitations to people with declining health caused significant distress for both patients and family. There were reports of families begging hospitals to see their family members one last time but being refused.[173]

It is acknowledged that exemptions on compassionate grounds for hospital and aged care visitations and for travel did exist, however the exemption processes were frequently described as confusing, inconsistent, opaque, and lacking in compassion. The number of people expressing deep grief, anger and regret over their experience suggests that the systems of compassionate exemptions failed many people.

Funeral restrictions

SUMMARY OF MEASURES:

Mass gatherings of people at events such as funerals, weddings and religious ceremonies were seen as high-risk events in terms of the potential community transmission of COVID-19. There were a range of restrictions put in place to address this risk, with one example being restrictions to limit the number of people who could attend funerals.

Throughout the pandemic these restrictions limited numbers at funerals to as few as 10 people.[174] There were other regulations for COVID-safe funerals including attendees needing to stay 1.5 metres apart during the service to ensure social distancing.[175] Mask mandates also applied during funeral services, in Victoria there were times where masks had to be worn during both indoor and outdoor services.[176]

The restrictions placed on mass gatherings resulted in strict caps for funerals throughout the country. Families had to make decisions about who would be allowed to attend the funeral, impacting cultural traditions as explained in the following story submissions.

A Maori woman whose grandmother passed away during the pandemic said that travel restrictions impeded her large immediate family from attending her grandmother's funeral and affording her *"the respect and dignity she deserved". For example, "...only 10 people could be present which meant she lost her tangihanga rights" and "no cultural traditions were allowed which meant hongi was banned". She also expressed distress about the need to live stream the funeral "which is just undignified as there was no other way family could pay respect".*

Your Story Portal Submission - Female, 35-24 [Sub 1504]

"My great uncle passed away, we were allowed 12 people at his funeral, we had to choose who could go, we took the right away from people who needed to mourn. We never got to say goodbye when he died, just at the funeral home, sat meters away from each family member..."

Your Story Portal Submission - Female, 45-54 [Submission 1059]

"My grandfather passed away. I was not allowed the opportunity to visit him in the hospital before his death, nor were his friends and family outside of 10 members of his immediate family allowed to attend his funeral. My sister had to watch from outside the graveyard as her grandfather was buried because there was one too many grandchildren than the arbitrary policy dictated."

Your Story Portal Submission - Male, 25-34 [Submission 1666]

The regulations were different between states and often changed rapidly. This made planning for funerals (which is already inherently difficult and distressing) even more difficult and distressing than would ordinarily be the case.

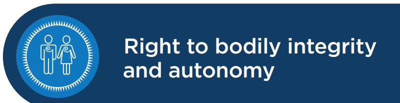
4.1.5. Mask mandates

Some of the key human rights considerations:

Right to physical and mental health

Right to freedom of opinion and expression

Right not to be discriminated against


Right to bodily integrity and autonomy

SUMMARY OF MEASURES:

Throughout the pandemic people were required by law to wear masks in certain settings such as in retail, healthcare, justice facilities, public transport, airports and at large events.[177] Masks were most often required when people were indoors where COVID-19 could more easily spread, but they were sometimes required in outdoors settings across the country.[178] However, exemptions to mask mandates were allowed for physical and mental health reasons.[179]

Although regulations varied from state-to-state, failure to comply with mask mandates where an exemption had not been granted could result in fines, such as the $200 fines enforced in metropolitan Melbourne and Mitchell Shire for people not wearing a face covering outside of their home.[180] They were also other implications for non-compliance as some businesses did not provide services unless patrons wore a mask or held an exemption.

Masking was a particular issue during the pandemic. While evidence, advice and regulations differed throughout the pandemic and while the official government advice was that masks were effective in reducing the spread of COVID-19[181], there were (and continue to be) a range of views expressed on this issue.

There are valid medical reasons why the wearing of a mask is prohibitive for some people. Physical health issues include skin conditions and conditions that make breathing difficult. Sensory issues associated with autism[182] as well as mental health considerations such as PTSD and anxiety make mask wearing challenging for many.

"The orders to wear masks affected my breathing and triggered anxiety (military service related). I obtained a medical exemption from my GP to not wear a mask; however, I was ridiculed by friends, family and colleagues and aggressively confronted in public whilst performing work related duties"

Your Story Portal Submission - Male 35-44 [Submission 1307]

"I was also fired from my workplace because I was unwilling to wear a mask, even though I had obtained a medical certificate as an exemption."

Your Story Portal Submission - Male, 25-34 [Submission 1118]

Masks were also a significant issue for people with hearing impairments, as lip reading is essential to their communication.

"I suffer from hearing loss and wear hearing aids. This made it extremely hard for me to communicate with others who were wearing masks"

Your Story Portal Submission - Male, 25-34 [Submission 3012]

According to the Commission's survey, around one in four (26%) agreed that individuals should have the right to refuse to wear a mask. Reasons given include uncertainty that masks provided protection against COVID-19, difficulty breathing and discomfort caused by mask wearing and concerns about the waste generated from disposable masks.

A man from Queensland said: *"Mandatory wearing of masks was a breach of our rights, it had no impact on our supposed protection."*

Quantitative Survey – Male, 60-69.

A man from Queensland said: *"I don't know whether they did that much and it was annoying to have to take them around all the time and they create a lot of waste."*

Quantitative Survey – Male, 30-39.

A woman from Tasmania said: *"Working in a hospital we had to wear the N95 and it was very hard to breathe, we had to wear them even when things had laxed. Mixed messages and double standards."*

Quantitative Survey – Female, 40-49.

HUMAN RIGHTS IN FOCUS:

Everyone has the right to freedom of expression.

Article 19 of the ICCPR provides for the right to freedom of expression, and states that 'this right shall include freedom to seek, receive and impart information and ideas of all kinds ...'.

The right to freedom of expression has been described as constituting 'the foundation stone for every free and democratic society'.[183] The forms of protected expression are broad 'and may include speech, writing, art and other mediums such as dress'.[184] However, freedom of expression it is not an absolute right, and its exercise 'carries with it special duties and responsibilities'.[185] The right may be restricted in order to protect public health, although any restrictions must meet strict tests of necessity and proportionality.[186]

During the pandemic, there were some people who refused to wear masks as they believed they were ineffective and that

requiring someone to wear a mask limited their right to freedom of expression.

While wearing a mask may potentially limit a person's freedom of expression, mask mandates during the pandemic were introduced specifically with the aim of protecting public health. The key human rights question then becomes whether the mandates pursued a legitimate aim, were proportionate to that aim, and were no more restrictive than is required for the achievement of that aim.[187]

There are examples of mask mandates that can be potentially justified under human rights law, such as the mandating of masks in high-risk areas such as hospitals and aged care facilities. However, there are other circumstances – such as the requirement to wear a mask even when driving your car alone[188] – where a mask mandate would be more difficult to justify as a proportionate response. Whether a mask mandate is consistent with international human rights law will be dependent on the particular circumstances and context.

Mask mandates restrict individual rights with the aim of protecting public health. Even in an emergency, restrictions on individual's rights must be necessary, justified and proportionate. Any mandate for mask wearing would need to be proportionate to the risk at the time. While targeted mandates might be a proportionate response in high-risk situations, a broad-based mandate will be more difficult to justify.

Amongst the conflicts surrounding mask mandates were people who appreciated the measure from a public health perspective. The Commission received multiple story submissions, particularly from people with disability or existing health concerns, who appreciated the extent to which people wore masks during the height of the pandemic.

"As a young person with a disability, I was really grateful for the lockdowns and other measures, like free PCR testing and masking."

Your Story Portal Submission - Female, 28-24 [Submission 1921]

"...while significant mistakes were made including the awful breach of human rights that took place in Victoria during the public housing tower lockdown, which must be acknowledged and redressed, measures like mandatory masking, maintaining social distancing, and requirements for health workers to receive vaccinations saved lives. Those lives were valuable, no matter how many people believe it is acceptable when people with 'pre-existing conditions' die preventable deaths."

Your Story Portal Submission - Female, 25-34 [Submission 279]

"I am an ME [Myalgic encephalomyelitis] patient with a poorly functioning immune system. I was grateful for the protection the Covid restrictions gave me. When all were masked, I felt safer than I do now".

Your Story Portal Submission - Female, 55-64 [Submission 110]

"It is unfathomable that anyone can consider the minor inconvenience of wearing a face mask to be a 'disproportionate' response when the alternative is the unfettered spread of a pathogen which continues to regularly cause disease, disablement, and death".

Your Story Portal Submission - Female, 35-44 [Submission 1416]

4.1.6. Human Rights in Action: India travel ban

Some of the key human rights considerations:

SUMMARY OF MEASURES:

On 30 April 2021 a temporary travel ban was enacted under the Biosecurity Act 2015 (Cth)[189] preventing any international air passenger from entering Australia if they had been in India within the past 14 days.[190] The ban was introduced as a response the significant increase in COVID-19 cases in India, and the need to reduce the number of COVID-19 cases in Australian quarantine facilities to manageable levels.[191]

The ban took effect from 3 May 2021, and extended to Australian citizens and permanent residents trying to return home from India. The emergency determination meant that any person caught entering Australia from India faced up to five years in prison and/or a $66,000 fine.[192]

The ban ended when the Australian Government let the determination lapse on 15 May 2021.

As an island country, the Australian response to COVID-19 leaned heavily upon travel restrictions in and out of the country to minimise the spread across borders. The international border restrictions are discussed throughout this report, most notably in section **4.1.1 International border closures and right of return.**

However, in May 2021 the Australian Government implemented a total ban on all flights from India to Australia. This was introduced to reduce the transmission of the more viral Delta variant of COVID-19 which had broken out in India.[193] At the time, India had been 'reporting more than 300,000 new cases of COVID-19 every day for the past week'.[194] The Minister for Health stated that 'it is critical the integrity of the Australian public health and quarantine systems is protected and the number of COVID-19 cases in quarantine facilities is reduced to a manageable level'.[195]

Despite generally high levels of support amongst Australians at the time for border restrictions to keep the nation safe from the impact of COVID-19, this travel ban sparked considerable backlash. Many were critical of the ban and claimed it discriminated against Indian Australians.[196] This included the Commission which stated that the Australian Government had not shown that the measures were non-discriminatory and had not proven that they were the only suitable way of dealing with the threat to public health.[197]

This was the first time that Australia had taken the extraordinary step of potentially criminalising its own citizens for returning home.[198] The ban left an estimated 9,000 Australian citizens stranded in India.[199]

The Australian Government's decision to ban citizens from returning to Australia faced legal challenge in *Newman v Minister for Health and Aged Care,*[200] with its validity being upheld by the Federal Court of Australia. The decision made by Thawley J. considered the legality of the emergency determination on administrative law grounds, and considered the human rights impacts – specifically the common law right of citizens to re-enter their country of citizenship – only in relation to the application of the principle of legality as a matter of statutory interpretation.

There is, however, a serious question as to whether the travel ban breached Australia's obligations under Article 12(4) of the ICCPR, which recognises that no one shall be arbitrarily deprived of the right to enter their own country.[201] The UN Human Rights Committee has stated 'that there are few, if any, circumstances in which deprivation of the right to enter one's own country could be reasonable'.[202]

The Office of the United Nations High Commission for Human Rights (OHCHR) expressed 'serious concerns' about whether the Indian travel ban was consistent with Australia's human rights obligations.[203] Meanwhile the Parliamentary Joint Committee on Human Rights specifically stated that it had 'not yet formed a concluded view in relation to this matter', finding that the ban promoted the right to life and health, but may also limit a number of other human rights, including the right to free movement and non-discrimination.[204]

Unlike the other movement rights set out in art 12 of the ICCPR, the right of a citizen to enter their home country is not subject to the lawful restrictions set out in art 12(3) of the ICCPR. This was a deliberate drafting decision as there was consensus that while the right to enter your own country was not absolute, it should only be possible to restrict the right in extremely limited circumstances.[205] The Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities has previously stated that the presence of an infectious disease is an insufficient reason to deny entry:

> As regards entry into a country, nationals are normally favoured over foreigners and it is unlikely that health or sanitary regulations which prevent the entry of a foreigner would also bar a national. What usually happens is that a national who has an infectious or loathsome disease, for example, is admitted for treatment, or compliance with health or sanitary regulations, instead of being turned away. This arises from the fact that a State cannot shirk its responsibility towards a national or arbitrarily deprive him of the right to enter his own country.[206]

Measures to close international borders, such as the India travel ban, were introduced as public health measures designed to protect the right to life and the right to health. However, it is important to also acknowledge the acute personal impact of these restrictions on individuals and families. The India travel ban in particular raised serious human rights concerns relating to the reasonableness and proportionality of the measure.

4.1.7. Human Rights in Action: Right to protest

Some of the key human rights considerations:

Right to freedom of peaceful assembly

Right to freedom of opinion and expression

Right to freedom of movement and liberty

Right to freedom of thought, conscience and religion

Right to take part in public affairs and vote

Right to freedom of association

SUMMARY OF MEASURES:

Throughout the pandemic there continued to be periodic protests on a range of issues - from the Black Lives Matter movement, treatment of refugees and opposition against pandemic restrictions and vaccination mandates.[207] Many of these larger protests took place in Sydney and Melbourne where 'stay-at-home' orders did not allow for mass gatherings, such as protests.[208]

During the pandemic, various public health measures significantly impacted the right to protect, including lockdowns, stay-at-home orders, and strict limits on the number of people allowed to gather outdoors. Fines and penalties were imposed for breaches of these restrictions, and the police were responsible for enforcing compliance with the public health measures. The aim of these measures was to restrict the spread of COVID-19, but they also curtailed the ability to organise and participate in protests.[209]

The 'right to protest' broadly refers to a combination of rights including:

- freedom of expression[210]
- right to peaceful assembly[211]
- freedom of association.[212]

The right to protest is a critical aspect of advocacy and advancing reforms – it has helped to secure women's voting rights, expand workplace safety reforms and strengthen environmental protections. In democratic societies, like Australia, it is essential that people be able to freely express themselves by way of peaceful protest. In fact, the right to peaceful assembly has been described as 'the very foundation of a system of participatory governance based on democracy, human rights, the rule of law and pluralism'.[213]

All of the above rights are derogable and can be limited or restricted for public health reasons,[214] provided such limitations are imposed through law, necessary, and proportionate. Public health restrictions on the right to protest can only be legitimately used where they are introduced to address the outbreak of an infectious disease in circumstances where public gatherings are dangerous.[215] The right to protest only protects peaceful protest. It does not protect violent protests or protests where violence is incited.

Each state and territory in Australia has different protest laws. Some jurisdictions, like New South Wales, have a notification system for planned protests while Victoria, Queensland and the ACT all protect people's rights to freedom of expression, peaceful assembly and freedom of association in their human rights legislation.[216]

During the pandemic, public health measures were introduced that substantially impacted the right to protest, with these requirements varying between the different jurisdictions and changing across the pandemic. In August 2020 Victoria introduced stage four restrictions which prohibited public gatherings.[217] Victoria's public health measures imposed an outright ban on all gatherings without any exception for public protests.[218] This applied even to protests that were conducted in COVID-safe ways. For example, on 10 April 2020 a 'car convoy protest' for refugee rights took place where protesters were entirely within their own cars.[219] Thirty protesters were issued fines totalling close to $50,000 while at least one person was arrested for incitement.[220] During the pandemic people seeking to organise protests were charged with incitement to breach COVID-19 directions and were liable to face criminal penalties.[221]

Some people criticised both what they saw as the heavy-handed response by police to protests during the pandemic and what was perceived to be the selective enforcement of protest restrictions, with police responses seen as being particularly forceful towards anti-lockdown protests. As a general principle, any laws seeking to restrict protests must be viewpoint neutral and the right to protest should not be limited based upon the subject matter of the protest.

The case that perhaps best highlights these concerns was the arrest of Zoe Buhler, a pregnant mother-of-three. Ms Buhler was arrested and handcuffed in her Ballarat home in September 2020 (while in her pyjamas and in front of her children) after she posted on Facebook encouraging people to attend a local anti-lockdown protest. The post stated:

> 'PEACEFUL PROTEST! All social distancing measures are to be followed so we don't get arrested please. Please wear a mask unless you have a medical reason not to. As some of you have seen, the government has gone to extreme measures and are using scare tactics through the media to prevent the Melbourne protests.
>
> Here in Ballarat we can be a voice for those in stage 4 lockdowns. We can be seen and heard and hopefully make a difference. We live in a 'free' country'. [222]

The arrest was livestreamed and received extensive media coverage. Ms Buhler was charged with incitement.[223] The charges were not withdrawn until almost two years later, following the Victoria Police deciding that it was 'not in the public interest to continue with the prosecution'.[224]

The UN Human Rights Committee has acknowledged that the right to peaceful assembly 'also extends to remote participation in, and organization of, assemblies, for example online'.[225] This is a right that continues to exist even in emergencies, and 'was not a luxury during the pandemic'.[226]

The law enforcement responses to Ms Buhler and the refugee car convoy protesters do not appear to be proportionate responses to legitimate public health concerns. They illustrate the need for common sense and compassion to be built into emergency responses.

It is important to note that the right to protest in Australia has not only been limited during the pandemic. A 'steady erosion' of the right to protest can be seen over the past twenty years in Australia, with a range of anti-protest laws being passed across the country.[227] The Human Rights Law Centre has identified 49 laws affecting protest that have been introduced across Australia across this period, concluding that 'people's ability to come together freely and peacefully to speak out on issues they care about is being steadily eroded in Australia'.[228]

A police officer with 20 years' experience in law enforcement said the following about the enforcement of pandemic restrictions: *"Many of these policies conflicted with my personal views on freedom and fairness. My view, and that of many colleagues was that the state response was heavy handed and that police overreach was taking place [...] while policing lawful protests against state lockdowns and mandates, I observed these citizens being profiled as radicals and a criminal threat. I was placed in the uncomfortable position of declaring to my supervisor that there were elements of these protests that I morally refused to act against."*

Your Story Portal Submission - Male, 45-54 [Submission 1698]

4.1.8. Human Rights in Action: Vaccinations and employment

Some of the key human rights considerations:

SUMMARY OF MEASURES:

The COVID-19 vaccine rollout began in February 2021.[229] COVID-19 vaccinations are, and continue to be, free for all people in Australia (including those without a Medicare card).[230] The Australian Immunisation Handbook continues to recommend 'a primary dose of COVID-19 vaccine for all people aged 18 years and over and some younger people with risks factors. It also recommends regular COVID-19 vaccinations (known as boosters) based on a person's age and specific medical condition'.[231]

To mitigate the impact of COVID-19, while allowing workplaces to operate, vaccinations were mandated for workers in certain industries such as residential aged care, healthcare, policing, education and airport travel.[232] Exemptions were allowed where a worker could not be vaccinated due to a medical condition.[233] For industries where vaccinations were not mandated through directions, employers could only require their employees to be vaccinated if it was lawful and reasonable to do so.[234]

The advice received by National Cabinet with respect to the use of vaccinations in the workplace was that:

> 'Businesses have a legal obligation to keep their workplaces safe and to eliminate or minimise so far as 'reasonably practicable' the risk of exposure to COVID-19. In general, in the absence of a state or territory public health order or a requirement in an employment contract or industrial instrument, an empower can only mandate that an employee be vaccinated through a lawful and reasonable direction. Decisions to require COVID-19 vaccinations for employees will be a matter for individual business, taking into account their particular circumstances and their obligations under safety, anti-discrimination and privacy laws'.[235]

During the pandemic people lost their jobs because they refused to receive a COVID-19 vaccination. The Commission was told numerous stories of people who were either suspended or terminated from their employment because of their decision not get vaccinated against COVID-19, and of the subsequent impacts this decision had on both them and their families. In particular, the Commission heard from police, teachers and healthcare workers who had lost their jobs as a direct result of refusing to be vaccinated.

A female police officer was suspended as she was unvaccinated: *"I was suspended from normal duties for 2 and a half years. I was completely excluded from my work place and was waiting to be terminated. My husband and my daughter also lost their jobs because of vaccine mandates."*

Your Story Portal Submission - Female, 45-54 [Submission 165]

A previous employee of New South Wales Health said: *"As an employee of NSW Health, I was fired for not taking a COVID-19 vaccine. ... I have the right to choose what happens with my body, just as Australians have the right to smoke, drink alcohol, avoid exercise."*

Your Story Portal Submission - Non-binary, 35-44 [Submission 269]

An enrolled nurse whose employment was terminated after she refused the vaccine said: *"I was completely devastated, I was under financial stress, how was I going to pay for rent, food, bills. My livelihood was taken away from me. It had a huge ripple effect on my mental health, confidence, my relationships. which caused a great deal of financial instability and uncertainty on my career".*

Your Story Portal Submission - Female, 25-34 [Submission 947]

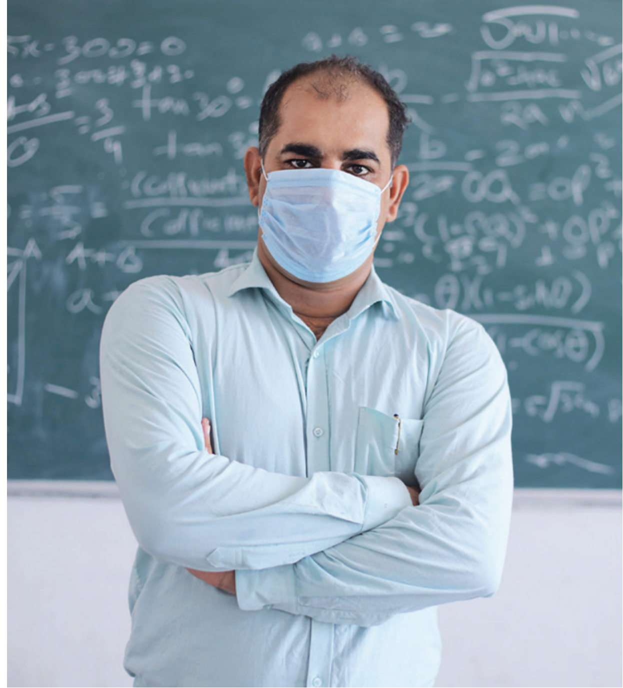
A teacher who refused the vaccine and subsequently lost her job said: *"The enforcement of mandates presented the most challenging time in all my life, leading to serious pain and suffering. I'd never been subjected to such extreme pressure or coercion. I was impacted mentally, emotionally and physically. I wasn't able to sleep, I found myself crying most days and I wasn't able to function normally. I felt detached from my friends and colleagues. I was unable to concentrate, became forgetful, constantly tired and stressed. I was consumed with worry. I felt anxious about the future."*

Your Story Portal Submission - Female, 35-44 [Submission 1898]

For example, a senior police officer told the Commission that he had been required to terminate the employment of a junior police officer because of a refusal to be vaccinated. It was explained to the Commission that where an officer's employment was terminated because of vaccination non-compliance, they would receive a disciplinary notation on their file and would not be able to later rejoin the police force. Alternatively, if an officer chose to resign, they could potentially rejoin at a later stage once vaccination mandates were withdrawn. Now that COVID-19 vaccinations are no longer mandatory for police officers, those officers whose employment was terminated are fighting to get their jobs back without success.[236] This not only has obvious impacts for the individuals who are deprived of the opportunity to work as police officers, but broader community impacts with severe police shortages across Australia.[237]

People told the Commission about the impacts that suspension and job loss had on their careers, livelihoods and wellbeing, which included:

- Feeling like finding another job was impossible because all employers were asking for proof of COVID-19 vaccinations during the pandemic.
- Difficulty of re-employment where previous employment was terminated because the vaccine refusal was marked up as misconduct.



- The financial strain of unemployment on individuals and their families including worries about paying a mortgage or rent and putting food on the table. Numerous people told the Commission about having to sell and move out of their houses they could no longer afford as well as having to access their super to pay their mortgages.
- Older people who were close to retirement felt like they were unable to reskill at this point in their lives.
- Some faced going into retirement with less financial resources than they had planned due to lost income and early access of super.
- People felt pressured to use their accrued leave and leave without pay from their place of employment when they refused to take the vaccines.
- Loss of purpose, self-esteem and disconnection from professional community.
- Impact on career progression.
- Impact of job loss on superannuation accrual.
- Ripple effects of job loss on mental health of those affected.

The question of whether workplace vaccination mandates imposed during the pandemic were a violation of human rights is complex and contextual. This is an issue that directly highlights the challenge of reconciling individual rights with public health objectives during an emergency. On the one hand, individuals have the right to bodily autonomy and integrity, the right to privacy, and the right to work (which includes the right to not be unfairly deprived of work).[238] On the other hand, requiring employees to be vaccinated helps to protect the rights of others, and to fulfil the legal duty employers have to ensure a safe working environment.

A key consideration here is to recognise that many of the human rights impacted by workplace vaccination mandates are not absolute and can be limited in an emergency, provided those limits are necessary, justified, non-discriminatory and proportionate. These criteria highlight the need for any mandate to be tailored to risk, rather than imposing an overly broad or punitive approach. A human rights approach requires that governments adopt less restrictive means to achieve legitimate public health objectives, if they are reasonably available. Questions about the effectiveness and safety of the vaccinations themselves will also be highly relevant when assessing questions of necessity and proportionality.

Workplace vaccination mandates have been subject to numerous legal challenges. Australian cases have largely focused on questions of lawfulness from an administrative or employment law perspective, rather than from a human rights law perspective. The vast majority of cases have found that the workplace vaccination mandates imposed in Australia were lawful,[239] although *Johnson v Carroll* is one notable exception.[240] In this case the Supreme Court of Queensland found that directions requiring police and ambulance staff in Queensland to receive COVID-19 vaccinations (unless exempted) were unlawful due to proper consideration not being given to human rights before the directions were issued. The human rights impact of this decision is, however, limited as it is based on a finding of a procedural breach of the *Human Rights Act 2019* (Qld)[241] and not any finding of a substantive human rights breach. In fact, the Court found that 'the directions were not substantively inconsistent with human rights legislation and the limitation was itself lawful and proportionate.'[242]

The imposition of vaccine mandates in the workplace is a contentious issue that has direct impact on human rights. While in certain circumstances, an appropriately tailored mandate may be lawfully imposed from a human rights perspective, the stories told to the Commission remind us that the workplace mandates had (and continue to have) real impacts for people.

4.2. Falling through the cracks: A broad approach risks ignoring specific needs

> *"I think COVID really rammed home for us just how invisible a lot of populations are…"*
>
> **Stakeholder Consultation Session – 20 June 2024**

> **A person from Victoria speaking about the impacts of the pandemic**
>
> *"it wasn't the majority who suffered from this. It was the communities that were already marginalised, always prevented from having a voice in the mainstream discussions about this."*
>
> **Stakeholder Consultation Session – 14 August 2024**

When a crisis occurs, governments need to be able to respond decisively to protect communities. While it was clearly necessary to respond immediately to the COVID-19 public health crisis, it was also quickly evident that the lack of precision in the design of regulations risked over-reach, and entrenching existing vulnerabilities and inequalities.

Much of the communication with the public throughout the pandemic was about numbers; for example, the number of active cases, the number of hospitalisations, the number of deaths, the number of flights cancelled, the number of people you were allowed to have in your house. But human rights are not just a numbers game. Every individual has innate and inalienable human rights regardless of what is happening in the world around them. Human rights do not just apply to the majority but must be considered for every individual on a case-by-case basis.

Frameworks need to be put in place to prevent people being reduced to numbers during a crisis scenario.

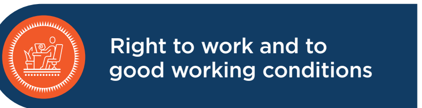
Human rights do not exist just in peacetime, or when it is convenient. They cannot be put on hold during an emergency simply because they are proving difficult to uphold. Every single person is still entitled to their human rights, even in the middle of a pandemic (or any other emergency). Some human rights can be temporarily limited but there are strict circumstances and justifications which govern when this can happen, and how it should be done.

This chapter discusses the needs of various groups (including children, students, women, people with disability, border communities, regional residents and migrants) that were overlooked throughout the pandemic. Challenges existed not just in the early days of the pandemic response, but right up until the time when restrictions were eased. Many people are still dealing with the consequences of their experience of the pandemic and the pandemic response measures to this day.

4.2.1. State and territory border closures

Some of the key human rights considerations:

Right to physical and mental health



SUMMARY OF MEASURES:

Beginning in 2020, states and territories repeatedly closed and re-opened their borders to non-essential travel in an effort to reduce community transmission of COVID-19. Individual states and territories maintained responsibility for managing movement at their borders and determined their own entry requirements that often changed at short notice.[243] Checkpoints were set up at border crossings and controlled by police and ADF.

While state and territory border closures impacted many Australians, they had a particularly direct and immediate impact on border communities.

There are many communities in Australia that exist on both sides of state and/or territory borders, with some of the larger ones being:

- Tweed Heads, Coolangatta (New South Wales – Queensland)
- Mildura, Buronga (Victoria – New South Wales)
- Albury-Wodonga (New South Wales – Victoria)
- Echuca Moama (Victoria – New South Wales).

During the pandemic, these communities had to adhere to strict controls put in place by the individual states and territories, including needing permits to cross borders that people may ordinarily have crossed multiple times every day.[244]

'Border bubbles' were established around the middle of 2020 which were distinct regions that covered areas on both sides of a state or territory border. The policies for each border buddle varied, however they aimed to provide exemptions to cross-border communities to allow for travel without the need of a permit.[245]

State and territory border closures affected many Australians but had a particularly pronounced impact for those in border communities. Unrestricted interstate travel is a routine freedom for Australians.[246] During the pandemic, people who happen to live on state and/or territory borders, that are in many ways functionally invisible, suddenly found themselves needing a permit to get to the other side of their town and live their daily lives.

Access to basic services

One of the ways that state and territory border closures impacted people's wellbeing was by limiting their access to education, healthcare and employment where these services required people to travel across borders. In cross-border communities, it is very common for people to reside in one state and work, go to school and access healthcare on the other side. Alternative service providers within the same state or territory are often far away and are not the usual service providers for these residents.

The pandemic border closures upended many people's lives. The Commission was told that the various systems of permits and exemptions that were put in place were often confusing, burdensome, and impractical.[247] Police or military checks on the borders caused traffic jams several kilometres long[248] and if people did not have the right permits when they reached the checkpoint, they would be turned around.

"We live in QLD on QLD/NSW border. They erected a plastic border wall. My kids go to school in NSW, the nearest school. We got double the lockdowns. I had to print out vaccination papers every week (every day at one stage!) and show to police just to take my kids to school or shops. Massive traffic jams at the border causing long delays. I was unable to see my cross-border friends for support. My kids and I were forced to take PCR tests every time we had a cold or runny nose to see the doctor, and every time a classmate or contact got covid. My kids missed so much school."

Your Story Portal Submission - Female, 45-54 [Submission 2003]

"As a QLD father sharing custody of my daughter whose mother lived 25 mins away in NSW I experienced extreme emotional distress while trying to navigate border closures. I was harassed by police who did not understand the rulings and the rights of parents to cross borders."

Your Story Portal Submission - Male, 45-54 [Submission 541]

The border closures resulted in significant impacts for these communities including reduced working hours, financial stress, interrupted education and postponed healthcare. There were instances of children needing to be kept at home from fully-open schools because they lived on the other side of a border.[249] This had immediate flow-on effects, with parents needing to reduce work hours to stay home with their children, likely creating a financial burden for those families.

Access to healthcare was a particular issue, where people ended up delaying non-urgent treatments because the cross-border barrier was too difficult or stressful to navigate. People were rightly worried that if they legitimately crossed the border for a day, the border could snap shut overnight and they could be left stranded and unable to return home. People from a border community told the Commission stories of people who left two additional hours early for a cross-border heart operation consultation, but they ended up still missing the appointment because of traffic delays at the checkpoint.[250] Delayed healthcare can lead to increased morbidity and mortality related to other causes[251] as well as increased healthcare costs in the future.

One heartbreaking example of the impact of these restrictions was the loss suffered by Ballina couple, Kimberley and Scott Brown, when one of their unborn twins died after border restrictions between Queensland and New South Wales delayed urgent treatment.[252] This followed the Queensland Premier, Annastacia Palaszczuk, being reported as stating the previous week that 'People living in New South Wales they have New South Wales hospitals. In Queensland we have Queensland hospitals for our people'.[253]

A woman whose mother, recently diagnosed with ovarian cancer, lived in a border town: *"she lived in NSW, just over the border from QLD, she was unable to see the referred surgeon, as he was based in Queensland and there were border closures and lockdowns. He said he wouldn't see her and he wouldn't operate".*

Your Story Portal Submission - Female, 45-54 [Submission 912]

There were also many stories of people being prevented from visiting dying relatives who happened to be in a hospital just across the border.

A man living in Wodonga (Victoria) side of Albury-Wodonga border town during 2020. Had to queue in standstill traffic everyday to have papers checked by uniformed military soldiers so that he could visit dying wife in hospital across border in NSW. *'At the time there had been 3 cases of covid ever in Wodonga and zero active cases. The incredible dereliction of duty by our federal government that meant states felt empowered to close border crossings made the hardest period of my life so much harder'.*

Your Story Portal Submission - Male, 35-44 [Submission 59]

A person who is a carer from a border community speaking about the lasting impact on clients who were not able to visit dying relatives who happened to be across the border: *"And even right now, I still see those clients having huge emotional impact that they didn't get to say goodbye to their loved ones [when] they were just five minutes away.".*

Stakeholder Consultation Session – 13 August 2024

There were additional stories that the Commission heard about border closures preventing ambulance drivers from crossing the border to pick up a patient, where in normal circumstance this would not be given a second thought.[254] There were also an example of a property owner not being able to go from one side of their property to another because the state border cut through the middle of their property.[255] It is understandable how in situations such as this, people start to question the proportionality of the emergency measures put in place. People on the borders said they felt that there was no discretion and no compassion in the decision making that was happening.[256]

These sentiments are multiplied in border communities that are also regional or remote and so often had very low rates of COVID-19 in their communities. A resident in a regional border community said there was a real sense of injustice that their town had very few cases of COVID-19 over the course of the entire pandemic and yet they were not able to move freely because of a regulation decided hundreds of kilometres away in the capital city.[257]

The decision to close borders had a profound impact on people's lives. Even where strict measures are needed to protect the public during an emergency, the many stories of harm heard by the Commission highlight the importance of ensuring common sense, flexible and compassionate responses to people's needs.

Communication and access

Regulations were constantly changing throughout the pandemic and a common complaint from people was that communication about these changes was less than ideal. This related not only to communication to the residents of these border communities but also to law enforcement and service providers. This exacerbated the confusion, frustration and distress that people were already feeling.

"Requirements for crossing the border (PCR tests, RAT tests, border passes etc) were constantly changing. Sometimes it took me 4-5 phone calls to various hospitals and testing centres to find out what was required, because every facility told me a different story - they were not being regularly updated on the requirements."

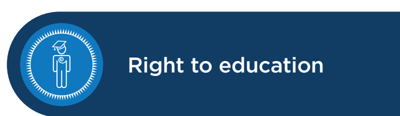
Your Story Portal Submission - Female, 55-64 [Submission 2074]

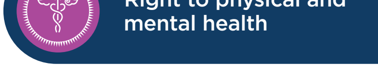
Lack of coordination between states lead to inconsistent and often contradictory regulations when it came to people trying to cross borders, which ranged from movement prohibitions based on a person having been in a COVID-19 hotspot during a certain timeframe, restrictions based on the risk threat level of states at different times and requirements for having to test and isolate upon entering certain states at certain times.[258] Even if a person could apply for a valid permit to cross the border, application processes were all online and so were not accessible to everyone.[259] Further challenges of communication during the pandemic are covered in greater detail in **Chapter 4.3: Cutting through the noise.**

What happened to border communities during the pandemic demonstrates that the framework of state-led COVID-19 response policies did not account for the way cross-border communities' function. People from these communities told the Commission that they felt like collateral damage to the country's overall pandemic response, with access to healthcare, education and employment unfairly restricted by the abrupt and unpredictable border closures.[260]

4.2.2 School & university closures and remote learning

Some of the key human rights considerations:





Primary and Secondary School Closures

SUMMARY OF MEASURES

State and territory governments, initially beginning around late March 2020[261] but recurring throughout the pandemic, announced temporary changes to school attendance requirements in response to growing numbers of COVID-19 infections.[262] Parents were instructed to keep their children home from early childhood education centres, primary, secondary and special schools during periods of high virus transmission. Children of 'essential workers' and children in extenuating circumstances were allowed to continue attending school, while all others were required to adapt to remote learning.[263]

Throughout 2020 and 2021 children across Australia experienced school closures and remote learning for various periods. There was 'significant variation in approaches and duration of remote learning across jurisdictions'.[264] For example, whilst students in Western Australia experienced a total of three weeks remote learning across this period, in parts of Victoria (including Melbourne) this rose to a total of 36 weeks.[265]

School closures due to COVID-19 caused significant disruption to education across the country, and not all children were equally placed to adapt to this new way of learning. The impacts on students, teachers and families extended well beyond the direct impact on students day-to-day learning. From the Commission's survey, three of the top ten most negative impacts of the pandemic related to children and their development, namely, children being less engaged in their education, the demands of homeschooling and the negative impact on children's development.

Children who were at particular risk of being disadvantaged by school closures and remote learning arrangements included those with disability or additional learning needs, students in rural or remote parts of Australia, those in lower socio-economic families, First Nations children, children in CALD families and children in unstable family environments.

School closures were implemented despite the Australian Health Protection Principal Committee – which consists of the Chief Health Officers from each Australian jurisdiction and is the key decision-making committee for health emergencies – not recommending closures throughout the pandemic and highlighting the substantial impact that closures would have. For example, advice provided to National Cabinet on 17 March 2020 stated that 'pre-emptive [school] closures are not proportionate of effective as a public health intervention to prevent community transmission of COVID-19 at this time' and advice provided on 22 March 2020 highlighted that school closures posed 'a major risk to children's education, mental health and wellbeing, particularly those from low socioeconomic regions'.[266]

HUMAN RIGHTS IN FOCUS:

Everyone has the right to education.

This right is recognised in a number of international human rights treaties, including Article 13 of the ICESCR and Articles 28 and 29 of the CRC.

Education is 'both a human right in itself and an indispensable means of realising other human rights'.[267] The right to education is recognised as including the 'interrelated and essential features' of availability, accessibility, acceptability and adaptability.[268] It requires that functioning educational institutions and programs are available in sufficient quantity in every country. While the right can be limited 'for the purpose of protecting the general welfare in a democratic society'[269] any such limitations must be proportional, the least restrictive alternative available, of limited duration, and subject to review.

School closures during the pandemic directly impacted on the right to education. Both the duration of closures in some places (particularly Victoria) and the disproportionate impact on already disadvantaged students are factors relevant to the proportionality of these measures. While schools transitioned to remote learning during these periods, this was not universally effective or accessible for students. School closures affected more than just academic progress, with other impacts including mental health concerns, developmental delays and the exacerbation of pre-existing educational disparities.

To comply with the right to education, school closures should be a last resort and not prolonged unnecessarily, efforts should be made to ensure all students have equal access to alternative education and supports during any closures, and measures should be taken to address the long-term educational and developmental impact of school closures, particularly for vulnerable groups.

There were many factors that contributed to the ability (or inability) of children and families to adapt to remote leaning successfully. These factors included access to a computer, laptop or tablet, reliable internet connection, a conducive physical environment for schoolwork and having learning support from parents, carers and teachers who could effectively engage with students remotely. Socio-economic status was an important factor with students in the lowest 20% being over 40 times more likely to have no computer for remote schooling compared with those in the top 20%.[270] For some children, the only available device in the home was a mobile phone.[271]

Many parents or carers were expected to support their children's remote education whilst also working remotely.[272] Research from Victoria describes how parents with lower levels of education and low English proficiency felt less able to support their children's remote learning, particularly in older grades.[273] Additional stress was also put on teachers to try and adapt to remote learning while continuing to engage with and accommodate the various needs of their students. There was also significant variance in how different schools approached remote learning, and the supports that they were able to provide to students during school closures.

These inequalities exacerbated the digital divide between students and led to some students falling behind in their education as they disengaged from their teachers and peers. Research from ANU reported that 52% of students said their learning had suffered because of COVID-19.[274]

A woman from regional New South Wales said: *"I had four school aged children at the time. Two older ones became completely disengaged from education. This was particularly true for my eldest who never really returned to school. Having to guide children who were unable to complete any work independently during this time was extremely difficult."*

Quantitative Survey – Female, 50-59.

Once behind in their education, students require even more support to catch-up to their peers. Even though school closures were temporary, research suggests that this pandemic response measure has had long term impacts including increasing rates of school refusal as some children disengaged from their education.[275]

Children with disability and special needs

There were a wide range of remote learning experiences for children with special needs or disability. Some children thrived in home-schooling environments where extra attention could be given to meet their specific, individual needs and where distractions were limited.

A mother in Victoria saw benefits to her child *"...my intellectually disabled daughter's day [program] closed and through NDIS I was able to employ two carers at home. My daughter thrived in this environment."*

Your Story Portal Submission - Female, 55-64. [Submission 92]

Others however experienced serious challenges. Service providers working with children with disability reported limited access to appropriate online learning and reported that specialist supports were either unavailable or not tailored to students' individual needs.[276] It is unsurprising many students with disability struggled with the sudden shift to online learning[277], particularly those used to specialist facilities and programs in the classroom that had been adapted to their specific needs.

A woman from Victoria said: *"My child has mild autism and will benefit greatly in a peer group environment where he can pick up social skills from peers. When schools and childcare were closed, it negatively impacted his development."*

Quantitative Survey – Female, 40-49.

HUMAN RIGHTS IN FOCUS:

Everyone has a right to education, including people with disability.

Article 24 of the Convention on the Rights of Persons with Disabilities ('CRPD') recognises the rights of people with disabilities to education and requires this right to be realised 'without discrimination and on the basis of equal opportunity'.

Australia has an obligation under Article 24 of the CRPD to ensure an inclusive education system at all levels. An inclusive education system requires a commitment towards removing barriers to accommodate the differing requirements and identities of individual, along with the human rights model of disability.[278] Further, it focusses on the full and effective participation, accessibility and achievement of all students, especially those who are excluded or are at risk of being marginalised.[279]

The particular challenges faced by children with disabilities as a result of school closures during the COVID-19 pandemic directly engage with Australia's obligations under Article 24 of the CRPD.

There are many different types of disability that need to be considered. For example, for deaf or hard-of-hearing children, particular challenges included ensuring online learning platforms were accessible (including access to captions or Auslan interpreters), dealing with listening and concentration fatigue, and the risk of reduced supports due to limited access to language at home.[280] People gave the Commission specific examples of deaf children who struggled with online learning, finding it difficult to concentrate on an on-screen interpreter and eventually falling behind in their work.[281] These challenges were further exacerbated for deafblind children, where the move to online learning further limited what was already very restricted access to communication and the outside world.[282] The fear around physical contact during the pandemic was a critical issue for people who rely on tactile communication, such as blind and deafblind children, to obtain information and to express themselves.

"...my children struggled with home schooling. My eldest daughter who suffers epilepsy and learning difficulties was mostly impacted and never returned to school the same. She fell so far behind to what was already a difficult situation for her given her condition. She suffered depression and is now on anti-depressant medication."

Your Story Portal Submission – Male, 45-54. [Submission 240]

The Commission has heard numerous examples of insufficient support being given to children, parents and teachers to adjust to remote learning. Losing the structure and support of the school environment was especially difficult for some children with neurodevelopmental disorders such as Attention-Deficit/Hyperactivity Disorder (ADHD), as described in the following story submission:

"The constraints of lockdown and school closure also severely and particularly affected my youngest son, who suffered constant panic attacks when actually allowed to leave the house and could not walk to the corner shop without running home in tears. He is ADHD diagnosed and the education from home was impossible".

Your Story Portal Submission – Female, 45-54. [Submission 1965]

Child abuse and neglect

For many children, school is not just a place of education but also of refuge. School can be an escape from abuse and violence that is happening in the home. Some schools offer breakfast and lunch programs for those children who do not get these critical meals at home. It is often teachers who report child abuse or neglect, with school closures during the pandemic necessarily limiting opportunities for teachers to identify and report suspected abuse and reducing the ability of schools to refer families to other support services.[283] School closures removed critical support structures for children, which inevitably had the greatest impact on the disadvantaged and vulnerable children who rely on those supports the most.

A woman working in child protection and family support in a regional border community during the pandemic, spoke about how outreach visits to families ceased because of pandemic regulations: *"There were less eyes on our most vulnerable and far less support going into those homes who needed that needed it the most."*

Stakeholder Consultation Session – 16 August 2024

HUMAN RIGHTS IN FOCUS

Children have a basic right to life, development and safety.

Article 6 of the Convention on the Rights of the Child (CRC) recognises that every child has the inherent right to life and requires States Parties to 'ensure to the maximum extent possible the survival and development of the child'.

Article 19 of the CRC requires States Parties to take measures 'to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, whilst in the care of parent(s), legal guardian(s) or any other person who has the care of the child.[284]

A respectful, supportive child-rearing environment free from violence ensures the development of children's individual personalities and actively contributing citizens in the local community and larger society.[285]

As highlighted above, schools and teachers play a vital role in safeguarding these rights through measures like mandatory reporting processes in Australia.[286] School closures during the pandemic necessarily reduced their ability to do so, impacting upon the realisation of these rights.

CALD and lower socio-economic families

Many children from CALD backgrounds, especially those where English was not their first language, experienced specific challenges with remote learning. Linguistically diverse children faced additional challenges with remote schooling as online educational supports were not always provided to the same standard or quality as they were during in-person schooling. This was compounded for children living in low socio-economic circumstances with families having fewer resources and technology to support their child's learning, often resulting in these children returning to school behind their peers.[287]

HUMAN RIGHTS IN FOCUS:

All of the rights contained in the CRC must be respected and upheld 'without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status'. This requirement is set out in Article 2(1) of the CRC.

The different impacts of school closures and experiences of remote learning for children coming from different backgrounds suggests that Australia may not have taken all appropriate measures – as required under Article 2(1) – to ensure that children were protected from all forms of discrimination during the pandemic.

University campuses

SUMMARY OF MEASURES

Australian universities were impacted substantially by the pandemic, including through the loss of international students due to international border closures. In 2020 it was estimated that university revenue dropped by $1.8 billion, with 17,300 jobs being lost.[288] Universities also implemented a range of measures on campuses to comply with public health directions, including initially the closure of campuses and transitioning from face-to-face teaching to online course delivery. When in-person activities gradually resumed, strict restrictions remained in place on most campuses, including reduced class sizes, staggered timetables, mask mandates, testing, contact tracing and isolation protocols and vaccination mandates for campus access.

This created unique issues for students whose education required placements or practical components which had to be completed in person. For many students these requirements were delayed or amended to respond to pandemic measures – for those in medical fields it meant that some were placed on the frontline.

Strict measures were also introduced in student accommodation, including reduced occupancy limits, limited access to communal facilities, and visitor restrictions. This had a particular impact on students – such as international or interstate students – who were unable to return home due to travel restrictions.

University students experienced challenges when universities were also forced to transition to remote learning during the pandemic. While many universities offered online learning in limited ways prior to the pandemic, the transition to online learning being the primary method of course delivery in such a short space of time resulted in significant upheaval for both staff and students and has substantial impacts on their wellbeing. International students were a particular cohort who were impacted during the pandemic as a result of their temporary visa status, with this being discussed in greater detail in 4.2.6 Temporary Visa Holders in Australia.

Mental health concerns (such as depression) among university students during the various lockdowns have been well documented.[289] Research has linked the mental health concerns of university students during this time to the experience of social isolation and poor living conditions such as limited access to open space when lockdowns were in place.[290]

The experience of university students during this time overlaps with the experiences of young people in general who had to deal with issues such as financial insecurity caused by loss of casualised employment and flow on effects such as having to move back in with family and difficulty finding new employment during and post-pandemic.

A woman working in the university sector said: *"I witnessed students who were forced to steal WiFi from McDonald's carports because they didn't have enough data to complete their course work; I saw students sheltering in unsafe environments and too embarrassed to turn on their videos because of their backdrop."*

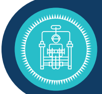
Your Story Portal Submission – Female, 35-44 [Submission 1710]

4.2.3. Lockdowns and domestic and family violence

Some of the key human rights considerations:

Right to protection of the family as the fundamental unit of society

Right to physical and mental health


Right to freedom from torture and cruel punishment

Right to equality before the law

Right to work and to good working conditions

Right not to be discriminated against

Right to freedom of peaceful assembly

Rights of children to special protection

SUMMARY OF MEASURES:

Lockdown measures varied between states, limiting (for example) the distance you could travel, how long and at what times you could leave the house, the reasons that you were allowed to leave your house, and the number of people that could visit you at your house. The first lockdowns occurred in March 2020 and were eased and reinstated in various parts of Australia over the next two years in response to COVID-19 outbreaks, with New South Wales having a total of four lockdowns and Victoria having a total of six lockdowns from 2020-2021.[291] Melbourne was labelled by some as 'the world's most locked-down city' with residents spending a cumulative total of 262 days in lockdown across the pandemic.[292]

Some lockdowns included curfews, such as in Victoria where for parts of the 2020 lockdown a curfew was imposed meaning between 8pm (later changed too 9pm) and 5am there were very limited reasons for people to be lawfully outside of their homes, and police presence was often increased to ensure compliance. Permits were required for people to leave their homes for authorised work, or other authorised reasons.[293]

Recognising the potential consequences for women experiencing domestic and family violence (DFV), in March 2020 the Australian Government announced a $150 million support package to bolster family, domestic and sexual violence supports during the pandemic. This included $130 million being provided to state and territory governments for investment in specialist services to ensure the safety of women and children most at risk of violence during the pandemic. The remaining $20 million was used to boost capacity for national programs like 1800RESPECT, MensLine Australia and the Men's Referral Service.[294]

DFV specific response measures included allowing DFV as a valid reason for people to leave their homes during lockdowns,[295] increased Apprehended Domestic Violence Order compliance checks by police, increased used of audio-visual link technology in courts, increased supply of crisis accommodation, and increased funding for frontline services, counselling and men's behaviour change programs.[296]

Even with this early identification and targeted funding, research from the Australian Institute of Criminology illustrates that for some women, the COVID-19 pandemic coincided with the onset of physical violence, sexual violence or coercive control and for others, it coincided with an increase in the frequency or severity of ongoing violence or abuse.[297]

Lockdowns were a key measure used by governments to try and protect public health, but had a substantial impact on a range of human rights. In addition to directly limiting people's ability to leave their homes, it also restricted their ability to engage in the daily activities that give meaning and purpose to our lives, whether that be family gatherings, participating in sports, attending religious services, or even enjoying a meal out at a local restaurant. These measures impacted everybody but certain groups were particularly vulnerable, with individuals experiencing domestic and family violence (DFV) being one key example.

Domestic and family violence is an endemic issue in Australia. This issue existed before the COVID-19 pandemic, and the pandemic regulations themselves were not the only barriers to victim-survivors seeking help. However, the impact that pandemic lockdowns and movement restrictions had on people who were already in vulnerable circumstances cannot be overlooked. Although governments recognised as early as March 2020 that state-wide lockdowns would be a risk for people experiencing DFV, the mitigation measures did not prevent issues from escalating.

Impacts on Domestic and Family Violence

Sometimes referred to as 'The Shadow Pandemic'[298], there is large body of international evidence that collectively indicates an increase in DFV during the pandemic. After examining the Australian research and data, Australia's National Research Organisation for Women's Safety (ANROWS) concluded that '[i]n the Australian context, police data, service provider surveys and victimisation surveys have produced a mixed picture, but similarly suggest an increase in intimate partier violence, changes in the dynamics of intimate partner violence, and significant barriers to help-seeking'.[299]

"I was stuck in our house with my very angry husband and my 2 boys. I feel sick when I think about what our boys heard and saw. I tried to stay away so there would be no trouble but when you lock down everything, including parks, that was very difficult."

Your Story Portal Submission – Female, 55-64 [Submission 1186]

The changes that COVID-19 restrictions had on people's daily routines had direct and indirect impacts on individuals in domestic violence situations, with women being disproportionately affected.[300] Direct impacts included individuals being confined to their homes with perpetrators (increasing the ability of perpetrators to monitor their activities)[301] movement restrictions preventing victims from seeing support or seeking alternate accommodation, and pandemic regulations being used by perpetrators to isolate their partners from their social networks.

A woman described how the border closures made it difficult to support her daughter, who at the time was in an abusive relationship *"he had more freedom to increase such abuse as no family could visit her to check up on her".*

Your Story Portal Submission – Female, 55-64. [Submission 1494]

A women's support stakeholder in the Northern Territory explained the impact of school closures on women in DFV situations: *"But the biggest impact was schools. Yeah, a lot of schools were closed down, and that was something I particularly saw impacted women...they didn't have the capacity to do things like look for housing because the kids were home...so that impacted women's capacity to not only find a home, but also to work, because then they were home all day with their children who had really complex trauma that they didn't have the capacity to address."*

Stakeholder Consultation Session – 17 July 2024

Individuals were cut off from family and friends in many cases where COVID-19 policies such as movement restrictions were weaponised against them by their partners.[302] A DFV support agency in Victoria told the Commission that up to a third of the calls they received were from friends and family who were worried about someone locked down with an abusive partner.[303]

"I was isolated and stuck in a DV [domestic violence] relationship. The DV worsened and so did my mental health to the point i was hospitalized..."

Your Story Portal Submission - Female, 35-44 [Submission 302]

A women's support stakeholder in the Northern Territory explained the impact of isolation on women who were isolated by their abusers during the pandemic: *"And you just have no one else because you're isolated from everyone else in your community. He might be the only person who can help you. So that created situations where women were forced to make these unsafe decisions."*

Stakeholder Consultation Session – 17 July 2024

DFV support practitioners noted that there was increased reporting of economic abuse during the pandemic[304] and perpetrators seeing the pandemic as an opportunity to increase their control over their partners. As the burden of care duties increased[305] (e.g. through school closures and children being home schooled), the ability to earn a living was disrupted for many women, limiting victim-survivor's financial independence and leaving them vulnerable to increased financial abuse.[306] Research from the Australian National Research Organisation for Women's Safety shows the link between economic insecurity and increased intimate partner violence experienced by women living in Australia during the first 12 months of the COVID-19 pandemic.[307]

HUMAN RIGHTS IN FOCUS:

Women's rights are specifically protected under the Convention on the Elimination of All Forms of Discrimination Against Women (as well as other international rights instruments). Relevant rights include the rights to:

- **life**
- **rights equality and non-discrimination**
- **liberty and security**
- **freedom of movement**
- **expression**
- **association and assembly**
- **health and economic rights.[308]**

The government's response to the pandemic fell short of protecting these human rights for women, as evidenced by the escalation of domestic and family violence during this time.[309] Australia has obligations under international human rights law to prevent and protect women and girls from violence and hold perpetrators accountable for acts of violence.[310]

Critical spaces for the identification, intervention or reprieve from DFV, such as workplaces or service providers, were limited as restriction measures led to everyone except essential workers working from home for extended periods.[311] In addition, women's refuges and shelters often ran close to or exceeded capacity and had trouble ensuring safe physical distancing during the pandemic.[312]

Although DFV support services rapidly expanded their online capacity, accessing these services was often riskier than face-to-face appointments as perpetrators were often present in the house, making it hard for women to speak freely, report issues or request assistance. The disappearance of face-to-face meetings with DFV service providers took away the opportunity for victim-survivors to remove themselves from their homes, even if it was just for a few hours.

A representative from a multicultural disability advocacy group shared the following: *"Work from home significantly impacted the way in which cases were being handled due to this sudden face-to-face disconnect. This was especially significant when working with people in vulnerable situations such as domestic violence. Where face-to-face meetings with their case worker or advocate gave the individual some reprieve from an unsafe situation by being able to remove themselves from the home for a short period of time. This unintentional safeguard was forcibly removed as there became no safe second or third space to receive help and support."*

Your Story Portal Submission - Male, 45-54 [Submission 2300]

Indirect impacts of the pandemic on DFV include situational stressors such as financial strain, loss of employment, increased care burdens and heightened anxiety and mental health issues, which are known to increase the likelihood, complexity and severity of violence.[313]

DFV support service-providers were under significant strain – facing increased demand,[314] and required to rapidly adapt to new approaches to remote working,[315] care for their staff (when usual supports like in-person supervision and debriefing were no longer available), manage resources,[316] and address issues such as high turnover and hiring shortages. A DFV support organisation in Melbourne told the Commission that some employees struggled to work from home as they didn't want to have potentially graphic or intense phone calls where their children could overhear, with reports of employees taking calls from their pantry or sitting in their cars.[317]

This is a multi-faceted issue, as pandemic restrictions that made some people more vulnerable, protected others. For example, lockdowns reduced contact between victim-survivors and perpetrators if they were locked down in separate households and movement restrictions would have reduced opportunities for further unwanted contact out in the community.[318] The transition to online DFV support was prohibitive to some survivors but more accessible for others.[319]

Overall, COVID-19 lockdowns and movement restrictions needed to more effectively recognise that the home is not a safe place for everybody. The Commission was told by a DVF support agency in Melbourne that they recognised that lockdowns were a necessary response to combat COVID-19, however the proportionality of the government's response measures was not revisited as the pandemic progressed;[320] in essence, response measures that were necessary at the beginning of the pandemic failed to evolve to consider new information as it came to light.

Diverse sexual orientation and gender identity and DFV

Stay-at-home orders during the pandemic caused specific challenges to people with diverse sexual and gender identities. LGBTQA+ individuals were at higher risk of family abuse due to a number of factors. These included weaponising of their identity (already a leading cause of the overrepresentation of LGBTQA+ young people experiencing homelessness) and loss of connection to LGBTQA+ communities (a protective factor for mental health and identification of DFV). Also relevant was the lack of capacity in traditional DFV services to recognise and respond to intimate partner violence in relationships where one or more people are not heterosexual or cisgender.[321]

LGBTQA+ people are overrepresented in casual employment and the service industry[322] and so were vulnerable to the flow-on impacts from lockdowns, including job or income loss, financial strain and rental stress. This forced some LGBTQA+ individuals to return to their parental home or to cohabitate with a partner. The households that LGBTQA+ people were returning to and having to isolate in may not have been supportive of their gender identity, expression and/or sexual orientation, or may have rejected their LGBTQA+ identity entirely. This placed LGBTQA+ people at heightened risk of abuse from either family members or intimate partners. In a survey conducted by La Trobe University, more than one-quarter of the LGBTQA+ participants surveyed had

experienced violence from a family member during the pandemic.[323]

Research indicates that the most common forms of violence experienced by LGBTQA+ participants from family members during the pandemic include verbal abuse (using regular criticism, insults or demeaning language), emotional abuse (regularly manipulating or humiliating you in front of others, gaslighting, bullying, or blaming you for abuse) and LGBTQA+ related abuse (shaming you about being LGBTQA+, threatening to 'out' you or your HIV status, withholding hormones or medication).[324]

Incidence of spikes in domestic violence between heterosexual, cisgender people were also mirrored in non-heterosexual relationships where one or more people were gay, lesbian, bisexual and/or transgender.[325] Research from La Trobe University indicates that almost one-fifth of LGBTQA+ participants had experienced violence from an intimate partner during the pandemic.[326] The same stressors that affected same-sex relationships also affected LGBTQA+ relationships, including financial strain, job loss, lack of social networks, increased care burdens, isolation, and mental health challenges. There were additional complexities for abuse in LGBTQA+ relationships such as partners threatening to 'out' the victim of intimate partner violence to their family or employer if they attempted to reveal their abuse.[327]

In terms of seeking assistance for DFV during the pandemic, the Commission was told of the need for enhanced capacity building for DFV support agencies and emergency responders relating to LGBTQA+ people, relationships and community sensitivities.[328]

Older Australians and DFV/Elder Abuse

Research indicates that incidence of elder abuse also increased during lockdown periods. Data from Seniors Rights Victoria shows that compared to 2019, in 2020 there was a 40% increase in calls about physical abuse, a 32% increase in calls about psychological abuse and a 21% increase in calls about social abuse.[329]

Factors leading to increased incidence of elder abuse during the pandemic include the effects of increased financial insecurity, job loss, isolation, increased alcohol consumption and strained mental health on older persons, families and caregivers.[330] The unemployment and financial stress that came from the pandemic resulted in some people moving back in with their aging parents, where abusive situations emerged. The isolation of lockdowns and limited in-person contact during this time also contributed to the perpetuation of elder abuse.[331]

As with the experience of women and LGBTQA+ people, the lockdowns in and of themselves were not the sole reason why elder abuse occurred, but this emergency response measure enhanced existing vulnerabilities and many felt that not enough was done to support those who fell through the cracks.

4.2.4. Mixed outcomes for people with disability

Some of the key human rights considerations:

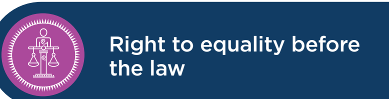
Right to life

Right to physical and mental health

Right to freedom of movement and liberty

Right to work and to good working conditions

Right to an adequate standard of living


Right to equality before the law

Right not to be discriminated against

HUMAN RIGHTS IN FOCUS:

The Convention on the Rights of Persons with Disabilities (CRPD) provides human rights protections for people with disability and is designed to promote respect for their inherent dignity.

It includes specific obligations in situations of risk and humanitarian emergencies, with Article 11 of the CRPD requiring that State Parties shall take 'all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters'.

The variety of responses received by the Commission when considering the impact of pandemic response measures on people with disability suggests mixed results in Australia meeting the requirements of Article 11 of the CRPD during the COVID-19 pandemic.

The experience of people with disability (including chronic illness) was extremely varied throughout the pandemic. The perspectives received by the Commission from people with disability and disability support workers told a complex story of struggling with the limitations of inflexible policies while also feeling validated that communities were prioritising public health. The Commission was also told of the difficulty of seeing the initial sentiment of public health prioritisation fade into a 'let it rip' rhetoric that left some people within the disability community ultimately feeling abandoned and unprotected.[332]

"...people with disability at all intersections are collateral damage, essentially, for what the mainstream population's definition of freedom means..."

Stakeholder Consultation Session – 20 June 2024

A woman working as a GP described the impact of lockdowns on her patients:

"When there were lockdowns, I would ask all my vulnerable patients specifically about how they were managing. Without exception, they spoke very warmly about how family members and/or neighbours were checking on them every day and bringing them anything they needed. They felt seen and loved. The sense of the community rallying to protect the vulnerable was inspiring and helpful for their overall health...Once lockdowns ended, the vulnerable patients got left behind again by their families and neighbours. The message was clearly that most people couldn't be bothered protecting them anymore and they were left to try to manage their covid risks and other life management."

Your Story Portal Submission - Female, 65-74 [Submission 68]

The complex mix of experiences that the disability community had to withstand led to a very real feeling amongst many of being ranked lower than others in our communities. Stakeholders from the disability community felt that there was an attitude during the pandemic that people with high support needs did not deserve as great a share of limited medical resources as able-bodied people, and that if hospitals became overloaded, disabled people would be deprioritised.[333] There were valid worries that people with disability would be prioritised lower than people without disability when it came to triaging in hospitals during the pandemic.[334] The view was expressed to the Commission that the pandemic had brought to the surface existing and uncomfortable community attitudes around the value of the lives of people with disability.[335]

Many of these challenges were discussed during the Disability Royal Commission, which ran a series of hearings on the experiences of people with disability during the COVID-19 pandemic. A series of recommendations were made on issues such as consultation processes, data collection, provision to PPE, access to vaccinations and communication of vital information.[336]

World opened up

For some, the pandemic response measures opened up the world to them in a way it never had before.

> *Person in Melbourne whose husband has a disability and is largely unable to leave their home: "A world which was briefly more accessible for people with various disabilities is rapidly closing and we are being left behind, but with the knowledge of what we could have had if equitable access was the norm... Disabled and vulnerable people and their carers must now individually continue the strictest of mitigation strategies, we are on permanent lockdown while the rest of the world has happily moved on."*
>
> **Your Story Portal Submission - Non-binary, 35-44 [Submission 99]**

Some people in the disability community spoke of the world being briefly more accessible to them. The normalisation of remote working arrangements meant that new employment opportunities opened up for people with disability. The acceptance of remote work as a standard arrangement was something for which disability advocates had been pushing for many years, without broad success until the pandemic began.[337] This is an example of an emergency response forwarding human rights, specifically advancing the right to access a safe and healthy work environment (ICESCR art 6, CRPD art 27) and the duty to provide accessibility to the environment (CRPD Art 9).

The same sentiments around new opportunities were expressed about the expansion of online education opportunities.[338] Advancements in accessible healthcare were also seen through schemes such as telehealth (which was greatly expanded during the pandemic) and digital prescriptions.

SUMMARY OF MEASURES

'Telehealth' is the use of technology, either with or without video, to provide remote health care to patients. Throughout the pandemic, telehealth appointments became the standard way to conduct medical appointments where a health practitioner was not required to physically assess patients.

In March 2020, as a response to COVID-19, the Australian Government expanded Medicare subsidized telehealth for all Australians to enable remote delivery of care while minimising the spread of COVID-19. The scheme was initially bulk-billed, meaning the patients did not incur any telehealth consultation fees. However in April 2020 GPs were no longer required to bulk bill telehealth consultations and could request patient copayments in addition to Medicare reimbursement.339

As a result of these changes, by April 2020, 36% of GP consultations were delivered by phone or video.[340] This percentage has since reduced to 27.7% in FY22/23.[341]

The expansion of telehealth options was seen as a more accessible option for many people with disability as it reduced the burden of face-to-face consultations while also minimising exposure to COVID-19 and other diseases.

A disability stakeholder speaking about the impact of the accelerated transition of telehealth during the pandemic:
"...a range of flexible options for people to deliver and receive health care have been life changing for me."

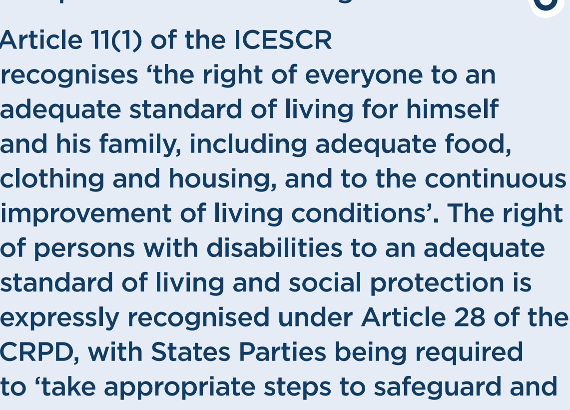
Stakeholder Consultation Session – 20 June 2024

A person a chronic illness said: *"I was devastated when Medicare stopped bulk billing Telehealth appointments as it has meant that I need to weigh up whether I can financially afford to take care of my health vs whether I can afford to risk causing a flare-up in my symptoms by leaving the house".*

Your Story Portal Submission - Non-binary, 25-34 [Submission 1496]

Other changes that were made by businesses more broadly to adapt to COVID-19 regulations specifically benefited people with disability, such as the expansion of food delivery services and the use of QR codes to be able to order food directly to your table.[342]

HUMAN RIGHTS IN FOCUS:



Everyone has the right to an adequate standard of living.

Article 11(1) of the ICESCR recognises 'the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions'. The right of persons with disabilities to an adequate standard of living and social protection is expressly recognised under Article 28 of the CRPD, with States Parties being required to 'take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability'.

Together with other rights outlined in the CRPD, this requires States Parties to ensure that persons with disabilities have equal access to resources, services, and opportunities necessary to achieve and sustain a dignified life, including in times of emergency.

While there were measures implemented in Australia during the pandemic to support persons with disabilities, the issues highlighted throughout this report – including people with disabilities facing reduced access to essential services; heightened risks of poverty, food insecurity and housing instability; insufficient access to tailored support services; challenges accessing critical healthcare; and accessibility issues in public health messaging – all highlight the importance of ensuring that the right of persons with disabilities to an adequate standard of living and social protection is protected even in emergency situations.

People with disability also spoke of changes in community perceptions, with others finally understanding some of the challenges they have struggled with their entire lives.

A woman with disability described how she was in general housebound due to her condition, even prior to the pandemic, due to the risks that infections posed to her health. She commented that the pandemic was the *"first time my family, friends, doctors and others recognised and appreciated my "locked down" state of living and how with covid and influenza etc the protocols of washing hands and not going out when unwell to contaminate others had such profound effect on my life, fears and anxieties that are not imagined but so very real".*

Your Story Portal Submission - Female, 55-64 [Submission 108]

The reality is that most of these 'wins' were temporary, as COVID-19 regulations were eased and gradually wound back, or removed entirely. To varying degrees, workplaces are requiring employees to come back into the office and regulations around masking, social distancing and COVID-19 tracing have disappeared. While this 'return to normal' has been welcomed by many, for others it has resulted in a loss of accessible options that significantly improved their quality of life.

The Commission was also reminded numerous times during our consultations that COVID-19 is still being transmitted in Australia and that the disease still poses a significant threat to people with chronic illness or those who are immunocompromised.

A woman from Western Australia: *"The fact that the pandemic is no longer recognised as ongoing and requiring an immediate and adequate public health response is what has and continues to cause me the most distress."*

Your Story Portal Submission - Female, 45-54 [Submission 84]

"Currently, many elderly, disabled, and immunocompromised people remain in various forms of 'lockdown', unable to participate fully in society where covid continues to spread unchecked..."

Your Story Portal Submission - Female, 25-34 [Submission 279]

The Commission was told that it felt like once the non-disabled community decided that the crisis was over, it was, and that the onus was now completely back on the disability community to protect themselves where for a while it had been a shared responsibility.[343]

"I know many chronically ill people who are struggling due to their workplaces no longer allowing them to work from home".

Your Story Portal Submission - Non-binary, 25-34 [Submission 1496]

A woman, who alongside her husband, is immunocompromised, described life following the 'reopening': *"Our family, including our children, spent most of the 'reopening' completely isolated to avoid infection. Schools were reopened before children had access to vaccination [...] Our school would not support continued at-home learning for children of at-risk parents. Our children do not have access to boosters. The strategy for children seems to be "immunity through infection," which poses an obvious risk to our family"*

Your Story Portal Submission - Female, 35-44 [Submission 1873]

Healthcare

Many interactions with the healthcare system during the pandemic were particularly challenging for people with disability for many reasons, including instances where support workers were not allowed to accompany people with disability into medical appointments and hospitals due to physical distancing measures.[344] A disability advocate told the Commission of instances of where people in private mental health hospitals during the pandemic were not allowed to have their regular disability support workers visit them, again because of social distancing. This led to people who needed both disability and mental health supports having to pick and choose which healthcare services and supports they would receive because for a time they were mutually exclusive.[345]

Disability advocates told the Commission about increasingly restrictive practices in mental health units during COVID-19, where mental health consumers who were in public mental health units were not allowed to leave those units for the entire duration of their stay and were not permitted visitors during this time.[346] The reduction of Community Visitors that occurred during the pandemic[347] also decreased the regular oversight environments in which people with disability could be vulnerable to potential human rights violations.

A disability service provider in the Northern Territory told the Commission about how residents with complex disabilities who contracted COVID-19 would be turned away from hospitals unless they were in a critical state, which would be a risk to both themselves and their roommates at the residential facilities who also had complex disabilities and comorbidities.[348]

HUMAN RIGHTS IN FOCUS:

Everyone has the right to health.

For people with disability, Article 25 of the CRPD recognises 'the right to the enjoyment of the highest standard of health without discrimination on the basis of disability.'

This requires health professionals to provide care of the same quality and equal urgency to people with disability as to others.[349] It also acknowledges the need to ensure that people with disabilities are provided with those health services that they need specifically because of their disability.[350]

The examples discussed in this paper highlight the impact that many pandemic response measures had on the ability to fully realise the right to health for people with disabilities. For example, the right will be compromised if people with disabilities do not have the option and ability to have regular contact with support workers and carers, something that we were told was impacted by a range of pandemic response measures.

Another issue raised with the Commission was the inaccessibility of COVID-19 testing and vaccination centres for people with disability. The long lines at COVID-19 PCR testing centres were physically impossible for many people with physical and mental disability. Many testing sites were only accessible by car, with one person telling the Commission they were advised that their best option was to pay for an Uber or taxi to drive them and wait in line, potentially for hours, to be able to use the testing facility.[351] A lack of vaccination centres that accommodated the sensory needs of neurodivergent children and adults was another barrier blocking some people from accessing this preventative healthcare.[352]

The impact of this discrimination is heightened given that COVID-19 PCR tests and vaccinations were often needed to access work, study, healthcare and travel during the pandemic.[353] Essentially, failing to provide sufficient access to COVID-19 testing and vaccinations for people with disability stopped them from engaging in many other aspects of their lives, and engaging with essential services. It is noted that even though there were barriers for some people with disability to accessing testing and vaccinations, there was also prioritisation of people with disability under Australia's national COVID-19 vaccine roll-out strategy.[354]

Currently, some in the disability community see the lack of COVID-19 precautions specifically in healthcare settings as exclusionary because of their immunocompromised states. There is general sentiment that COVID-19 is no longer being taken seriously by most people, leading to people in the disability community feeling that their fears have been devalued.

An immunocompromised man with a disability said the following and accessing healthcare now that the peak pandemic response is over: *...I often avoid seeking healthcare due to the risk of catching Covid at healthcare services, as the lack of masking and other covid precautions makes them unsafe. The rules about having to go to the GP in real life before being able to access free telehealth services are restrictive for disabled people who are unsafe at clinics without Covid precautions."*

Your Story Portal Submission - Male, 35-44 [Submission 1974]

A woman describes her experience of healthcare post-pandemic: *"The lack of precautions in medical settings including hospitals is especially appalling as it leaves immunocompromised and high-risk individuals with the impossible choice between risking infection/reinfection by accessing healthcare or worse if they stay at home."*

Your Story Portal Submission - Female, 18-24 [Submission 1713]

Food Security

HUMAN RIGHTS IN FOCUS:

The right to an adequate standard of living under Article 11 of the ICESCR includes a right to adequate food.

Governments have a responsibility to ensure the right to food 'even in time of natural or other disasters'.[355] The right to adequate food must 'not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients'. Rather, the right requires people 'to have physical and economic access at all times to adequate food or means for its procurement'.[356] The Special Rapporteur on the Right to Food has identified availability, accessibility, adequacy and sustainability as being four key elements required to fully realise this right.[357]

Food insecurity and supply chain issues during lockdowns directly impacted upon the right to an adequate standard of living, particularly for disadvantaged or vulnerable people. For example during the pandemic casual workers, international students and people from lower socio-economic backgrounds experienced reductions in food security, with many resulting to lower quality and less nutritious sources of food.[358] Foodbank Australia reported that in the 12 months preceding 2022, over 2 million households (21%) experienced severe food insecurity.[359]

Although COVID-19 had an impact on the availability of food products at supermarkets, other natural disasters such as cyclones, storms and the 'Black Summer' bushfires all potentially contributed to food insecurity throughout the pandemic.[360]

Panic buying was one unfortunate result of public fear and uncertainty, particularly in the early days of the pandemic and when the initial lockdowns were being enforced.

For people with disability, panic buying was not just inconvenient but a real threat to their food security. This is illustrated by the experience of LK in their story submission:

"As a person with disability who uses a wheelchair and requires a support worker or carer present with her (LK), it was extremely difficult to complete everyday tasks. It was a particular challenge when it came to completing her household and grocery shopping.

The designated 'Quiet Hour' which was created to accommodate elderly people, essential workers, and others was often set in the early morning or in the evening. While this may have worked in favour of essential workers, for a person with a disability like LK organizing a support worker for odd hours is difficult. LK had to then rely mostly on her niece for physical assistance who was not always available or within the introduced 5KM radius…

The surge of panic buying exacerbated the difficulty of accessing household goods for ordinary people [who were] able to come and go to their local shopping with relative ease compared to more vulnerable people… The intersection of disability and government crisis responses had left many feeling helpless and alone in a society that already accepts the isolation of people with disability.".

Your Story Portal Submission - Female, 65-74 [Submission 2298]

Challenges of panic buying during the COVID-19 pandemic were also compounded for people with conditions such as autism who may only eat specific types and brands of food that were potentially no longer readily available. Stockpiling of food and essential items, which is a common public reaction to an emergency and was seen during the COVID-19 pandemic, can mean that disadvantaged or vulnerable people have to go without or reach out to charities for support.

4.2.5. Regional, rural and remote areas vs cities

Some of the key human rights considerations:

Right to freedom of movement and liberty

Right to education

Right to physical and mental health

Right to an adequate standard of living

Right of minorities to enjoy their own culture

SUMMARY OF MEASURES:

During the earliest stages of the pandemic, there were often no differences in regulations as they applied to metropolitan, regional and rural areas. This included certain kilometre travel restrictions in regions where basic services could be far away and the imposing of strict daily visitor numbers, outdoor event caps and indoor density limits in regional and remote areas even when there were no active COVID-19 cases in the area. Eventually some state responses introduced important distinctions between metropolitan and regional and rural areas when imposing and easing restrictions.[361]

During the initial pandemic measures, authorities appealed to people to cancel non-essential travel from major cities to regional and remote communities.[362] This was intended to stop the spread of COVID-19 between regions with the understanding that regional and remote areas had less healthcare infrastructure, personnel and supplies compared to larger cities. However, there were still exceptions as the delivery of food and essential supplies were identified as an exempt category from any travel restrictions to remote areas.[363]

There were special measures introduced to protect designated remote Indigenous communities, such as requiring 14-day self-isolation for anyone entering these communities.[364] In addition, grants and funding were made available to support Aboriginal Community Controlled Health Organisations, the Royal Flying Doctors Service, mobile respiratory clinics and point of care testing programs.[365]

Numerous individuals living in non-metro areas said they felt COVID-19 regulations were being decided in the capital cities and then applied throughout the entire state or territory without reflection.[366] People felt that many COVID-19 regulations didn't make logical or practical sense in regional or remote areas, but that they were enforced regardless. Representatives from a regional council said they felt stuck in the net of the COVID-19 lockdowns that were developed to respond to what was happening all the way in Melbourne.[367] Residents from other regional, rural and remote areas expressed similar views.

A woman living in a rural area described the challenges in obtaining what she needed, including stockfeed, when restrictions limited movement: *"I found it very difficult … to get things when city rules were blanket used with no common sense in the country".*

Your Story Portal Submission - Female, 45-54 [Submission 1526]

A New South Wales Police Officer from a regional community commenting about pandemic regulations in regional New South Wales: *"New South Wales Police, for us, stands for Newcastle, Sydney, Wollongong, basically. So policing is very, very Sydney central, or East Coast central, compared to what we have and what we have to work with out here in western New South Wales."*

Stakeholder Consultation Session – 6 August 2024

A resident of a regional New South Wales-Queensland border community speaking about pandemic border closures: *"...being part of the New South Wales State and having decisions made from Sydney in a way that really had no relationship to us here...I mean, yes, maybe they were made in the interest of a majority of people, but [the decisions were] totally disconnected from my or our experience in a regional setting."*

Stakeholder Consultation Session – 13 August 2024

An example of the criticism of how pandemic regulations were predominantly metro-focused was how COVID-19 testing and vaccinations were managed in regional areas. The Commission was told that people living in regional and remote areas felt there was an assumption that everyone should be able to get themselves to vaccination hubs in regional centres without difficulty[368], with the reality that this would often take many hours of travel, assuming they had access to transport in the first place.

Individuals from a regional Council explained that they were not given the resources to be able to go out and test or vaccinate on-site in remote disadvantaged communities as they were only instructed to set up a regional hub in town.[369] This needs to be understood within the reality that people living in remote disadvantaged communities may be more vulnerable to COVID-19 in the first place, for reasons such as existing pre-existing health conditions, age and mental illness concerns.[370] This is an example of the systems that regional communities were instructed to implement by state or territory health departments not being responsive to the specific needs of those communities.

A regional council also told the Commission that they were instructed that they could not do COVID-19 testing and COVID-19 vaccinations in the same location because of potential cross-contamination. The council felt that was a waste of resources and did not account for the reality that people may have travelled significant distances to get a COVID-19 test and would then have to travel back on another day to get a vaccination.[371] A more effective and balanced solution would have been to put protocols in place to mitigate risks rather than to prohibit testing and vaccinations being done in the same location.

Another example highlighting the frustrations experienced by many in regional and remote areas is that many aspects of the country's pandemic response required internet and telecommunication access, such as applying for cross-border travel permission, accessing your COVID-19 vaccination certificate, or even accessing up-to-date information about response measures. The technology needed to implement pandemic regulations, such as mobile and broadband coverage, can be inaccessible or unreliable in regional areas of the country. When the systems put in place to navigate the pandemic restrictions are not accessible to everyone, these systems are not equitable and create a digital divide.

The Commission was also informed about the seeming disconnect of trying to implement quarantine and isolation requirements in regional areas. In short, the isolation requirements were not practically achievable for some large families in regional communities, compounded by the fact that there is very limited external accommodation, such as hotels and motels, in these remote areas.

A man who worked as a nurse in a remote First Nations community during the COVID-19 pandemic said this*: "The guidelines I was required to recite about finding alternative accommodation for isolation felt increasingly out of touch given the crowded living conditions. In a community where homes often had more than ten people, effective isolation was practically unachievable."*

Your Story Portal Submission - Male, 25-34 [Submission 2311]

One woman, a registered nurse working in remote communities spoke of the difficulties obtaining essential supplies: *"The bio security lockdowns were set up so no one could leave community to get essential supplies except by doing a 2 week isolation before being allowed back in"*

Your Story Portal Submission - Female, 55-64 [Submission 1283]

Some people in these communities felt like systems were being set up that were not suited to their actual situation.[372] The Commission heard accounts of the dramatic disruptions that pandemic regulations had on regional and remote communities at times when there were just a handful or even no active COVID-19 cases in the region.[373]

First Nations and movement restrictions in regional areas

Special regulations were put in place to restrict travel in and out of remote First Nations communities throughout Australia during the pandemic.[374] These were put in place to provide increased protection to First Nations communities that were assessed as being particularly vulnerable to COVID-19 due to factors such as age, existing comorbidities and limited access to health facilities in such remote locations.[375] Many First Nations people also chose to return from urban centres to their traditional homeland on Country as the movement restrictions made these communities safer places to be in many ways.[376]

Once again, this issue has many perspectives because pandemic regulations put in place to protect the welfare of First Nations communities did so at a cost. A stakeholder in law enforcement in regional New South Wales explained that he saw particular impacts of pandemic movement restrictions on First Nations communities. He explained that movement restrictions and social distancing did not account for the way these multi-generational First Nations families and communities functioned.[377] This sentiment was echoed by other government agencies working in regional areas who thought the movement restrictions were not culturally appropriate or realistic for regional First Nations communities, where children often move between wider family households regularly.[378]

A First Nations individual in regional New South Wales told the Commission about the lack of connectedness felt by First Nations communities during the pandemic especially when they were prevented from going back to Country for ceremonial cultural activities such as attending funerals or sorry business.[379]

State and territory borders, for example, can also be arbitrary to First Nations communities living on Country, who organise their lives around mob boundaries rather than government administrative boundaries. This is another example of how broad pandemic response measures failed to account for how different communities fundamentally function, and it becomes serious when considering the capacity law enforcement had to fine and arrest people for breeching pandemic regulations.

In some remote First Nations communities that restricted movement in and out for their own protection, there was appreciation given for this safeguarding. A First Nations stakeholder told the Commission that remote First Nations communities felt empowered because of the autonomy given to them, and that the pandemic demonstrated the success of trusting Indigenous leadership.[380]

The Commission was told of Palm Island, Queensland, as a specific example of successful pandemic management in Indigenous communities. Successful strategies included consulting local elders, prioritising shared decision making and allowing local council to identify needs and solutions specific to their context. [381] The Townsville Hospital and Health Service specifically identified genuine engagement with the Palm Island community – 'start from the what the community wants not what we are here to deliver' – as a key element of providing COVID-19 care on country and achieving the aim of keeping the community safe.[382]

At the same time, other First Nations people who moved back to Country during the pandemic highlighted the poor infrastructure provision of these remote communities which had sub-standard water and electricity access, inadequate housing and concerns of food security.[383] A related criticism was that even though autonomy was given to remote First Nations communities during the pandemic, this did not result in long term change.[384]

> *"But once we weren't in that pandemic stage anymore, all that responsibility, all that autonomy... things just go back to the way they were before, and relatively quickly."*
>
> **Stakeholder Consultation Session – 17 June 2024**

4.2.6 Temporary visa holders in Australia

Some of the key human rights considerations:

Right to life

Right to physical and mental health

Right to freedom of movement and liberty

Right not to be discriminated against

Right to asylum

Right to an adequate standard of living

Right to work and to good working conditions

SUMMARY OF MEASURES:

Following the Australian Government's declaration of a human biosecurity emergency, multiple travel restrictions were introduced including the closure of Australian borders to all non-citizens and non-residents on 20 March 2020.[385]

One consequence of widespread pandemic restrictions, including lockdown policies, was many temporary visa and migrant workers lost their jobs in hospitality and retail industries.[386] Despite such job loss, temporary residents (including migrant workers and international students) were not eligible for COVID-19 social support packages such as JobKeeper and JobSeeker assistance schemes, which were broadly available to permanent residents and citizens who lost jobs or were unable to work.[387]

The Commission was repeatedly told that the supports offered by the government to this demographic were insufficient. At the end of April, the Australian Government allocated $7 million to Australian Red Cross to deliver emergency relief and counselling support for temporary migrants. However, given the demand for urgent needs like food, medicine and crisis accommodation, the Australian Red Cross acknowledged that they were unlikely to be able to meet the needs of this vulnerable population.[388]

The government also allowed temporary migrants the ability to access their superannuation.[389] However, given that remuneration for many migrant workers was in cash, employers in many cases had not actually made the required contributions.[390] In any event, this policy was reversed on 1 July.[391] Some state governments also provided limited relief packages to different groups of migrant workers, with one example being the Victorian $1,100 one-off hardship payment in April 2020.

For refugee communities the impact of COVID-19 was severe. These communities were particularly vulnerable to the impacts of the pandemic, and did not always have access to support mechanisms that were available to others.[392] In addition, barriers commonly faced by refugees in Australia, such as racism, discrimination and language barriers continued to exist and were even in some cases exacerbated by the pandemic.[393]

Note: *In this section,' newcomers' refers to anyone who is not a citizen or permanent resident. This is to differentiate between citizens and permanent residents (who COVID-19 protection strategies were designed to benefit) and others in Australia during the pandemic who did not fall into this category, including migrant workers, international students, working holidaymakers/backpackers, seasonal workers, temporary residents, asylum seekers and refugees.*[394]

During the pandemic, there were many examples of citizens and permanent residents being treated differently to newcomers.[395] This was made clear by the Prime Minister's statement in August 2020 suggesting that for international students and temporary residents, 'it is time to make [their] way home'[396] and emphasising that 'Australia must focus on its citizens and residents to ensure that we can maximise the economic supports that we have'.[397]

The over 1 million temporary visa holders in Australia during the pandemic[398] faced specific challenges

because of their visa status. Many felt ignored and abandoned by the Australian Government because they were ineligible for pandemic protection programs such as JobKeeper and JobSeeker. Newcomers, many of whom had lived in Australia for many years, had paid their taxes and had integrated into their communities, were essentially told to return to their home countries if they were unable to support themselves here.[399]

While many newcomers did choose to return to their home countries during the pandemic, others remained in Australia. A survey by the Migrant Worker Justice Initiative found that the reasons newcomers gave for remaining in Australia during the pandemic include flights being unavailable, flight tickets being unaffordable, their home country's borders being closed, because of the education and employment investment they had already made in this country and due to uncertainty of when they would be able to return if they were to leave.[400]

Prior to the pandemic, newcomers were already often in a much more precarious position than citizens and permanent residents as they were often reliant on their education provider or employer to maintain their visa status, they had restrictions on the type of jobs they could apply for or the total hours they could work, they were not eligible for many government assistance programs and may not have strong social support networks. The Australian Government's pandemic response measures exacerbated these existing vulnerabilities and put newcomers into positions that compromised their health and welfare.

Travel

International travel bans had a direct impact on non-citizens and non-residents, who faced the prospect of not knowing when they would be allowed back into Australia, even if they were granted a travel exemption allowing them to leave. This uncertainty was a specific reason given by many newcomers for choosing to stay in Australia.[401] The impacts of the country's international border closures during the pandemic are covered in more detail in **4.1.1: International border closures and right of return.**

Employment and assistance programs

Newcomers are overrepresented in casualised and part-time work as well as in the gig economy. This is particularly true of hospitality and retail jobs that are often low-paid and unstable.[402] This meant that when pandemic lockdowns were imposed, many newcomers were especially likely to lose their jobs.[403]

On top of this, the JobKeeper and JobSeeker schemes that were introduced in March 2020 were only accessible to Australian citizens and residents[404], meaning that businesses were forced to terminate ineligible staff.

> *"Jobkeeper during lockdowns was great for those who could access it, but the fact that it was only available to Australian citizens meant that most staff on visas at my workplace were let go or not given any more shifts when it was brought in."*
>
> **Your Story Portal Submission - Female, 25-34 [Submission 1968]**

According to the Commission's survey, amongst the 35% of Australians impacted by a business shutdown and/or reduction in income, 37% were unable to access JobKeeper or other financial support from the government. In addition, of those surveyed who were impacted by a reduction in income during the pandemic and happened to be temporary visa holders, 78% of this cohort were unable to access JobKeeper or other government financial support. These figures indicate significant cohorts who were unable to receive vital financial support that was put in place as an emergency stop-gap. The Commission's findings support other data such research from the Migrant Worker Justice Initiative.[405]

The lack of recognition of the impact of pandemic restrictions on newcomer migrant communities and the subsequent government failure to include them in employment protection programs resulted in large numbers of newcomers relying on charities for emergency food relief. Charities, who were already overstretched during the pandemic, were relied on to provide meals and even one-off cash payments so that individuals could have food, afford their rent, and meet other basic needs.[406]

The job loss and lack of government support also led to housing insecurity, overcrowding in private accommodation and even homelessness in newcomer communities. These insecure living conditions are all associated with higher risks of the spread of COVID-19 as it meant that more people were living in cramped conditions without the ability to isolate.

International students

International students were a particular group who struggled during the pandemic due to their typically young age, casualised employment, lack of immediate support networks, and often their financial reliance on family support from their home country. Many international students lost their casual employment in Australia at the same time that their families were also suffering from the pandemic back home.[407] Research indicates that 32% of international students became unable to pay for essential needs during the pandemic because their families were unable to keep sending the same financial assistance.[408]

The view was expressed to the Commission during our consultations that some international students felt unwelcome in Australia during the pandemic[409], feeling as though they were wanted for the university fees and taxes that they paid, but then abandoned by the Australian Government in their time of need.

The changes on university campuses that are discussed above in section **4.2.2 School and university closures and remote learning.** It also had a significant impact on international students. Isolation and mental health impacts were significant concerns for international students. Financial insecurity also led to concern from international students that they would become unable to pay their course fees, leading to discontinuation of studies[410] and student visas.

4.2.7. Human Rights in Action: Asylum seekers and refugees

Some of the key human rights considerations:

Right to be treated with humanity when detained

Right to an adequate standard of living

Right to freedom from arbitrary arrest and detention

Right to freedom from torture and cruel punishment

Right to asylum

SUMMARY OF MEASURES:

Australia's pandemic response was broadly aimed at limiting the spread of COVID-19 while also providing economic and social support to those most impacted. For refugees and asylum seekers these supports provided limited assistance.[411]

People on temporary visas were excluded from the Australian Government's social security and wage protections measures which were intended to support those who had lost income due to pandemic measures.[412] The particular impacts on temporary visa holders were discussed in detail above in section **4.2.6 Temporary visa holders in Australia.**

There were also specific risks for those being held in immigration detention in Australia.[413] In particular, there is an increased risk of COVID-19 spreading quickly in enclosed, confined spaces such as detention, and this itself carries heightened risks given that a high proportion of people in immigration detention have pre-existing health conditions. During the pandemic strict protocols for both staff and detainees were implemented across the immigration detention network in an effort to prevent the spread of COVID-19, including strict testing and quarantine protocols and restrictions being places on visits, including the temporary suspension of visits in all immigration detention centres from 24 March 2020 until 7 December 2020.[414]

It is clear that the responses to the pandemic in Australia exacerbated economic and social marginalisation and inequalities for asylum seekers and refugees, some of whom were in detention centres and others that were living in communities.[415]

Even before the pandemic, asylum seekers and refugees in Australia living in the community were often working part-time or casual jobs – earning minimum wage. The pandemic only increased existing financial stressors due to the loss of part time and casual jobs during lockdowns.[416]

Beyond lost income and increases in poverty, the job losses in this community meant accommodation became overcrowded, while some were pushed into homelessness.[417]

Essential groceries and products (masks, medicine, household staples) were all affected by price increases, meaning asylum seekers and refugees faced additional pressure on their limited income.[418]

These financial pressures were worsened by the lack of support from government. Temporary visa holders were excluded from accessing COVID-19 stimulus packages and other support such as Centrelink payments, social housing and crisis accommodation.[419] There have also been reports that when bridging visa holders came to the end of their visa, they lost access to Medicare, resulting in confusion as to whether they were eligible for vaccinations.[420]

This, combined with Australia's call for people to 'go home', heightened feelings of abandonment within this community.[421] For many, these feelings were exacerbated given that they had come to Australia seeking protection, and could not realistically return to the country from which they had fled.

In 2020 the average number of people detained in immigration detention facilities in Australia was 1,487.[422] Places of detention, such as immigration detention facilities, are high-risk settings for the spread of COVID-19 and required the adoption of a range of risk mitigation strategies to prevent and manage an outbreak of COVID-19 within a facility.[423]

At the same time, the World Health Organisation has also highlighted that 'not only are people in closed detention likely to be more vulnerable to infection with COVID-19, they are also especially vulnerable to human rights violations'.[424] This reflects the findings of the Commission in immigration detention inspection reports published both during and after the pandemic, which highlighted the importance of ensuring that all measures introduced in response to COVID-19 were consistent with international human rights standards, and that restrictive measures should be removed as soon as they were no longer necessary.[425]

4.2.8. Human Rights in Action: Playground closures

Some of the key human rights considerations:

SUMMARY OF MEASURES:

At different stages during the pandemic some states and territory's closed both indoor and outdoor playgrounds in an effort to reduce the spread of Covid-19 amongst children and young people.[426] For example, playgrounds were closed in Melbourne during the first lockdown (from 31 March 2020 to 12 May 2020) and again for part of the sixth lockdown (from 16t August 2021 to 2 September 2021).[427] When they did re-open, there were strict rules around playground use, including that they were open only for children under 12 years old, only one carer could attend, adults were not allowed to remove their masks to eat or drink, and QR codes were required for checking in.[428]

The measures were controversial and many questioned both the impact on children and young people, in addition to the effectiveness of closing outdoor parks where the risk of transmission was lower.[429]

Although rights contained in general human rights instruments also apply to children,[430] the CRC outlines the specific rights that apply to children and young people. Article 31 of the CRC recognises the human right of children and young people to engage in play and recreational activities. Play and recreation are essential to the health and wellbeing of children – promoting creativity, imagination, self-confidence, self-efficacy, as well as physical, social, cognitive and emotional strength and skills.[431]

Playground closures limited the fulfilment of this right as children and young people were prohibited from using either indoor or outdoor playgrounds during the pandemic.

After measures to close outdoor playgrounds were announced in Victoria, the state government came under pressure from parents and doctors to rethink these closures.[432] There was particular concern about how these closures would negatively impact the mental health of children who could no longer play and socialise. Parents were also negatively affected as taking children outside to the park was often a welcome break from isolating indoors for younger families.

Children and young people from lower socio-economic backgrounds were particularly impacted by these measures. Families from lower socio-economic backgrounds in non-regional areas often don't have as much space in their home to facilitate adequate play for children and young people. Families living in apartments or without backyards were also unduly impacted by closures.[433]

The criticism of these closures was compounded by doubts about their necessity, noting that outdoor playgrounds had a comparatively lower risk of transmission compared to other public places, that children themselves had 'a comparatively lower risk of hospitalisation and severe illness with Covid than adults'[434] and there were precautions that could be taken to reduce the risk of COVID-19 transmission in playgrounds while still keeping them open.[435] When this evidence is considered together with the significant benefits that access to outdoor playgrounds provides to children and families it is difficult to conclude on the evidence that was provided at the time that the closure of playgrounds were either necessary or proportionate.

4.3. Cutting through the noise: Key communication gaps

> *"We need to learn to be able to speak to the whole community in ways that the community can hear."*
>
> **Stakeholder Consultation Session – 19 July 2024**

> *"Communication isn't a one-way street, communication needs to be dialogue"*
>
> **Stakeholder Consultation Session – 19 July 2024**

Communication is a vital cornerstone of any country's emergency response; it must cut through the noise and confusion during times of heightened anxiety and distress. In times of crisis, effective communication enables people to understand and analyse the risks facing them and take informed action to mitigate harm. The result of inadequate communication is that people are not able to make informed decisions to protect their wellbeing and the wellbeing of their communities.

A clear and communicative response from authorities also builds trust between communities and the governments who are tasked with implementing preventative measures. Where people trust the information provided by their government, they are more likely to act in accordance with directives for the public benefit.

However, government communication throughout the pandemic – from the vaccine rollout, mask mandates and ever-changing lockdown rules, was frequently unsatisfactory and ineffective. Throughout the COVID-19 experience, people were both overwhelmed by the sheer volume of communication while simultaneously not being provided with enough clear, accurate and accessible information.

To give just one example, public health orders prohibiting non-essential mass gatherings in order to the limit the spread of COVID-19 were announced in New South Wales on 18 March 2020,[436] but were only in place for three days before being replaced by an updated order that took effect on 21 March 2020.[437] Over the ten-day period from 21 March – 31 March 2020 there were five different orders imposing restrictions on gatherings that were in place at different times.[438] The potential for public confusion in the absence of effective communication was obvious, given the speed with which things were changing.

A basic requirement of the rule of law is that individuals are able to know what rules actually apply to them at any given time. This is particularly important during a public health emergency where compliance with these rules is not only a matter of obeying the law but is also intended to protect your health and safety. Effective communication is an essential element of any emergency response.

There are clearly constraints on communication during a crisis, predominantly to do with the need to communicate as quickly as possible to the public or sections of the public. This means that assumptions are made about who is on the receiving end of the communication, for example, assumptions that they can speak fluent English, that they have access to a television or computer with internet access and that they are not visually or hearing impaired. There are, however, numerous barriers people face in receiving critical information including English proficiency, visual and hearing impairment, cognitive impairment and access to and aptitude with technology.

Even for those without these barriers, trying to access reliable information during the pandemic was often overwhelming and confusing. For example, throughout Australia there were periods when restrictions changed significantly on a weekly, or even daily, basis.[439] Although these directions were provided during daily press briefings, many people struggled to keep up with the constantly changing regulations.

This challenge was magnified when different levels of government provided different, and sometimes contradictory, information. The Senate Select Committee on COVID-19 highlighted communication around the need for school closures as one example of 'a contradiction which had confused people through mixed messages'.[440] The Prime Minister announced on 13 March 2020 that decisions around school closures 'would be based on a consistent national approach'. New South Wales, Victoria and then announced – before the next National Cabinet meeting – that they would close their schools from 24 March 2020. On 22 March 2020 – after the National Cabinet meeting – the Prime Minister announced that '[a]ll leaders agreed that children should go to school tomorrow' but this was immediately contradicted by the state and territory leaders who indicated that their earlier decisions would not change.[441]

> *"The mixed and often contradictory messages from authorities only added to our collective anxiety. One day, masks were deemed unnecessary; the next, they were mandatory. Social distancing guidelines fluctuated, and public health directives seemed to change with the wind. The uncertainty bred a sense of helplessness and mistrust. How could we protect ourselves and our loved ones when the rules were constantly shifting?"*
>
> **Your Story Portal Submission - Male, 25-34 [Submission 547]**

Additional stress arose from the knowledge that non-compliance with regulations could result in significant fines, or even arrest. Lack of coordination between states meant that there were also conflicting regulations that were not practically feasible. Rules were changing so frequently that people often found that the quarantine rules were changing while they were still in the air on planes to Australia – landing to find their quarantine period had lengthened or changed in some key respect.[442]

People often found that information was not properly communicated. For example, and as explored in **4.4.6 Human Rights in Action: Melbourne Tower Lockdowns**, residents who were locked down in public housing towers were provided with little-to-no warning about the lockdown before police and authorities arrived to bar them from leaving their homes. Residents of the towers were also not provided with sufficient information in languages other than English until after the lockdown began.[443]

In addition to the immediate barriers to communication, there are less evident considerations such as historical government distrust and levels of misinformation and disinformation that need to be addressed. Some communities, with migrant and First Nations communities being two key examples, have long-standing issues about trusting authority which can lead to scepticism about the information that is presented to them. Information may also need to be presented in various ways for certain groups to be able to process it, such as in plain-English, through the use of visual aids or through in-person explanation from a trusted source.

The overabundance of information and failures of communication to 'cut through the noise' is illustrated by Figure 6, which shows that 42% of respondents to the Commission's survey said they were not always clear on what the current COVID-19 restrictions were. If close to half of the population is unsure what the current regulations are, this raises serious concerns about human rights, the rule of law, and the validity of enforcing rules that people did not necessarily know they are breaking.

The gaps that emerged in communication throughout the pandemic meant that people increasingly believed they could not rely upon the information provided to them by authorities. In situations of high uncertainty, such as a pandemic, inconsistency in messaging erodes trust in officials' competence to manage the threat.[444] As mentioned by a Queensland Government stakeholder, confusion leads to resentment and then opposition,[445] which was certainly a recurring theme throughout the pandemic.

If governments are imposing regulations, it is their responsibility to ensure communication of these regulations is as extensive and inclusive as possible. As will be discussed throughout this chapter, failure to provide clear, accessible and accurate information seriously undermines several human rights and can lead to direct violations of international human rights law, as well as undermining the emergency response itself.

Attitudinal statements: Experience of the COVID-19 pandemic

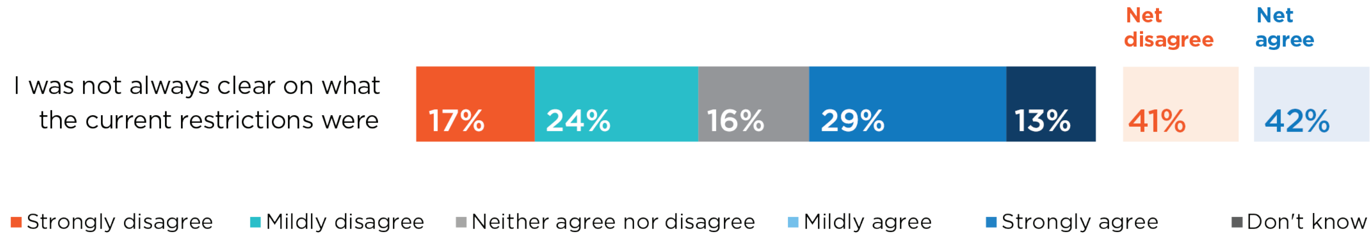


Figure 6: Commission's Quantitative Survey [*Q19. To what extent do you agree or disagree with the following?*]

4.3.1. Communication for diverse communities

Some of the key human rights considerations:

Right to physical and mental health

Right to an adequate standard of living

Right not to be discriminated against

Right to freedom from arbitrary arrest and detention

Right to freedom of movement and liberty

Right to freedom of opinion and expression

Right of minorities to enjoy their own culture

HUMAN RIGHTS IN FOCUS:

The disproportionately high COVID-19 mortality rate for people born overseas suggests that the right to the highest attainable standard of physical and mental health was not realised for CALD communities.[446] Health facilities, goods and services must be accessible to all without discrimination – meaning they must be:

- **Non-discriminatory:** accessible to all, especially vulnerable and marginalised people.
- **Physically accessible:** within safe physical reach, especially for CALD communities and First Nations populations.
- **Affordable:** health facilities, goods and services must be affordable for all.
- **Informationally accessible:** all people have a right to seek and receive information about health issues.[447]

ICESCR also specifically comments on the right to health as it affects First Nations communities.

Failures of communication during an emergency can have very significant consequences. When speaking in terms of a pandemic, ineffective communication can lead to severe illness and even death of those who fall through the cracks. For example, the COVID-19 death rate for people born overseas was 2.5 times as high as for those born in Australia.[448] While there were a variety of factors contributing to this outcome, more effectively tailored communication strategies could only have assisted in improving public health outcomes for these communities. Research indicates that when 'one-size-fits-all' communication strategies were relied on, CALD communities turned to overseas news sources which led to the spread of misinformation and the stagnation of COVID-19 testing and vaccination rates in these communities.[449]

Australia is a multicultural country, with diverse cultural groups speaking a wide range of languages. Whether it be migrant populations or First Nations communities, communities have different needs and sensitivities when it comes to effectively communicating with them. Many of the challenges faced by multicultural and First Nations communities were not specific to the COVID-19 pandemic and will likely emerge again during future emergencies. Therefore, learning these lessons from the pandemic will enable more targeted communication which will have real-world benefits in ensuring effective future emergency responses.

Translation

There were challenges specific to multicultural communities that prevented them from receiving potentially lifesaving information during the pandemic. One key example that was repeatedly raised with the Commission concerned the insufficient translation of vital information relating to pandemic regulations and health advice.[450] Translations of public health orders were produced by government agencies throughout the pandemic; however a recurring issue was that information was often outdated by the time it managed to be translated into different languages, and the translations were often inaccurate.

A women's multicultural centre said: *"... the accurate information that was being put out was often only in English, and things were changing so quickly that by the time they were translated, verified and distributed to communities, it was just too late..."*

Stakeholder Consultation Session – 5 September 2024

A representative from the Multicultural Disability Advocacy Association shared the following from a deidentified consumer: *"The poor roll out of translated information to areas with a high density of multicultural communities meant that the relay of information and advice was delayed and a reliance on online forums and chat groups became more common. Some in CALD communities were unaware as to why such strict measures were taking effect and struggled to find coping strategies to help them navigate the sudden change of life."*

Your Story Portal Submission - Not specified, 35-44 [Submission 2301]

When government communication is insufficient, people seek out alternative sources of information such as word-of-mouth which can lead to the spread of inaccurate information or even conspiracy theories. It can lead to people unnecessarily putting their health at risk or unwittingly contravening emergency regulations.

"Lockdowns paired with poor communication to CALD communities set some individuals up for an environment of anxiety and uncertainty of the situation. This led me and some family members to constantly browse the internet, which I believe played a part in the uptake of different types of media with an overwhelming amount including false or misleading information."

Your Story Portal Submission - Not specified, 35-44 [Submission 2301]

Language translations included translation into Auslan, and the Commission was told of specific instances where pandemic updates were happening so quickly that by the time it was translated into Auslan it was already outdated.[451]

Translation of health advice also extends to in-person translation, with stakeholders from Western Australia multicultural communities, for example, recommending the need for more translators and interpreters at COVID-19 testing stations.[452]

Channels of communication

One particular challenge for some multi-cultural communities is historical distrust of government. Migrants who have experienced persecution from their home-countries as well as First Nations communities have justifiable reasons for not always trusting that the government has their best interests in mind.

Another important consideration specifically for migrant communities is that many were receiving constant information about the pandemic from their home countries as well as from the Australian Government,[453] causing opportunities for confusion and the spread of inaccurate information. While the Australian Government cannot control the information released by other countries, it can make sure that there are clear and reliable sources of information provided within Australia that are directly targeted towards migrant communities.

State government stakeholders told the Commission that there were systemic inefficiencies such as Australian states creating their own translated health advice materials instead of using the same materials for the whole country.[454] Administrative inefficiencies such as this this contributed to delayed communication of essential information to multicultural communities.

First Nations

There are hundreds of First Nations languages spoken in Australia and some First Nations people, particularly in very remote areas, do not speak English as a first or second language.[455] Service providers in the Northern Territory told the Commission that wider translation of government health messaging was needed in remote First Nations communities.[456] When there were gaps in official translations of government advice into local languages, people had to rely on word of mouth that may either be incomplete or inaccurate.

The Commission was told of particularly effective programs of communication to First Nations

communities which included the translation of health advice in visual posters that were distributed to communities.[457] Visual tools were created to convey important health messaging to First Nations communities, including focus on protection of elders and practicing social distancing, and it demonstrated the success of responsive and tailored communication.[458]

A First Nations individual told the Commission that one of the key components of an effective response is to recognise the relational communication and engagement to which First Nations communities respond.[459] Other stakeholders emphasised the importance of ensuring a trauma-informed response when engaging with First Nations communities which recognises the history of colonisation and intergenerational trauma that First Nations communities have endured.[460]

Success stories

While there were many examples of confusing and ineffective communication, there were also many positive stories of situations where communication with diverse communities - such as multicultural communities - was done well.

The Commission was told of successful stories where funding was allocated by state and territory governments to recruit trusted community leaders to convey pandemic updates in language and in a setting that was familiar and safe to community members. An example of this is community leaders providing updates in local mosques to Muslim communities in Queensland, with government messaging then being shared further through familiar communication platforms such as WhatsApp. Community leaders were remunerated for their time spent engaging with the communities and this was demonstrated to be a very effective program of communication.[461]

A social service provider stakeholder speaking about the challenges of communicating with CALD communities during the pandemic said: *"You don't want to be scrambling to know who are the leaders in the community when there's an outbreak"*

Stakeholder Consultation Session – 22 July 2024

There were also many stories of community organisations and charities stepping up to provide translated versions of pandemic directives that they saw were needed.[462] This was seen to be very effective however calls into question the demands being put on charities to use their own resources at their own expense.

4.3.2. Communication for people with disability

Some of the key human rights considerations:

Right to physical and mental health

Right to an adequate standard of living

Right not to be discriminated against

Right to freedom from arbitrary arrest and detention

Right to freedom of movement and liberty

Right to freedom of opinion and expression

Right of minorities to enjoy their own culture

People who were involved in disability advocacy agencies or had a disability themselves told the Commission that they felt left in the dark throughout much of the pandemic because of gaps in government communication. This issue did not begin with the COVID-19 pandemic but is a recurring struggle for people with disability during all types of emergencies, including natural disasters. The prioritisation of speed and scope of messaging often fails to account for the barriers faced by people with disability. For example, even when there were Auslan interpreters engaged during pandemic press conferences, some spoke of the Auslan interpreters being frequently cut out of rebroadcasts and highlight packages.[463] This demonstrates a recognition of the need but lack of consistency in ensuring accessibility.

Visual or Hearing impairments

People with visual or hearing impairments may not simply be able to tune into a press conference or access a media release to understand the current emergency regulations. Everyday barriers to accessing information often become heightened during an emergency event, and the consequences of not receiving that information can be serious.

> *"There seems to be hearing privilege, the privilege of being able to hear and access information automatically. Whereas we're relying on social media, or we're relying on someone to volunteer to interpret and to tell us what has been said on social media or for someone to translate it."*
>
> **Stakeholder Consultation Session – 19 June 2024**

An individual further described the challenges faced by deaf-blind people, who rely on tactile communication.

> *"...those who are deaf blind, and communicate tactilely, meaning hand on hand - they weren't able to touch somebody else... we actually had to break the rules, because these people had a basic right to access information."*
>
> **Stakeholder Consultation Session – 19 June 2024**

A different disability stakeholder spoke about the cultural fear around touch which emerged throughout the pandemic and explained the difficulty of the deafblind community to function in a society that became extremely wary about interpersonal contact.[464]

Beyond basic access to information, the impact of lockdowns on people with visual and hearing impairments amounted to a sense of language deprivation for some, impacting on mental health.[465] This kind of deprivation can have a variety of consequences, as poor mental health can affect not only the mind but also the physical body. Language deprivation can also limit other rights, and access to services, as communication is essential for things like shopping for food and medicine or attending the doctor for routine matters.

Intellectual Disability

Disability stakeholders also spoke of the barriers for people with intellectual disability to keep up to date with the mass of information throughout the pandemic.

> *"... for people with an intellectual disability, it can be even harder to stay on top of changing information. You hear one piece of information and that sticks with you, and it's very difficult to say no, that was actually yesterday's information or... that's the situation in South Australia, not in Victoria."*
>
> **Stakeholder Consultation Session – 19 June 2024**

A disability service provider in the Northern Territory explained how difficult it was to explain to some residents with intellectual disabilities why their routines were suddenly disrupted and why their families were no longer able to visit during the pandemic. They ended up developing their own personalised 'storybooks' for each resident dependent on their communication ability so that the residents could understand and process what was happening around them. This strategy was very effective in helping alleviate stress levels of residents.[466] This is an example of very targeted communication based on specific needs which prevented people from being left in the dark during the pandemic.

Masking

While mask requirements were a widely used strategy to control the spread of COVID-19, there were specific issues this caused for some people with disability. People with a hearing impairment, for example, were unable to read people's lips in situations where everyone was required to wear a mask, effectively preventing them from being able to communicate.

> *"But lip reading is impossible, of course with a mask on. But also, just being able to see someone's mouth and the movement of their mouth and their facial expressions is important for us to learn... So it makes it very, very hard to communicate with people, doctors, nurses, whoever it is."*
>
> **Stakeholder Consultation Session – 19 June 2024**

A disability service provider in the Northern Territory described instances of residents not being able to recognise care workers because of their masks and then becoming frightened because of this.[467] Another disability community stakeholder spoke about the nuance of conflicts even within the disability community around mask wearing during the pandemic with the sentiment of 'if you don't wear a mask you don't care about disabled people' coming up against the multiple reasons why wearing a mask was challenging for some people, including breathing difficulties, mobility limitations and sensory issues from autism.[468]

Although most mask mandates provided exemptions for people who were unable to use a mask,[469] mandates did impact on the rights to equality and non-discrimination that are provided for under international human rights law.[470]

Success Stories

Amongst the challenges, the Commission also heard from disability stakeholders who appreciated examples of government departments using a broad spectrum of media channels in their messaging about the pandemic, including leveraging social media and podcasts.[471] Messaging outside of formal channels demonstrates an understanding of the needs of different groups when it comes to accessing information.

4.3.3. Communication for women who experience DFV

Communication gaps extended to information being conveyed to all people, but particularly women, in domestic violence situations. The Commission did hear recognition that there had been early consideration of the impacts that lockdowns would have DFV, with domestic violence being specifically included as one of the reasons people could leave during the lockdowns.[472]

However, suppressing information is one way that perpetrators control their partners. Perpetrators were able to use restrictions and lockdowns to further isolate women from their support networks, for example by withholding information, providing misleading information about restrictions and stoking fears of fines or arrest if they were to try and leave, cutting communication with friends and family, and controlling household decisions around masks and vaccinations.[473]

The Commission was told that from the beginning of the pandemic, messaging should have made it clear that you would not face consequences if you were leaving your home because of DFV. In particular, the Commission was told about failures in communicating this information effectively to non-English speaking women, who often face additional barriers in accessing information about their rights.[474]

4.3.4. Technological divide

Some of the key human rights considerations:

Right to physical and mental health

Right to an adequate standard of living

Right not to be discriminated against

Right to freedom from arbitrary arrest and detention

Right to freedom of movement and liberty

Right to freedom of opinion and expression

Widespread government communication involves a number of baseline assumptions, and during the pandemic it was generally assumed that everyone should have had access to a television and/or a computer with internet connection. For the most part, this assumption is true and throughout the pandemic most people would have accessed regular updates particularly from televised press conferences and online platforms. However, even though this assumption is generally true, easy access to technology was, and still is, not universal.

There remain some people who do not have access to technology either due to financial constraints, lack of connectivity in remote areas or lack of understanding of how to navigate some technology such as computers and smartphones. For example, while not all older Australians struggled to adapt to technology during the pandemic, there were examples of those who did, as explained to the Commission by a stakeholder in the aged care sector:

> **An aged care sector employee said:**
> *"And as much as we had some people embracing technology and being trying to create connections through that, we had equal amount of people not being able to embrace technology for various reasons like cognition, function, attitude and self-belief.*
>
> **Stakeholder Consultation Session – 13 August 2024**

Some older Australians also preferred more traditional forms of communication such as television and radio broadcasts, phone calls and email over newer forms such as social media updates.

Financial constraints prevent people from owning televisions, computers and smartphones and the difficulty with the pandemic was that places where people are able to get free access to technology (such as libraries) were temporarily closed, further limiting access to information.

Even for people who use the internet and social media daily, many people found it hard to know where to access information about current regulations and how to know what information was reliable and current. Government websites were often difficult to navigate and press releases were not always in plain English.

The overlap between people lacking access to, and knowledge of, technology and those more at risk of serious illness from COVID-19 should also be recognised. This is particularly in relation to older Australians as well as migrants, unhoused people, those in lower-socio-economic brackets or a combination of these factors.

Exemptions

Beyond just the conveying of information, key aspects of pandemic regulations such as applying for exemptions to cross state and territory borders or travel internationally were entirely online processes.[475] This means that people who did not have easy access to a computer with internet access were excluded from accessing essential aspects of the pandemic regulations.

Even something inconsequential, such as regulations for border communities requiring people to print off permits to keep in their cars, meant that people needed access to printers in order to comply with regulations.[476] These gaps that emerged from differing access in technology resulted in people not being able to utilise policy mechanisms that were intended to create fairer outcomes.

Success stories

Stakeholders told the Commission of positive stories of overcoming the technological divide, such as one Sydney council allocating a member of staff to take the time and call all council residents over 70 years and alert them to upcoming regulations. The Commission was told these phone calls were not just to convey quick updates but to answer any questions, fears or concerns older residents may have had.[477] This is a positive example of identification of a group who may have been quietly struggling and actively pursuing inclusive communication.

4.3.5. Discrimination against particular groups

Some of the key human rights considerations:

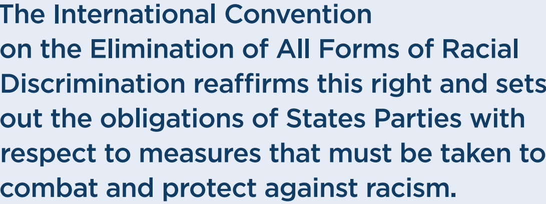
While the Commission heard many stories of the pandemic bringing out the best in people, in many ways it also brought out the worst in people, particularly as the emergency time frames extended. People were looking for outlets for their fear and frustration and, in some cases, this unfortunately emerged as incidents of racism, ableism, ageism or other forms of discrimination. As the country was locked-down for extended periods of time, people spent more time online which is where discriminatory rhetoric towards certain migrants groups, older Australians and people with disability began to emerge. There were examples of this manifesting as rhetoric around people of Asian background being blamed for the spread of COVID-19 and people with disability and older Australians being blamed for the disruption that pandemic response measures were causing. While discriminatory attitudes were easily and prominently displayed and spread online, there were also instances where this escalated to real-world verbal and physical assaults.

Racism

Some people used the fact of the COVID-19 virus originating in China as an excuse to perpetuate anti-Asian racism in Australia. Asian Australians experienced racist attacks particularly in the early months of the pandemic, where people blamed them for the spread of the virus.

A woman from New South Wales said: "The amount of racism I saw online was disgusting, I even witnessed it on public transport (the train) against both children and adults. I found it pathetic that people were being racist and openly and violently too. So embarrassing and infuriating. I feel as if more should be done regarding racism in Australia, people get away with it far too much and far too often."

Quantitative Survey – Female, 18-24.



Everyone has the right to be free from racial discrimination.

The International Convention on the Elimination of All Forms of Racial Discrimination reaffirms this right and sets out the obligations of States Parties with respect to measures that must be taken to combat and protect against racism.

Throughout the COVID-19 outbreak – and particularly in the early stages of the pandemic – there were reports of people of Asian descent, or those who are perceived to be of Asian descent, experiencing increased levels of racism in Australia as well as around the world.[478] For example, in early 2020, one in four complaints of racial discrimination received by the Australian Human rights Commission were related to the pandemic, with anecdotal and media reports suggesting increases in racism targeting Australians or Asian background.[479] This was likely influenced by narratives which characterised COVID-19 as the 'Chinese Virus'.[480]

Experiences of racism were fuelled later on in the pandemic by incidents such as the India Travel Ban, where for a few weeks in May 2021 all people were banned from returning to Australia from India, including Australian citizens (see **4.1.6 Human Rights in Action: India Travel Ban**).

A survey from the Migrant Worker Justice Initiative indicates that 23% of migrants who responded to their pandemic survey experienced racism in the form of verbal abuse and 25% experienced racism in the form of people avoiding them because of their appearance.[481] In addition, 35% of Chinese migrant respondents to the survey had been verbally abused since the beginning of the pandemic.[482] The same survey lists common forms of racism towards migrants in Australia during the pandemic

as including being told to get out of Australia, derogatory and xenophobic slurs and being treated as if they were infected with COVID-19.[483]

Similarly concerning results were reflected in an online national survey of over 2,000 Asian Australians conducted between 13 November 2020 and 11 February 2021 by researchers from Western Sydney University and Deakin University. This survey found:

> '... that 40 percent of participants experienced racism during the COVID-19 pandemic, most commonly in public setting such as in shops, on the street, public spaces, and work. A similar 39 per cent of participants witnessed racism. Despite these high rates, Asian Australians overwhelmingly did not report incidents of racism. Lack of trust in statutory agencies and their response to racism reports was a frequent barrier experienced. Feelings of hopelessness, shame or disempowerment and lack of knowledge of reporting tools and human rights were other barriers to reporting.'[484]

A woman from Victoria says:

"I experienced racial discrimination during the pandemic. I got verbal abuse from random strangers while walking and doing groceries. I also knew of other people being targeted which increased my fear of being physically attacked."

Quantitative Survey – Female, 30-39.

All forms of racism are unacceptable. More could have been done to protect migrants and Asian Australians in the country during the pandemic. Leaders need to be strong and consistent in their messaging throughout an emergency to communicate that any form of racism is unacceptable and will not be tolerated.

Ageism & Disability Discrimination

Ageism was another aspect of community backlash that manifested in various ways throughout the pandemic. Older Australian stakeholders told the Commission of sentiments they experienced, either directly or indirectly, that the protection of older people's lives was not worth the disruption of the COVID-19 regulations, that older people were taking up beds in hospitals that younger people could be using and that older people would die soon anyway so the country should open up again and let COVID-19 'rip'.[485] These kind of community sentiments resulted in older Australians feeling expendable and unprotected.[486]

Beyond just the troubling community sentiments were the regulatory decisions made by hospitals that resulted in the de-prioritisation of older people. There were concerns about some hospital policies ranking older people as lower priority when triaging and prioritising the allocation of ventilators to younger over older people.[487] This was a much-discussed issue at the time, both in Australia and internationally, because of the ethical considerations involved.[488]

HUMAN RIGHTS IN FOCUS:

The current UN rights protections framework relies heavily on rights of different groups being protected via international covenants. For example, the Covenant on the Rights of the Child protects the rights of children and young people. However, although progress has been made, there is no UN convention on the rights of older people as yet, which may leave older people more vulnerable to rights abuse.

Many of the same sentiments of expendability about older Australians were also expressed by people with disability. These were sentiments that the whole country was being shut down just for the benefit of those who were particularly vulnerable, such as those with disability or co-morbidities. The sentiment repeatedly expressed was again that it was not fair to enforce the country's pandemic regime just to protect the wellbeing of a few.[489] As with older Australians, these kinds of sentiments being expressed left people with disability feeling expendable and unprotected.

The incidents of racism, ageism and ableism are unacceptable and inexcusable. Stronger communication with, and protection for, groups that experienced community backlash throughout the pandemic could have helped to reduce incidents of discriminatory attacks.

4.3.6. Human Rights in Action: Misinformation and disinformation

Some of the key human rights considerations:

Right to life

Right to physical and mental health

Right to freedom of opinion and expression

SUMMARY OF MEASURES:

The Australian Electoral Integrity Assurance Taskforce define misinformation and disinformation as:

- 'Misinformation' is false information that is spread due to ignorance, or by error or mistake, without the intent to deceive.
- 'Disinformation' is knowingly false information designed to deliberately mislead and influence public opinion or obscure the truth for malicious or deceptive purposes.[490]

Measures to address misinformation and disinformation were factored into the Australian Government's pandemic health communication strategy from the start.[491] The key measures taken by the government to actively address misinformation and disinformation were described by the COVID-19 Response Inquiry Report as follows:

> 'The Department of Home Affairs led an interdepartmental committee that shared information on misinformation, disinformation and violent extremism. The department also monitored social media content for harmful misinformation and disinformation. Where it found this type of content, it asked social media companies to review it against their terms of service policies. Between 16 March 2020 and 18 May 2023 the department referred 4,726 social media posts to social media companies. Social media companies took action on 3,098 of those posts to either remove them or limit their reach'.[492]

Misinformation and disinformation were identified by the Global Risks Report 2024 as the top global risk over the next two years,[493] and they 'can have devastating effects on human rights, social cohesion and democratic processes'.[494] In the context of a global pandemic, the risk is that the spread of fake news online 'can weaken global public health efforts, contribute to social unrest and lead to real-life harms or even death'.[495]

The number of news reports, press releases, opinion pieces, journal articles and social media posts made about the COVID-19 pandemic was and is, immense. The spread of misinformation and disinformation was a critical issue especially as this pandemic happened in a time when people have access to an almost unlimited quantity of information instantaneously. Conspiracy theories were spread widely, both on purpose and by people who legitimately believed them. Not knowing what is true and what is not risks preventing people from making informed decisions and being able to protect themselves and their families in an emergency.

During the initial lockdowns, state and territory governments were holding daily press conferences to update Australians on new numbers of COVID-19 cases and deaths, and the current regulations regarding lockdowns, mask wearing, social distancing and travel restrictions. Reliable information about COVID-19 was sparse in the early days of the pandemic, in terms of symptoms, fatality rates, methods of transmission, vulnerable groups, effective methods of protection and preventative medicines. People were understandably panicked and fearful about a disease they did not understand, which facilitated the spread of conspiracy theories. As the pandemic progressed, more reliable information was disseminated which was generally accepted, but still disputed by some.

The primary framework for addressing misinformation and disinformation in Australia is the Australian Code of Practice on Disinformation and Misinformation (Code).[496] This voluntary Code was first published in February 2021 by the Digital industry Group and commits signatory technology companies to implementing measures aimed at reducing the risk of harm from online misinformation and disinformation. The Code

currently has nine signatories.[497] The Australian Communications and Media Authority oversees the implementation of the Code and reports to government on the adequacy and effectiveness of measures taken by Code signatories to address misinformation and disinformation.

The pandemic highlighted legitimate concerns about the tension between freedom of expression and the right to health. Throughout the pandemic, there was a clear need to address misinformation and disinformation which spread verifiably false health information with harmful consequences. The importance of people having access to accurate information to protect themselves and others was highlighted by the Australian Government's Chief Medical Officer, Professor Paul Kelly, in August 2021 when he observed that 'the continued spread of misinformation makes the job of our health professionals on the frontline harder'.[498]

At the same time, there is also a need to protect against overreach and ensure that people are able to freely discuss and exchange information and ideas. While freedom of expression is not an absolute human right and can be subject to restrictions in emergencies, those restrictions 'may not put in jeopardy the right itself'[499] and must be justified, necessary and proportionate. From the beginning of the pandemic there were concerns raised across the world about governments 'using the pandemic as a pretext to crack down on free expression and access to information'.[500] During the pandemic in Australia, questions about how to best respond to COVID-19 and whether pandemic response measures were appropriate were the subject of significant public interest and discussion, including online. People have a right to freely discuss these issues and share their views on topics of national importance and interest. However, in addressing misinformation and disinformation there is a real risk of these perspectives and opinions being unduly targeted.

It is now known that at least some of these online exchanges of ideas in Australia were targeted as misinformation and disinformation during the pandemic – leading to censorship of genuine discourse. The Department of Home Affairs has revealed that they referred thousands of social media posts to digital platforms during the pandemic to be reviewed against the platform's terms of service, and that social media companies took direct action with respect to over 3,000 of those posts.[501] Concerns have been raised that many of these social media posts 'contained factual information and reasonable arguments

rather than misinformation',[502] including posts arguing against measures such as mask mandates and lockdowns. It has also been noted that the information released to date potentially raises more questions than answers as 'we are left to wonder about how much information we were denied while we were locked down, held behind borders and controlled by a vast array of pandemic rules and regulations'.[503]

During a national health emergency clear, accessible and accurate information is needed to save lives. However, the rampant spread of misinformation and disinformation caused confusion, undermined pandemic response measures, and potentially led to behaviours that caused harm to health.

Addressing misinformation and disinformation is a difficult task which requires transparency and robust protections for freedom of expression. There should always remain room for genuine public debate, and the open discussion of ideas online. At the same time, it is also necessary to proactively address misinformation and disinformation to ensure that other human rights are also protected.

Fearmongering

Fearmongering is the action of intentionally trying to make people afraid of something when this is not necessary or reasonable.[504] The Commission heard concerns raised about fearmongering perpetuated by the media and the government in order to encourage compliance with pandemic regulations.[505]

> **A man who chose to remain un-vaccinated said:** *"...due to our vaccination status my niece won't allow my family to meet her newborn. The rampant discrimination that the Covid fear campaign created, was extremely effective in destroying my family"*
>
> **Your Story Portal Submission - Male, 45-54 [Submission 270]**

Some felt that government messaging throughout the pandemic caused unnecessary fear and anxiety that ultimately lead to divisions with families and communities. A focus of complaints was in regard to government messaging around COVID-19 vaccinations and mask mandates. Some people felt that those who raised questions about pandemic response measures, such as vaccinations and masking, were made to feel ostracised from their families and communities.

> *"I felt I was vilified for my opinions, ostracised from society, including family and friends, and had my basic human rights to make decisions around my own body, removed."*
>
> **Your Story Portal Submission - Female, 55-64 [Submission 283]**

> *"The biggest upset of the pandemic for me was my families reaction. They told me if I didn't have the vaccine I wouldn't be able to see my grandchildren...I did eventually get vaccinated with Novavax so that I could see my family. I felt bullied and traumatized by the whole episode. I didn't want to be vaccinated because it was untested."*
>
> **Your Story Portal Submission - Female, 65-74 [Submission 252]**

Some people felt that the content and tone of government messaging made people who did not agree with regulations into 'enemies' of society. Separately to the question of whether the pandemic response measures were effective, the alienation caused by the messaging around these regulations should not be overlooked.

There could have been methods of communication that encouraged compliance without also creating the levels of alienation that were experienced. The family and community alienation that resulted from perceptions of fearmongering is important to consider when preparing for future crises. It is expected that some people will be less receptive to future government directives because of their experiences during the COVID-19 pandemic.

4.4. Tunnel Vision: A narrow perspective leads to inflexibility

> *"There will be lessons around the importance of ensuring that we're managing health in a well-rounded type of way, that we don't just have tunnel vision to only be thinking of the single threat."*
>
> **Stakeholder Consultation Session – 18 July 2024**

> *"… it was just a very biomedical response a lot of the time, and so it was pretty much doctors that were in charge of everything. And I think they're an important part of the response, but not the only response."*
>
> **Stakeholder Consultation Session – 26 July 2024**

While the COVID-19 pandemic was a global public health emergency, its impacts spanned far beyond just health. The pandemic impacted every aspect of people's lives from employment to education, trust in government, social media usage and even relationships with family and friends.

The narrowing of Australis's decision-making perspective to focus almost exclusively on public health outcomes is seen through the pursuit of 'COVID-zero' (the attempt to achieve zero cases of community transmission of COVID-19 in the country through the use of strong containment of local outbreaks) as well as the increased responsibility given to state and territory Chief Health Officers.

Protecting public health, while clearly an immediate priority during a pandemic, should have been just one of many perspectives taken into consideration when making major decisions that had impacts extending into every aspect of people's lives. It is important to acknowledge that 'the economic and social impacts of the pandemic restrictions are also significant and need to be factored into the decision-making process'.[506]

The Commission was told numerous times throughout this research that the right people were not in the room when key pandemic decisions were being made, such as those who would have knowledge of the specific needs of groups and communities. Ensuring that key decisions were made with input from the specific groups and communities affected, and with human rights expertise being incorporated, would have resulted in better designed policies, better protection of human rights, greater trust in government and, ultimately, better public health outcomes.

It is recognised that consultation did occur at different levels of government throughout the pandemic and that there were aspects of the pandemic response that were effective and improvements that were made along the way as issues were identified. However, there was an overarching perception repeatedly conveyed to the Commission that many of the issues caused by pandemic regulations could have been reduced, or even avoided entirely, if a broader range of perspectives had been engaged from the beginning of the pandemic. In saying this, it is recognised that the nature of an emergency response requires rapid decision-making and action, which creates a hurdle to widespread engagement and consultation. There is clearly a practical balance to be struck here. However, the outcome of ensuring that decisions are informed by a broader range of perspectives is not just that human rights will likely be better protected, but that the response measures themselves will be more effective.

Rigidity of compliance

Law enforcement played a pivotal role in keeping the country safe throughout the pandemic, and enforcement of regulations was necessary to ensure consistent outcomes. Issues arise however when rigidity of compliance is prioritised over nuance and compassion.

For example, there were numerous, heartbreaking stories of problems with the travel exemptions process – whether because of exemption refusals, confusing processes, or long processing times – that resulted in people missing the opportunity to visit dying relatives before they passed away or being able to attend their funerals.[507] Stories such as these are examples that extend beyond temporary inconvenience, instead resulting in grief and regret that will be remembered for a lifetime.

> *"My father died intestate, I wasn't able to make it. I watched him in his final hours over WhatsApp. It was horrendous. I had applied for exemption to travel. Plane schedules were severely affected. When we did manage to get there he was already dead."*
>
> **Your Story Portal Submission – Female, 35-44 [Submission 666]**

> *"The pandemic had a lasting impact on our family. During lockdown my oldest brother died and I was denied the opportunity to attend his funeral service which was limited to 10 people and held outside Sydney. This caused severe distress not only to myself but the rest of the family."*
>
> **Your Story Portal Submission – Male, 55-64 [Submission 642]**

Changing with context

Circumstances can change very quickly in an emergency scenario. Especially in the initial period of an emergency, there is often very limited information available. The COVID-19 pandemic evolved significantly throughout 2020 and into 2021 as new information became available about the COVID-19 disease as well as the impacts that response measures were having on society such as isolation, poor mental health, spikes in domestic violence, education lags and business closures.

Emergency response measures need to be able to be quickly modified, especially as new information is constantly emerging including information about the impact that response measures are having. The longer that a regulation is in place, the more pronounced and long-term will be its impacts. Findings from the Commission's survey demonstrate that feelings towards the emergency response measures varied by state and territory and that the extended restrictions that occurred in Victoria could explain why more than 1 in 2 felt like the measures were in place for 'too long'. Only 28% of respondents in Victoria though the restrictions were in place for the right amount of time, compared to the Northern Territory where this approval rating jumps to 63%.

Feelings towards the duration of emergency response measures – by State and Territory

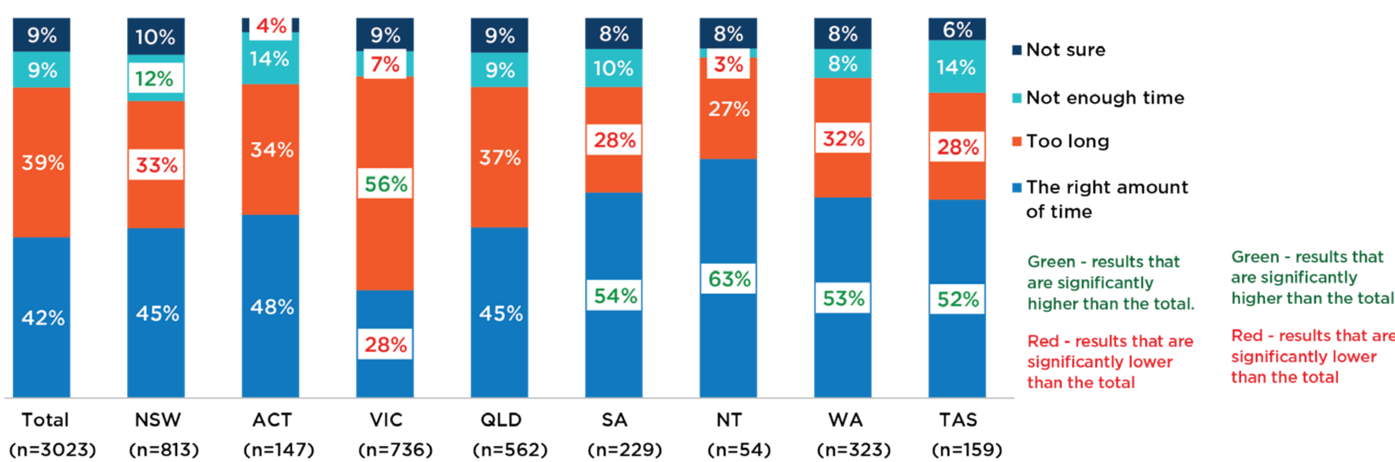


Figure 7: Commission's Quantitative Survey [*Q18. Do you feel that the emergency measures in response to the COVID-19 pandemic (e.g. movement restrictions, mask wearing) in [State] were in place for ... / Q8 - In which state or territory were you living for the majority of the time during the height of the COVID-19 pandemic, between March 2020 to January 2023?*]

Research is already indicating that the school closures that occurred in Australia have resulted in higher rates of school refusal, reduced social development and students falling behind in their education.[508] There is also research indicating the long-term economic impacts of the pandemic that were a result of the lockdowns, non-essential business closures and restrictions on domestic and international travel.[509] Decisive measures were necessary to respond to the pandemic, but the long-term impacts of these measures cannot be overlooked.

This issue comes back to the concepts of necessity and proportionality in an emergency response. There needs to be continuous reassessment of both the existing circumstances and restrictions to ensure that the regulations being enforced continue to be necessary and are proportionate to the current risk. When the regulations are no longer deemed to be either necessary or proportionate, they need to be either scaled back, or removed entirely, as quickly as possible.

This means that measures limiting human rights at the acute stages of the pandemic would potentially cease to be lawful limitations under the international human rights framework when the circumstances of the emergency changed. One broad example of this can be seen in the use of emergency powers in Australia. The table below sets out the dates for each jurisdiction entering and existing a formal state of emergency on the basis of the COVID-19 pandemic. In each case, the emergency declaration gave rise to emergency powers that allowed governments to restrict human rights.

For example, Western Australia was the second Australian State or Territory to declare a state of emergency, doing so on 15 March 2020. It was also the last to formally end the emergency phase of the pandemic, with the emergency declaration ending on 4 November 2022. The official state of emergency in Western Australia lasted 964 days. Western Australia was still in a declared state of emergency on 16 May 2022 when the Deputy Premier announced a $70 million strategy to attract tourists to Western Australia, stating that '[w]e have been spreading the message around Australia and the world that Western Australia is open for business and open for tourism'.[519]

The requirement that restrictions on human rights during in emergency are only in place for the shortest possible time recognises the significant impact that emergency powers and restrictions can have on people's lives. As Human Rights Commissioner Lorraine Finlay observed when the state of emergency in Western Australia officially ended:

> 'A state of emergency is an extraordinary event that should only be declared when absolutely necessary, and should only last for so long as it is absolutely necessary. It expands the power of unelected bureaucrats, reduces parliamentary oversight, and results in significant restrictions being placed on peoples' daily lives without the checks and balances that are normally in place to protect against the misuse of state power. Such powers should never be normalised, and their exercise needs to be rigorously scrutinised and reviewed once the emergency has passed.' [520]

Table 1: Length of COVID-19 Emergency declarations

Location	Date of Emergency declared	Date of Emergency ended	Total length of time that State/Territory of Emergency was in place
Commonwealth[510]	18 March 2020	11 April 2022	754 days
New South Wales*	N/A	N/A	N/A
Queensland[511]	29 January 2020	31 October 2022	1006 days
Western Australia[512]	15 March 2020	4 November 2022	964 days
ACT[513]	16 March 2020	30 September 2022	928 days
Victoria[514]	16 March 2020	12 October 2022	940 days
Tasmania[515]	17 March 2020	30 June 2022	835 days
Northern Territory[516]	18 March 2020	15 June 2022	819 days
South Australia[517]	22 March 2020	24 May 2022	793 days

**New South Wales didn't formally enter a state of emergency as under their existing Public Health Act 2010, the Health Minister was able to impose extensive public health restrictions without needing a state of emergency declaration.*[518]

Compounding disasters

A final theme that emerged from discussions around narrow perspectives and context was how some communities were still recovering from a recent disaster such as flooding or a bushfire when the pandemic hit, and some had another event of this kind after the pandemic began. The inflexibility of pandemic regulations compounded existing vulnerabilities and complicated overlapping disaster responses. An employee in one New South Wales Council explained:

> *"I would suggest our communication staff, particularly, were in a state of PTSD. COVID and then another flood - we just had staff that were fatigued in dealing with that...we're not designed to work in that disaster mode for so long."*
>
> **Stakeholder Consultation Session – 14 August 2024**

Prioritizing a single perspective – in this case public health – above all others, even in an emergency, is not just, is not equitable and it does not uphold human rights. It is also not effective emergency management. The narrow perspective that arose from the prioritisation of public health over other vital considerations, combined with the inflexibility of enforcement and rigidity of exemption mechanisms was the underlying cause of many of the injustices that people have told us they faced during the pandemic.

4.4.1. Police Powers

Some of the key human rights considerations:

Right to freedom of peaceful assembly

Right to freedom from arbitrary arrest and detention

Right to freedom of movement and liberty

Right not to be discriminated against

Right to equality before the law

SUMMARY OF MEASURES:

During the pandemic, police around Australia were given additional power to help enforce state-specific emergency powers such as 'state of disaster' powers contained in the Emergency Management Act 1986 (Vic). Under such legislation, the Victorian Minister for Police is given the responsibility for directing a range of tasks which are 'necessary or desirable for responding to the disaster'.[521]

In doing so, the Minister for Police had wide ranging powers to control a person's entry into and from the 'disaster area' and compel the evacuation of any person from such an area.[522] Further, the Minister for Police had powers direct any government agency to perform any act,[523] and suspend any law which would inhibit recovery from disaster.[524] The discretion and authority given to police was considerable, and the measures and tactics used by Victorian police (for example) in attempting to enforce pandemic restrictions was subject to considerable criticism.[525]

Fines proved to be the most common form of sanction as a result of non-compliance with public health orders. For example, figures from Revenue New South Wales show that New South Wales Police issued nearly 62,000 fines for breaches of publish health orders totalling $56.4 million from the start of the pandemic to April 2022, including 3840 fines to children under 18 years.[526] Millions of dollars of fines remained outstanding by the end of the pandemic, with the average amount outstanding being $900 – more than the weekly national minimum wage.[527] Research also showed that residents in some of the most disadvantaged communities were disproportionately targeted and over-policed during the pandemic.[528]

Law enforcement agencies throughout the country were given new powers to enforce measures related to the COVID-19 pandemic.[529] These new powers were granted through states and territories declaring a 'state of emergency' and included the ability to enter premises and to detain any person as considered necessary.[530]

The Commission heard from people that there was considerable confusion – both amongst the public and within the police themselves – about what these new powers meant in terms of enforcement, the consequences of non-compliance, and how the police would exercise their discretion when enforcing public health orders.

Remarking on the inconsistent enforcement of mask mandates, one man said: *"there was a lot of confusion within Queensland police as to their duty to legally enforce the rules we were obliged to follow".*

Your Story Portal Submission - Male, 55-64 [Submission 2043]

There have been criticisms that pandemic regulations were not enforced equally across all communities. Some individuals who spoke to the Commission criticised law enforcement agencies for targeting disadvantaged communities compared to more affluent communities in terms of enforcement of stay-at-home orders and movement restrictions. There were perceptions that police over-policed compliance with public health orders, prioritizing enforcement over education, and that their discretion was exercised in a discriminatory way.[531]

> *"It was already disadvantaged communities that bore the brunt of the enforcement measures that then exacerbated their disadvantage, but then you have the least opportunity to receive assistance in terms of then remedying that or seeking their rights."*
>
> **Stakeholder Consultation Session – 15 August 2024**

The Melbourne residential tower lockdowns is one example of unnecessary levels of police deployment (see **4.4.6 Human Rights in Action: Melbourne Tower Lockdowns**). There were also high rates of police deployment seen in western and south-western Sydney, which have high rates of disadvantage and a larger proportion of migrant communities.[532]
The over-deployment of police to more disadvantaged suburbs to enforce regulations that applied to the entire state or territory gave the perception that there will likely be higher rates of non-compliance in these communities, and that residents would not be willing to comply with regulations without law enforcement present.

Fines

On-the-spot fines used by police during the pandemic were intended to promote compliance with public health orders, particularly in regard to breaches of non-essential travel, visiting others and carpooling.[533] Fines as an enforcement mechanism disproportionately impact disadvantaged communities who have both a lesser capacity both to pay and to seek legal assistance to challenge the penalty. Fines can also put low-income individuals into a vicious cycle of debt if they are unable to pay, with the actual impact of the fine often extending beyond immediate compliance.

There are also many reasons why disadvantaged communities were more likely to be engaging in activities that breached public health orders in the first place, reflecting a complex interplay of socioeconomic, cultural and structural factors. For example, in many lower socio-economic areas people relied on jobs that could not be done remotely. Public health orders like lockdowns and quarantines often conflicted with the need to earn an income, forcing people to prioritize financial survival over compliance. There were also more likely to live in smaller, more crowded homes or apartments with limited yard or balconies, exacerbating the impact of stay-at-home orders relative to wealthier groups. A further example raised with the Commission was that CALD residents who did not speak English as a first language were disadvantaged by the insufficient and slow provision of translated public health orders, as discussed in **4.3.1: Communication for multicultural communities**.

The perception that COVID-19 fines were disproportionately targeted towards disadvantaged communities appears to be supported by the available data. Western and south-western Sydney suburbs such as Blacktown, Mount Druitt and Liverpool, where some of the most disadvantaged communities in New South Wales reside, were disproportionately issued fines compared to the rest of Sydney.[534] Additional research from Victoria indicates that people from African and Middle Eastern backgrounds were four times as likely and First Nations people were two and a half times as likely to be issued COVID-19 fines based on their population size.[535]

Particular concerns were expressed to the Commission about fines being imposed on children, who would obviously be less able to pay. Research specifically examining the impact of COVID-19 penalty notices on children in New South Wales concluded that the issuing of fines to children in this way were not suitable in achieving public health outcomes, leads to fine debt and prolongs the contact that impacted children have with the criminal justice system.[536] Penalty notices for breaching public health orders were issued to 3,628 children in New South Wales between March 2020 – September 2022, with more than half of these penalty notice fines being fixed at $1,000 but some children receiving fines as high as $5,000.[537] It was suggested that penalty notices were 'disproportionately issued to First Nations children, children with cognitive impairments or intellectual disabilities, and those experiencing socio-economic disadvantage, unsafe home environments, homelessness or living in out-of-home care'.[538]

Research suggests that between March 2020 and December 2021 'police overwhelmingly preferred enforcement by issuing penalty notices (86 per cent), as opposed to cautions, warnings or court attendance notices'.[539] One example that highlighted these concerns were the reported remarks made by the New South Wales Police Commissioner to police officers in August 2021 when launching 'Operation Stay at Home'[540] telling them 'go high level enforcement' and stating that:

> '... I am asking you to put community policing to the side for a short period of time – for 21 days I will head this operation. You need to take a strong approach to enforcement. I have said before, if you

> write a ticket, and you get it wrong, I understand and I won't hold you to account for that'.[541]

The majority of these fines were eventually withdrawn in New South Wales. In 2022, 33,121 fines were withdrawn by Revenue New South Wales – which was 'around half of the total number of 62,138 COVID-19 related fines issues'.[542] This followed a test case in which the New South Wales Supreme Court found COVID-19 penalty notices issued against three individuals were invalid as they did not contain the bare minimum details to allow the individuals to understand what offence they were being accused of committing.[543] A further 23,539 fines were then withdrawn in November 2024 for similar reasons, with Revenue New South Wales announcing that around $5.5 million in total would be refunded to individuals as a result.[544] While it is positive that these fines have eventually been withdrawn, it reinforces the perception that the public health orders imposed during the pandemic were not enforced fairly or equitably.

Military involvement

Beyond the enhanced powers given to police, there were instances throughout the pandemic of military deployment to support the implementation of pandemic measures. The Australian Defence Force (ADF) contributed to the national response to the COVID-19 pandemic through Operation COVID-19 ASSIST, which involved over 19,000 ADF personnel conducting more than 26,000 deployments nationally between March 2020 and October 2022. During this period ADF personnel 'were integrated into a wide variety of duties … including supporting border checkpoints and compliance, administering quarantine hotels and facilities, assisting aged care facilities and supporting Ambulance Victoria.' They also 'supported swab testing and vaccination efforts at hubs across all states and territories, and critically, assisted critical supply chain management'.[545] While an important resource to be utilised during a national crisis, the deployment of military personnel can be interpreted differently by different communities, as explained in the following story submission:

A man who worked as a nurse in a remote First Nations community during the COVID-19 pandemic said: *"The heightened measures to control the pandemic often felt more restrictive than supportive. One stark example was the army's role in limiting the movements of this already disaffected community. Their arrival, in military attire and with an air of authority, likely appeared ominous to residents who were already feeling vulnerable.... The army's presence, while perhaps well-intentioned, was primarily a symbol of containment rather than support, further alienating a community that was already on the margins. Such measures, though designed to protect, underscored a broader disconnect between policy decisions and their real-world implications on remote communities."*

Your Story Portal Submission - Male, 25-34 [Submission 2311]

It must be recognised that military presence was particularly distressing for some communities because of historic disenfranchisement and trauma, such as experiences of First Nations Australians and the experiences of some migrants from war-torn and oppressive regimes.[546] This is an example of how an emergency response measure can have markedly different impacts depending on the particular individuals and communities that are involved.

4.4.2. Outsourcing enforcement to businesses

Some of the key human rights considerations:

Right to freedom of peaceful assembly

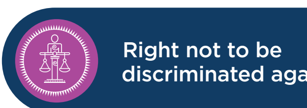
Right to freedom from arbitrary arrest and detention

Right to freedom of movement and liberty

Right to privacy

Right to freedom of opinion and expression

Right to physical and mental health


Right not to be discriminated against

SUMMARY OF MEASURES:

Throughout the pandemic business owners and their staff were often the ones left responsible for 'enforcing' the relevant rules. This varied from managing the number of people allowed within an indoor or outdoor space (social distancing requirements), ensuring patrons used QR check-ins to assist contact tracing, ensuring vaccinations and requiring non-exempt people to wear they masks (amongst other issues).[547] Where a business failed to comply with COVID-19 directions they faced financial penalties.[548]I

To give just one example, in NSW the Public Health (COVID-19 General) Order 2021 required businesses to comply with directions that included mandating what premises could open, the maximum number of persons permitted on premises, mask mandates, vaccination mandates, restrictions on seating, singing, and dancing, mandatory COVID-19 safety plans, and COVID Safe check-in procedures and record keeping.

Business owners and employees ended up being tasked with implementing many of the COVID-19 health measures in a practical sense. This was because many of the regulations that impacted people's daily lives involved access to businesses and services, and the approach used by governments to ease out of lockdowns involved customers having to comply with social distancing, masking and proof of vaccination checks in order to access businesses.

The reality of this system was that businesses and employees were put in the position of being required to enforce public health orders, which both left them exposed to penalties themselves if their business did not comply with the regulations and also left them exposed to abuse from the public. Retail and hospitality business owners were struggling to keep up with regulations and exemptions that were often unclear and seemed open to interpretation and individual discretion.[549] Bus drivers in New South Wales experienced abuse from passengers during the pandemic due to frustrations over changing rules and regulations.[550]

Businesses were put in the position of having to protect public health through their implementation of government health directives that were themselves often unclear, inconsistent and constantly changing. Small business stakeholders from Queensland said that during the pandemic, there were clear conflicts between the Work Health and Safety Act, the Queensland Human Rights Act and the COVID-19 health directives that were being announced. There was confusion over which regulation should take priority over the others, and some felt that they never received a clear answer or timely guidance.[551]

Workplace Health and Safety obligations and consequences

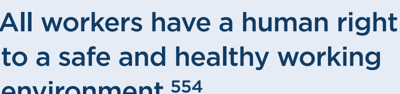
As governments began to slowly relax lockdowns, businesses were put in a compromising position. Businesses have workplace health and safety obligations to their employees as well as to their customers and they have the right to choose who can enter their private property to purchase their goods and services. At the same time, customers have the right to access basic goods and services and they have the right not to be discriminated against. The intention of the capacity limits, distancing requirements, mask mandates, proof of vaccination and QR-code check-ins was to provide a level of safety for employees and customers during the pandemic while allowing businesses to function.

If someone infectious with COVID-19 was found to have come into your shop, the consequences could be onerous. The affected businesses had to shut-down, impacting revenue, and had to deep clean their premises.[552] The Commission was told about confusion and lack of specificity around what a 'deep clean' required, and this led to business owners making to make their own decisions about what was sufficient. Businesses had to also absorb the costs of deep cleaning their premises, although there were eventually schemes, for example in Queensland, where businesses could get a rebate for mandatory deep cleaning.[553]

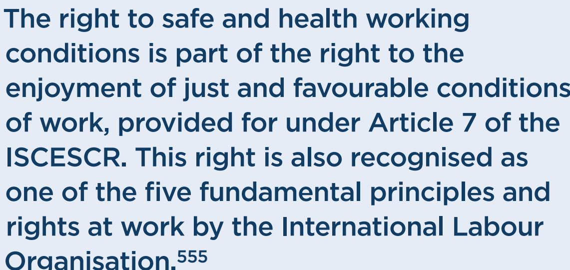
Backlash

While most people complied with the pandemic regulations, there were people who did not agree with various requirements and so took out their frustrations on the business owners and employees.

HUMAN RIGHTS IN FOCUS:



All workers have a human right to a safe and healthy working environment.[554]



The right to safe and health working conditions is part of the right to the enjoyment of just and favourable conditions of work, provided for under Article 7 of the ISCESCR. This right is also recognised as one of the five fundamental principles and rights at work by the International Labour Organisation.[555]

One consequence of businesses – and, as a result, their workers – effectively having to implement and enforce restrictions imposed as a result of the pandemic, was that they often at the frontline of abuse and aggressive conduct by people who were not complying with regulations. This resulted in some workers being placed in unsafe conditions.

Retail and hospitality workers do not have the conflict management and de-escalation training of law enforcement personnel, and the result was that employees were put in situations they did not have the resources to manage during the pandemic.

There were necessary exemptions to the pandemic entry requirements, particularly for medical reasons, however this arrangement then put retail and hospitality workers in the position of having to assess the validity of the exemption and determine if the customer had the medical condition they claimed.[556]Conversely, it could be potentially damaging for customers to have to constantly prove their medical exemptions, for example some mask mandate exemptions related to PTSD or sexual assault trauma which would have been difficult to be constantly reminded of.[557] In response to this, the Victorian Equal Opportunity and Human Rights Commission released guidance that stated that there was no requirement under the Victorian public health directions for a person with a lawful exception to mask wearing or vaccinations to having to provide proof of that exception.[558] This essentially put employees in an impossible situation of needing to comply with public health regulations while trying to avoid discriminatory practices.

Consideration also must be given to the fact that employees of restaurants, shops and services did not have the power to detain or remove someone who was refusing to abide by regulations such as masking. Even refusing service to someone who chose not to wear a mask was potentially discriminatory. [559] This essentially meant that businesses were required to enforce pandemic regulations in order to operate, however they did not have any powers of recourse when customers pushed back.

Business closures

Many businesses were critically strained and some even had to permanently close as a result of the pandemic, with 14% of surveyed Australians indicating that they experienced a temporary or permanent business closure during the pandemic.

Lockdowns, loss of customers, supply chain issues, insufficient financial support and loss of staff resulted in many businesses, especially small businesses, facing financial strain and possible closure.[560] Some businesses were able to modify their businesses practices in response to the pandemic lockdowns, such as transitioning to online models, but this was not possible for others particularly in the hospitality and service industry.

> *"The forced closure of my business due to these measures inflicted irreparable financial damage, pushing me to the brink of economic ruin."*
>
> **Your Story Portal Submission - Male, 25-34 [Submission 778]**

One man described the difficulties he encountered running a business that provided services to the hospitality industry, which was heavily affected by lockdowns and restrictions. He said *"we laid off 13 of our 16 staff. Over the next two years projects sporadically recommenced only to be put on hold again every time there was a new lockdown [...] I contemplated self harm regularly during that period. The business has recovered but my mindset has not - I'm reluctant to grow it to the level that it was before."*

Your Story Portal Submission - Male, 45-54 [Submission 720]

"As soon as the Australian government closed the international borders the business I had worked 25 years to create was forced to close immediately and was in financial hardship within two months. The Australian government's COVID-19 financial support only lasted for 12 months, but the Australian borders were closed for 2 years and I didn't meet the government's criteria for any other kind of support. The tourism industry had been decimated. I watched long-life friends end up in financial ruin and a few even committed suicide."

Your Story Portal Submission - Female, 45-54 [Submission 2133]

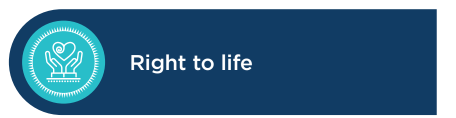
"My parents, who ran a small café, faced the devastating prospect of shutting down. With dining in no longer an option and delivery services taking a significant cut of their earnings, the financial strain was palpable."

Your Story Portal Submission - Male, 25-34 [Submission 547]

Many businesses faced challenges if their employees were temporary visa holders, such as international students, because they were not able to access JobKeeper due to their visa status. Refer to **4.2.6 Temporary Visa Holders** for more details on experiences of temporary visa holders in Australia.

4.4.3. Deprioritisation of normal healthcare

Some of the key human rights considerations:

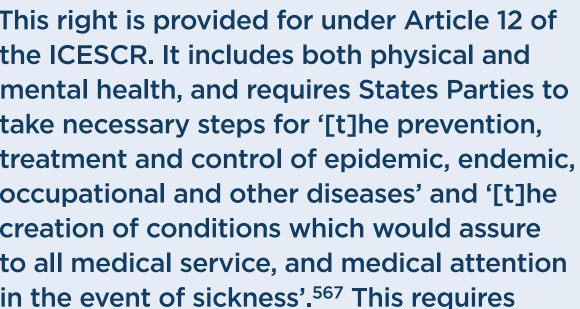


SUMMARY OF MEASURES:

By April 2020, national measures had been put in place to postpone all non-urgent elective surgery in public and private hospitals, and that non-urgent and non-essential outpatient and community activities would be reduced.[561] The predominant reason for such a suspension was to free up health care workers and hospital beds to treat patients infected with COVID-19.[562]

In the 2021-2022 reporting period, the number of patients treated from Australia's public hospital elective surgery list fell to the lowest level since 2010-2011.[563] Data from this same period showed that 50% of all public elective surgery waiting list patients had been admitted for their procedures within 48 days (up from 39 days from the previous year) and the proportion of patients who had to wait 365 days before being admitted was 7.6% (up from 2.8% in the previous year).[564] With the restrictions having eased, hospitals are still struggling to reduce the backlog exacerbated during the pandemic.[565] The long term impacts of delayed treatment are an increase in the complexity of care and burden of disease which will likely be revealed in longer-term cohort studies.[566]

HUMAN RIGHTS IN FOCUS:



All people have a human right to the highest attainable standard of health.

This right is provided for under Article 12 of the ICESCR. It includes both physical and mental health, and requires States Parties to take necessary steps for '[t]he prevention, treatment and control of epidemic, endemic, occupational and other diseases' and '[t]he creation of conditions which would assure to all medical service, and medical attention in the event of sickness'.[567] This requires Australia to take steps to realise the right to health 'to the maximum of its available resources'.[568]

The measures introduced by all levels of government in Australia to reduce the spread, and health consequences, of COVID-19 were designed to protect the right to health by attempting to prevent, control and treat the outbreak.[569] However, as described below, many of the measures designed to promote the right to health for some people, meant that the health of others was negatively impacted.

The prioritisation of the COVID-19 health response between 2020-2021 meant that other health issues were treated with less priority. During lockdowns, elective surgeries were temporarily suspended to reduce the number of people visiting hospitals and to allow for hospitals to allocate their resources to the COVID-19 response.[570] Research from the Australian Institute of Health and Welfare indicates that elective admissions involving surgery in public hospitals decreased by 9.3% in 2019-2020.[571] Many people wanted to avoid healthcare settings during the pandemic to minimise any risk of catching the virus, resulting in the postponing of healthcare appointments, tests and emergency care and subsequent impacts on their right to health. A survey of Australians from May 2020 indicated that 52% said they had delayed or avoided a medical appointment in the last 3 months citing reasons such as being worried they could be breaking lockdown rules, wanting to avoid using public transport and that the usual health services they used were closed.[572]

A woman from Victoria said: *"Most of my specialist appointments were cancelled during this time which broke up my routine and undid a lot of the work I had put into my health prior to the outbreak."*

Quantitative Survey – Female, 30-39

A woman from New South Wales said: *"I had scheduled surgery for carpel tunnel but it was delayed for a year and half which left my hand numb and in pain."*

Quantitative Survey – Female, 50-59

One woman, a registered nurse working in remote communities spoke about the provision of healthcare to those with chronic issues said: *"The fear that was generated by the media made many of the people "go bush" to get away and prevent getting the virus. This meant those who had chronic illness like diabetes, heart problems or older people didn't get their regular care and became sick. Some died due to illness."*

Your Story Portal Submission - Female, 55-64 [Submission 1283]

Border communities identified state and territory border closures as another hurdle in accessing normal healthcare with the confusing regulations, sudden changes and standstill traffic associated with border closures identified as a reason for missed and postponed healthcare consultations. Many border community residents also did not live in the same state as their normal doctor or hospital which was a significant barrier to healthcare access during the pandemic. Further details about impacts on border communities are included in section **4.2.1 State and territory border closures**.

First Nations

There were particular issues for remote First Nations communities who have limited healthcare resources in normal circumstances. The pandemic required the reallocation of the limited healthcare resources to prioritise the pandemic response, resulting in reduced attention given to other aspects of healthcare.

An employee from a First Nations healthcare agency in the Northern Territory talked specifically about how the prioritisation of COVID-19 throughout the pandemic resulted in reduced treatment for conditions such as diabetes. The employee said they were now seeing an increase in amputations following the pandemic, indicating that some clients' diabetes had not been managed properly during the pandemic.[573] This observation is supported by evidence that many First Nations people disengaged from their routine diabetes and health care management plans during 2020 and 2021 due to the disruptions caused by the pandemic.[574]

An employee from a First Nations healthcare agency in the Northern Territory said: *"But I suspect that we've got a much unhealthier population now in terms of the ability for us to help people manage their chronic disease and their health generally, during that time when we were very focused [on the pandemic]. So just basic things like health checks, or diabetes testing, or having a management plan if you've got a chronic disease, all of those things dropped during COVID. So that's a clear indicator that clients weren't getting the sort of services that they were getting pre COVID."*

Stakeholder Consultation Session - 16 July 2024

A man who worked as a nurse in a remote First Nations community during the COVID-19 pandemic said this: *As... cases surged, our focus was forcibly narrowed to COVID-19, leading to inadvertent neglect of other medical care. This became painfully evident when, in a painful scene, clinic staff performed CPR on a young person in the dusty front yard of their family home. Despite desperate efforts, the young person passed*

away—a tragedy that led us to question whether our overwhelmed response to the pandemic had caused us to overlook other critical health needs. The stark reality of performing life-saving measures in a backyard, surrounded by distressed family members, underscored the severe inadequacies of our strained health system."

Your Story Portal Submission - Male, 25-34 [Submission 2311]

This issue is a very clear example of the collateral damage of the pandemic. Resources are necessarily finite, and so allocating resources to deal with one issue means a reduction in resources being used to address other issues.

The full scale of the indirect health consequences of the pandemic will likely not be known for some time. As an example, from January to June 2020, there were 145,000 fewer mammograms through BreastScreen Australia compared with the same period in 2018.[575] It is hard to calculate the impact of this delayed screening however it is safe to assume that some of these women lived with undiagnosed and untreated cancer for longer because of the pandemic and its response.

Childbirth in hospitals

SUMMARY OF MEASURES:

In Australia, the states and territories are responsible for governing their own health systems and responses to pandemic situations. As a result, there were varied restrictions and regulations regarding childbirth all across Australia.

Visitor restrictions were usually limited to either a partner or another support person (not both).[576] That being said, for some hospitals, pregnant people were warned that they may not have any support people at all.[577] Before attending some hospitals or appointments, including for childbirth, parents were required to quarantine meaning that it could be up to three weeks by the time they are able to return home. This was particularly challenging for parents who already had children, who then needed to make alternative arrangements to ensure that their other children were cared for during this time.[578]

Overall, changes to over-the-phone care during post-natal treatment and inconsistencies around hospital regulations from facility to facility, was a source of stress for many new parents.[579] New parents (and their babies) also received reduced support post-birth, including reduced access to maternal and child health services and parent support groups. For example, in Victoria the redeployment of Maternal and Child Health Nurses due to the pandemic in early 2022 resulted in maternal checks for babies aged over eight weeks being suspended for an initial six-week period, with services in some areas remaining unavailable for longer periods.[580]

Childbirth was another aspect of healthcare that was fundamentally altered with blanket hospital visitor restrictions during the pandemic extending to women giving birth. Childbirth is a stressful and potentially traumatic experience for many women and their partners. The Commission was told stories about the enforcement of visitor restrictions for pregnant women and new mothers causing considerable distress.

A man whose wife had recently given birth in Victoria described the difficulty of being denied entry into the hospital when she developed an illness said: *"Ten days later, my wife experienced a medical emergency at home. Paramedics advised that I stay home with our baby as I wouldn't be allowed into the hospital. Our baby was exclusively breastfed, and my wife needed me. I rushed to the hospital with our newborn, standing outside in the cold, pleading for an exemption to be with my wife."*

Your Story Portal Submission - Male, 35-44 [Submission 375]

This issue is relevant to the concept of proportionality and the need to assess whether the distress caused by visitor restrictions enforced on pregnant women was proportional to the risk of having additional people in hospitals during the pandemic. Additional exemptions and leniency could have been given to these women and couples, and other safeguards introduced to mitigate identified risks.

4.4.4. People facing homelessness

Some of the key human rights considerations:

Right to life

Right to physical and mental health

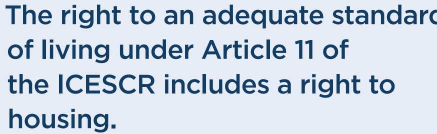
SUMMARY OF MEASURES:

People experiencing homelessness were particularly vulnerable when the pandemic reached Australia. The inability to socially distance in shared accommodation increased the risk of transmission, inadequate access to hygiene and sanitation and a disproportionate burden of underlying health conditions effecting people living homeless all exacerbated the risks of COVID-19.[581]

Governments across the country took unprecedented action to provide support for people experiencing homelessness, with additional funding from the five states totalling $229 million.[582] The majority of this funding was spent on self-contained accommodation which included, hotels, motels, vacant student housing and other rental properties.[583] As the pandemic measures eased, accommodation support for people experiencing homelessness was tapered back and people had to return to sleeping rough again.

People experiencing housing stress or insecurity through the pandemic (often due to a loss in income as many employees were 'stood down'[584] or dismissed from their jobs) were assisted by several government initiatives:

- JobKeeper was a wage subsidiary program which helped businesses affected by COVID-19 to cover the cost of employee wages
- The Coronavirus Supplement temporarily increased payments for those receiving social security payments
- Eligible individuals were able to access up to $10,000 from their superannuation accounts early
- Some states placed a moratorium on evictions and rent increases during the pandemic.



HUMAN RIGHTS IN FOCUS:

The right to an adequate standard of living under Article 11 of the ICESCR includes a right to housing.

The right to housing is also protected in several other international instruments,[585] and closely intersects with a range of other human rights. When people are provided with adequate housing, it can progress other rights including (but not limited to) the right to:

- **Health: Adequate housing is essential for maintaining physical and mental health.**
- **Education: People experiencing housing stress or homelessness are likely to experience difficulties in seeking and maintaining jobs.**
- **Security of the person: Adequate housing provides physical security and protection from external threats. Homelessness exposes individuals to violence and exploitation.[586]**

Early efforts to protect tenants – with, for example, the introduction in some States and Territories of eviction moratoriums and rental relief programs – and programs providing emergency housing for people experiencing homelessness were examples of pandemic response measures that helped to protect the right to housing. However, the pandemic also saw pre-existing housing inequality exacerbated, with rising rental prices, housing shortages and insufficient social housing disproportionately affected vulnerable people including low-income renters, people with disabilities, asylum seekers, and those in insecure work. In

particular, the lifting of eviction bans and rental relief schemes in late 2021 and 2022 coincided with the housing affordability crisis in Australia that has left many struggling to secure stable housing.

While Australia's initial pandemic response included measures to protect the right to housing, it also illustrates the fact that the pandemic highlighted existing vulnerabilities and the need for long-term and sustainable approaches to address those issues outside of any individual emergency.

There was early concern about the vulnerability of people with insecure housing to COVID-19. People experiencing homelessness had a higher susceptibility to adverse outcomes from COVID-19 for reasons including facing barriers to healthcare access, having higher rates of smoking and substance abuse and having higher rates of existing health concerns, compared to the general population.[587]

There were also the logistical challenges of people in insecure housing arrangements not being able to self-isolate and not having easy access to hygiene supplies such as handwashing and showering. It was also unclear how the paradoxical 'stay-at-home' orders applied to people experiencing homelessness.[588] A stakeholder from a local council told the Commission that there was a real concern about how rough sleepers were going to manage their health when they had COVID-19 particularly because of requirements for isolation.[589]

As a response, funding was made available in some cases to provide unhoused people with temporary accommodation including hotel rooms, such as the Western Australian Government's 'Hotels with Heart' pilot program that provided hotel rooms for rough sleepers who were unable to self-isolate during the pandemic.[590] While there was some success with these type of programs, there were also challenges including participants choosing to leave the accommodation early.[591] Questions were also raised by stakeholders about the challenges of transitioning this type of crisis accommodation into stable housing situations post-pandemic.[592]

COVID-19 and housing insecurity

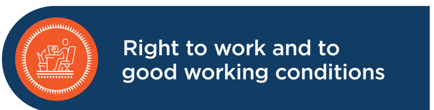
There are the wider implications of the pandemic on housing insecurity to be noted as well. The Commission was also told by a regional council that the lockdowns in Sydney and Melbourne indirectly affected them because people started to migrate to avoid further metro lockdowns and subsequently drove up the rental market in the regional area. This made it more difficult for locals to secure affordable rental accommodation.

> *"...that has pushed up our rental market to an absolutely unattainable level for any of these people on very fixed income."*
>
> **Stakeholder Consultation Session – 14 August 2024**

The Commission was also told of positive stories such as when a New South Wales Council setting up outdoor bathrooms so that those who needed it could be supported to maintain hygiene through the pandemic.[593] This is an example of a responsive solution providing targeted assistance for an at-risk group.

4.4.5. Essential workers

Some of the key human rights considerations:



SUMMARY OF MEASURES:

An essential worker is a person who has the specific skills or is involved in the production of good or delivery of services, where the skills, goods or services are essential in responding to an emergency.[594] During the pandemic, they were people identified as working in jobs which were considered essential to the continued functioning of the country. Essential worker roles included healthcare, residential aged care, farming, hospitality and transport.[595] During pandemic lockdowns, there were specific exemptions that permitted essential workers to travel and work outside their homes.

The definition and scope of an essential worker shifted throughout the pandemic with recognised differences from state to state.[596] This caused confusion as existing rules regarding lockdown, vaccinations and quarantine requirements all differed based on whether or not you were an essential worker. For example, essential workers were in some cases exempted from isolation rules, allowing them to continue working even if they were exposed to COVID-19, provided they complied with testing and monitoring requirements.[597]

Essential workers played an invaluable role for the protection and promotion of various human rights during the pandemic. For example, truck drivers and grocery store workers ensured that all people continued to have access to essential food items – protecting the right to adequate food.[598] Nurses and doctors meant that people were able to receive essential medical treatment throughout the pandemic, ensuring the right to health.[599] Without these people,

who placed themselves at risk, the pandemic would have had far more severe repercussions for human rights in Australia.

The classification of essential workers was another key component of the country's pandemic response. While lists of essential workers were published and widely circulated around states and territories, some confusion remained about precisely who qualified. This was a serious consideration as there were significant consequences for people who were found to be working or travelling outside of their homes without the proper permit.

For example, a specialist disability service organisation in the Northern Territory told the Commission that the definition of essential worker in the Northern Territory left their employees uncertain of their status, and extremely concerned that they could get pulled over by police if they continued to work.[600] The organisation had to seek advice regarding interpretation of the public health order about essential workers, all while continuing to provide 24/7 care for people with high-care needs.

> *"And at the end of the day, no one probably really disputes the underlying principle that a person with fundamental disabilities requires 24/7 care should get care. That's what we're trying to do. And yet there's all these stumbling blocks and obstacles in the way to getting to that."*
>
> **Stakeholder Consultation Session – 16 July 2024**

The Commission was told by a DFV support agency in Victoria that they were not considered essential workers (who would have been exempt from work-from-home orders), meaning that employees had to rapidly transition to remote work and had to have intense and graphic conversations while working from home, which their children could potentially overhear.[601] Research also indicates that working from home undid traditional self-care strategies used by DFV workers, specifically around the separation of work life and personal life.[602]

The Commission was told by stakeholders in a border community that because rubbish truck drivers were not considered essential workers, they were not allowed to cross the state border (as was required numerous times during a normal rubbish collection route) and so many were no longer able to continue working in their roles.[603]

These discrepancies about who were classified as essential workers led to overall poor provision of continuity of care to some in-need groups as well as poorer provision of basic services to communities. Each of these examples serves to highlight the broader issue of narrow perspectives and the inflexible application of rules sometimes having unintended consequences and resulting in less than ideal outcomes.

4.4.6. Human Rights in Action: Melbourne tower lockdowns

Some of the key human rights considerations:

Right to freedom of movement and liberty

Right to be treated with humanity when detained

Right to an adequate standard of living

Right to physical and mental health

Right to education

Right of minorities to enjoy their own culture

Right not to be discriminated against

SUMMARY OF MEASURES:

On the afternoon of Saturday 4 July 2020, the Victorian Premier announced an immediate lockdown of the North Melbourne and Flemington public housing towers in an effort to control a COVID-19 outbreak. Hundreds of police and health officers rapidly arrived at the towers to start alerting residents of and enforcing the hard lockdown.[604] The residential towers were home to approximately 3,000 residents of a wide range of ethnicities, predominantly of lower socio-economic brackets and including First Nations residents, refugees and numerous residents with disabilities.[605]

The lack of any warning meant that no preparations could be made by residents, including stocking up on food and essential medicine. The immediacy and severity of the lockdown meant that residents were not allowed to leave their flats to collect their children and people who happened to be visiting were not allowed to go home.[606]

Residents were unable to leave their apartments for work, study, healthcare or exercise for an initial 5-day lockdown.[607] Food had to be supplied by authorities however there were incidents of the food being out of date as well as not being culturally appropriate for residents of particular faiths who did not eat certain foods. There were also delays in the provision of medications and baby formula to residents.[608]

The lockdown was lifted for most of the residential towers after 5 days, however residents at the 33 Alfred Street tower were kept in lockdown for another 9 days due to high infection rates.[609]

An investigation from the Victorian Ombudsman found that the lockdowns were not based on direct health advice and that the situation violated Victorian human rights laws.[610] In 2023 the Victorian Government settled a $5 million class action over the lockdowns.[611]

On Saturday 4 July 2020, the Victorian Premier announced the immediate lockdown of nine public housing towers in North Melbourne and Flemington. Police and public health officials descended to enforce the hard lockdown.[612] These tower lockdowns were one of the most severe measures implemented, and one of the few times in Australian history that movement has been so severely restricted without warning.[613] While there were genuine health risks to residents at this time, this disproportionate response was not based on direct health advice and the situation was later found by the Victorian Ombudsman to have violated Victorian human rights laws.[614]

These measures violated the human rights of approximately 3,000 residents who varied in ethnicity, but were predominantly of lower socio-economic brackets, and included refugees and numerous residents with disabilities.[615] It is questionable whether the Victorian Government actually knew with sufficient certainty the specific number and identity of people it was detaining at the time – as subletting and family movements meant numbers often fluctuated.[616] This is critical information given authorities were required to

provide food, medication and healthcare that was both sufficient for the total number of people, and also specific to the needs of the individuals being subjected to the lockdown.

The lockdown was severe in nature, but the lack of warning and rapid response by officials worsened the impact for residents. People were unable to prepare for a strict quarantine period (e.g. unable to buy food, essential medicines) and some could not leave their residence to pick up their children from school or daycare. Those who were not in their homes at the time of the initial lockdown were not allowed to go home.[617]

The lockdown was uncompromising. Residents were not permitted to leave for any reason – not for work, study, healthcare or exercise.[618] There were delays in the provision of essential medication, medication that residents could not leave to collect.[619] Food which was not appropriate for certain residents due to religious reasons were provided by authorities.

The strict measures were eventually lifted after five days for most towers, however 33 Alfred Street remained in isolation for a total of nine days.[620] Those residents had many of their rights affected, with the key human rights that were identified by the Victorian Ombudsman as being engaged by the lockdown being the right to equality; right to life; protection from cruel, inhuman or degrading treatment; freedom of movement; right to privacy, family and home; freedom of religion and cultural rights peaceful assembly and association; protection of family and children; right to liberty; and the right to humane treatment when deprived of liberty.[621]

Despite the predictable impact on the rights of residents, the Deputy Chief Health Officer considered the possible human rights violations for a mere 15 minutes before the lockdown was announced.[622] This is a disturbingly short time to genuinely consider how people would be impacted by such a severe health response.

In 2023 the Victorian Government settled a $5 million class action over the lockdowns.[623] Payments were made to all eligible individuals on 28 August 2024, with each adult receiving $2,347.45 and each child receiving $1,173.72.[624] While this is a welcome recognition of what occurred, receiving these payments over four years after the lockdown itself occurred does not remedy the harm caused to those residents, nor diminish the fact that serious human rights violations occurred. Notably, the Victorian Government repeatedly refused to apologise to the residents for the harm and distress that had been caused.[625]

A 2020 investigation by the Victorian Ombudsman found that:

> '… neglecting human rights comes at a deep human cost. Proper consideration of human rights would have allowed for time to communicate and at least to some degree, better plan the public health response. It would have put health, not security, front and centre. It could have reduced or eliminated much of the distress that followed.'[626]

The report also details other serious shortcomings of the Victorian Government's decision to isolate the towers, including:

- Despite the diverse ethnicities of people living in the towers, there was an absence of qualified interpreters to communicate what was happening.[627]
- The Detention Directions (which explained the terms of the lockdown) where not given to residents until the day after quarantine commenced. Translated materials were only provided four days after detainment began.[628]
- Victoria Police made a large and disproportionate showing at the towers.[629] There is speculation that the mass showing by police was informed by policing attitudes which viewed the housing estate as a 'hotbed of criminality and non-compliance.'[630]
- There is no evidence that the State Government was reviewing these quarantine arrangements, as the lockdown of 33 Alfred Street was not reviewed each day.[631]

Feedback to the Commission has suggested that this disproportionate response was a symptom of government failure to build relationships and trust with the people who lived in these towers.[632] This example highlights the problems that result from implementing emergency responses with insufficient prior consideration being given to human rights and real human impacts.

> *"The lockdown of public housing in Kensington was a breach of many rights, and disturbing to see this could happen just a few suburbs over from me"*
>
> **Your Story Portal Submission - Female, 25-34 [Submission 1968]**

5. Guiding Principles and Lessons Learnt

From the extensive community engagement, surveying and research undertaken for this project, the Commission has developed the following 7 Guiding Principles and associated lessons learnt for how emergency responses can ensure the protection of human rights.

1. Human rights are not an afterthought

a. Consider and embed human rights in emergency response decision making from the outset.

b. Make sure emergency safety nets address practical needs and avoid unfair exclusions.

2. One-size does not fit all

a. Meaningfully consult with the people actually impacted around what is needed at a practical level to ensure emergency response measures meet their needs.

b. Provide support for at-risk groups to be able to self-advocate for their needs, especially those who have barriers accessing systems.

3. Emergency measures must always be proportionate

a. Continuously monitor and evaluate effectiveness of response measures and adapt as both context changes and new information becomes available.

b. Ensure that emergency response measures are only in place for the shortest necessary period of time.

4. Balance risk with compassion

a. Exemption mechanisms that are clear, fair and accessible must be integrated into all emergency response policies.

b. Authorities must exercise discretion with consistency, transparency, accountability, and compassion.

5. Effective communication is essential

a. Ensue the public have access to accurate, timely and comprehensive information. Decision-making must be transparent and justified.

b. Diversify communication strategies in consultation with stakeholders to address barriers. Make funding available to ensure effective communication during an emergency.

c. Ensure accurate and consistent information is delivered through trusted sources recognising that this may require different approaches in different communities.

6. Local knowledge creates better results

a. Empower local communities – including through local government, service providers and organisations – in emergency response measure development, localisation and implementation.

b. Engage and support local community leaders to distribute information in accessible ways to their communities.

7. Recovery planning can't just start after the emergency

a. Work towards preventing the 'funding cliffs' that are common during emergencies.

b. Review all responses post-emergency to ensure necessary lessons can be learnt.

c. Recognise useful innovations that could be adopted post-emergency.

6. Next Steps

> *"The pandemic was a representation, perhaps a canary in the coal mine, of how government power is going to be used and can be used in incoming disasters and emergencies."*
>
> **Stakeholder Consultation Session – 12 August 2024**

The COVID-19 pandemic was not the first crisis Australia has had to grapple with, and it will not be the last. It is important to remember that the COVID-19 pandemic emerged in the wake of Australia's 2019-2020 Black Summer bushfires, and many communities that had just started to begin recovering from the fires then found themselves in lockdowns due to the pandemic. Other crises, such as the February 2022 Northern Rivers floods in New South Wales occurred while the pandemic was still in full effect.

In addition to the increasing frequency and severity of bushfires and floods in this country and the impacts of climate change, many aspects of our modern society such as global travel and high-density cities increase the risk of another emergency, including another pandemic, in the not-too-distant future.[633]

The concept of recovery starts to lose its meaning when communities are thrown from one crisis to the next with no time to catch their breath. Disaster fatigue prevents communities from embedding strategies for long-term resilience because in these circumstances; people only have the capacity for short-term decision making. These cascading disasters are likely to become more frequent in this country and if the COVID-19 pandemic is an example, human rights breaches could also be expected to become more frequent.

The COVID-19 pandemic clearly demonstrated that people's rights will be neglected and can be breached if there is no imperative – whether legal, moral, social or political – to consider them during an emergency. The development of an emergency response framework should identify when and how human rights human rights need to be considered during an emergency scenario.

This research and report are an important first step in the discussion around human rights during the COVID-19 pandemic and the protection of human rights during any emergency.[634] We encourage people with interest in the subject matter and human rights issues to take this research further. There is still significant work to be done in terms of understanding the impacts that other types of disasters, such as bushfires and floods, have on people's human rights in this country. This is the intended focus of the next phase of the Commission's work in this area, which aims to then use the insights gained from our consideration of the responses to both the pandemic and natural disasters in Australia to develop an emergency response framework that will allow us to better embed human rights into future emergency responses.

7. Conclusion

In many ways the COVID-19 pandemic opened people's eyes in Australia, perhaps for the first time, to what it looked and felt like when their human rights were severely restricted. The distress and lack of autonomy that people felt during this time explains why many wish to move on as quickly as possible. This, however, would be a missed opportunity, and it would fail to do justice to the real harms and suffering that so many experienced during this time.

For many, the pandemic was not itself a revelatory experience but rather a continuation of long-standing challenges of not having their human rights fully recognised and failures in having their basic needs met. The pandemic highlighted many examples that showed what happens when people are not given a seat at the table where decisions are being made that directly affect them.

The risk of failing to consider human rights in an emergency response is to compound existing suffering and cause even greater harm than the initial crisis itself. The COVID-19 pandemic demonstrated that human rights considerations need to be embedded into decision making processes during emergencies, otherwise they can and will be overlooked.

Phase 2 of the Commission's Future Emergency Responses project is now underway with the aim to build on the findings of this initial phase to look at human rights impacts of Australia's responses to other common disasters such as bushfires and floods. This research will further advance our understanding of how human rights intersect with emergency response and will contribute to our development of an overarching emergency response framework that embeds human rights as an essential consideration.

There is a lot of trust to be regained post-pandemic, especially from the people that felt themselves to be collateral damage to the country's overall pandemic response. That is why progress needs to be made now to ensure that human rights are a non-negotiable consideration for any future emergency response in Australia.

Glossary

ADF: Australian Defence Force

AHRC: Australian Human Rights Commission

CALD: Culturally and linguistically diverse

CHO: Chief Health Officer

The Commission: Australian Human Rights Commission

CRPD: Convention on the Rights of Persons with Disabilities

Derogable / non-derogable rights: a right where reasonable limits may be placed upon them during an emergency / a right that cannot infringed on under any circumstances

DFAT: Department of Foreign Affairs and Trade

DFV: Domestic and family violence. Domestic and family violence is any violent, threatening, coercive or controlling behaviour that occurs in current or past family, domestic or intimate relationships. Family violence can be a one-off incident, or a continuous pattern of abusive behaviour perpetrated by one person towards another.

Funding cliff: Term used to describe when emergency funding that is made available is suddenly revoked post-crisis.

ICCPR: International Covenant on Civil and Political Rights

ICVC: International COVID-19 Vaccination Certificate

ICESCR: International Covenant on Economic, Social, and Cultural Rights

LGBTQIA+: Lesbian, Gay, Bisexual, Trans and/or Gender Diverse, Queer, Intersex, Asexual

Newcomer: Term used in this report to refer to anyone who is not a citizen or permanent resident of Australia, including migrant workers, international students, working holidaymakers/backpackers, seasonal workers, temporary residents, asylum seekers and refugees

OHCHR: United Nations Office of the High Commissioner for Human Rights

PRC Test: Polymerase Chain Reaction test; used to diagnose people infected with COVID-19

Pre-pandemic – pandemic - post-pandemic: While it is recognised that coronavirus disease (COVID-19) is still present and causing illness in Australia and around the world, for the purposes of this report the COVID-19 pandemic in Australia refers to the time between March 2020 (when COVID-19 was first declared a human biosecurity emergency in Australia) and late 2022 (when most public health emergencies, pandemic declarations and states of emergencies were ended in Australian states and territories). Pre-pandemic refers to any time before March 2020 and post-pandemic refers to any time after late 2022 up until the current day

QR code: Phone readable codes used widely during the pandemic that can be used to link to specific information or forms online

RAT: Rapid Antigen test

TGA: Therapeutic Goods Administration

UDHR: Universal Declaration of Human Rights

UN: United Nations

UNGA: UN General Assembly

WHO: World Health Organisation

Appendix A: International Human Rights Law

The following international human rights treaties, which Australia has ratified, contain obligations that are relevant to Australia's pandemic response:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention relating to the Status of Refugees (Refugee Convention
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)
- Convention on the Rights of the Child (CRC)
- Convention on the Rights of Persons with Disabilities (CRPD).

The following international frameworks, plans and guidance are relevant to Australia's pandemic response measures:

- Sendai Framework for Disaster Risk Reduction
- Bangkok Principles
- The Gender Action Plan to Support the Implementation of the Sendai Framework for Disaster Risk Reduction 2015-2030
- UN General Assembly Resolution on COVID-19
- COVID-19 policy guidance.

Appendix B: Australian COVID-19 Inquiries

National Inquiries

- Commonwealth Government COVID-19 Response Inquiry [October 2024]
- Legal and Constitutional Affairs References Committee – COVID-19 Royal Commission [April 2024]
- Sick and tired: Casting a long shadow – Australian Government response to Inquiry into Long COVID [April 2023]
- Fault Lines: An independent review into Australia's response to COVID-19 [October 2022]
- Inquiry into the implications of the COVID-19 pandemic for Australia's foreign affairs, defence and trade [December 2020]
- National Review of Quarantine [October 2021]

State and Territory Inquiries

New South Wales:

- New South Wales Government's management of the COVID-19 pandemic [March 2022]
- Special Commission of Inquiry into the Ruby Princess [August 2020]

Victoria:

- Inquiry into the Victorian Government's response to the COVID-19 pandemic [February 2021]
- COVID-19 Hotel Quarantine Inquiry [December 2020]
- Inquiry into the Victorian Government's COVID-19 contact tracing system and testing regime [December 2020]

Australian Capital Territory:

- Inquiry into the COVID-19 2021 pandemic response [December 2021]

Queensland:

- Interim Report: Inquiry into the Queensland Government's health response to COVID-19 [September 2020]

South Australia:

- Lessons Management Review of the COVID-19 Pandemic Response [September 2023]

Western Australia:

- Review of Western Australia's COVID-19 Management and Response [July 2023]

Tasmania:

- Response to the North-West Tasmania COVID-19 Outbreak – Independent Review [November 2020]

Appendix C: Acknowledgements

The Commission would like to acknowledge the following individuals and organisations who contributed to this report:

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- Craig Gear - Older Persons Advocacy Network
- Delaram Ansari - Multicultural Centre for Women's Health
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- Dominique Lamb - Queensland Small Business Commissioner
- Erin Papps - Down Syndrome Australia
- Fay Mound - UnitingCare Australia
- Fun Activities Banora Seniors (FABS) committee and groups
- Dr George Taleporos
- Elizabeth Hudson - Children and Young People with Disability Australia (CYDA)
- Grace White - National Ethnic Disability Alliance
- Heather McMinn - National Disability Services
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- Inclusion Australia
- Ivan Frkovic – Queensland Mental Health
- Jelena Djudjevic - Safe and Equal
- Joanne Watters – Tweed Shire Council Community Care Team
- Jordan Frith - National Mental Health Consumer and Carer Forum
- Dr Joseph Cuthbertson - Gender and Disaster Australia
- Kate Marsh - Queensland Human Rights Commission
- Kate Mecham - Safe and Equal
- Luke Forster - Queensland Small Business Commissioner

- Lyn Porter - Tweed Shire Council Community Care Team
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- Maria Katsabanis - COTA Australia
- Mi Nguyen - Multicultural Centre for Women's Health
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- YouthWorX Northern Territory
- Yumi Lee - Older Women's Network New South Wales

Endnotes

1 Department of the Prime Minister and Cabinet, COVID-19 Response Inquiry Report (Report, 29 October 2024) 4 <https://www.pmc.gov.au/sites/default/files/resource/download/covid-19-response-inquiry-report.pdf>.

2 Howard Maclean and Karen Elphick, COVID-19 Legislative response—Human Biosecurity Emergency Declaration Explainer (Declaration Explainer, 19 March 2020) <https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/Research/FlagPost/2020/March/COVID-19_Biosecurity_Emergency_Declaration#:~:text=On%2018%20March%202020%20in,order%20to%20combat%20the%20outbreak>; The Hon Greg Hunt MP Former Minister for Health and Aged Care, 'Australia's biosecurity emergency pandemic measures to end' (Media Release, 25 March 2022) <https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/australias-biosecurity-emergency-pandemic-measures-to-end>.

3 Oxford, Oxford Research Encyclopedia of Politics (online at 6 January 2025) 'Emergencies and the Rule of Law' 1, 5

4 Oxford, Oxford Research Encyclopedia of Politics (online at 6 January 2025) 'Emergencies and the Rule of Law' 1, 5.

5 Oxford, Oxford Research Encyclopedia of Politics (online at 6 January 2025) 'Emergencies and the Rule of Law' 1, 5.

6 Elizabeth Hicks, 'Proportionality and Protracted Emergencies: Australia's COVID-19 Restrictions on Repatriation Rights Compared' (2023) 45(1) Sydney Law Review 77, 83.

7 Elizabeth Hicks, 'Proportionality and Protracted Emergencies: Australia's COVID-19 Restrictions on Repatriation Rights Compared' (2023) 45(1) Sydney Law Review 77, 83.

8 Oxford, Oxford Research Encyclopedia or Politics (online at 6 January 2025) 'Emergencies and the Rule of Law' 1, 5.

9 Oxford, Oxford Research Encyclopedia or Politics (online at 6 January 2025) 'Emergencies and the Rule of Law' 1, 2.

10 Rule of Law Education Centre, What is the Rule of Law? (Web Page) <https://www.ruleoflaw.org.au/what-is-the-rule-of-law/>.

11 'Rule of Law', Law Council of Australia (Web Page, 24 August 2023) <https://lawcouncil.au/policy-agenda/international-law/rule-of-law>' 'What is Rule of Law', United Nations and the Rule of Law (Web Page) < https://www.un.org/ruleoflaw/what-is-the-rule-of-law/>.

12 Claire Apodaca, 'The rule of law and human rights' (2003) 87 Judicature 292, 292; Oxford, Oxford Research Encyclopedia or Politics (online at 6 January 2025) 'Emergencies and the Rule of Law' 1, 4.

13 Advocates for International Development (A4ID), The Rule of Law in Times of Health Crises (2020) 22.

14 Oxford, Oxford Research Encyclopedia or Politics (online at 6 January 2025) 'Emergencies and the Rule of Law' 1, 2.

15 Lorraine Finlay and Rosalind Croucher, 'Limiting Rights and Freedoms in the Name of Public Health: Ensuring Accountability during the COVID-19 Pandemic Response' in Belinda Bennet and Ian Freckelton (eds) Australian Public Health Law: Contemporary Issues and Challenges (The Federation Press, 2023) 120, 137.

16 Advocates for International Development (A4ID), The Rule of Law in Times of Health Crises (2020) 9.

17 Oxford, Oxford Research Encyclopedia or Politics (online at 6 January 2025) 'Emergencies and the Rule of Law' 1, 9.

18 Oxford, Oxford Research Encyclopedia or Politics (online at 6 January 2025) 'Emergencies and the Rule of Law' 1, 10.

19 Oxford, Oxford Research Encyclopedia or Politics (online at 6 January 2025) 'Emergencies and the Rule of Law' 1, 12.

20 United Nations Office for Disaster Risk Reduction, Human Rights and Disaster Risk Reduction: Strengthening the Implementation of the Sendai Framework for Disaster Risk Reduction: Considerations from the Asia-Pacific Region (Report, 2023) 5.

21 United Nations, COVID-19 and Human Rights: We are all in this together (Policy Brief, April 2020) 2; Kevin Bell, 'COVID-19 and Human Rights in Australia: Part 1', Castan Centre for Human Rights Law (Web Page, 21 April 2020) <https://www.monash.edu/law/research/centres/castancentre/assets/submissions/2020/covid19-and-human-rights-in-australia/covid19-and-human-rights-in-australia-part-1>.

22 United Nations, COVID-19 and Human Rights: We are all in this together (Policy Brief, April 2020) 3.

23 United Nations, COVID-19 and Human Rights: We are all in this together (Policy Brief, April 2020) 3.

24 United Nations, COVID-19 and Human Rights: We are all in this together (Policy Brief, April 2020) 3.

25 United Nations, COVID-19 and Human Rights: We are all in this together (Policy Brief, April 2020) 3.

26 See e.g. Dorota Anna Gozdecka, 'Human Rights During the Pandemic: COVID-19 and the Securitisation of Health' (2021) 39(3) Nordic Journal of Human Rights 205-223 <https://doi.org/10.1080/18918131.2021.1965367>.

27 Thérèse Murphy and Noel Whitty, Is Human Rights Prepared? Risk, Rights and Public Health Emergencies (2009) 17(2) Medical Law Review 219-244, 221 <https://doi.org/10.1093/medlaw/fwp007>.

28 Dorota Anna Gozdecka, 'Human Rights During the Pandemic: COVID-19 and the Securitisation of Health' (2021) 39(3) Nordic Journal of Human Rights 205-223, 212 <https://doi.org/10.1080/18918131.2021.1965367>.

29 Dorota Anna Gozdecka, 'Human Rights During the Pandemic: COVID-19 and the Securitisation of Health' (2021) 39(3) Nordic Journal of Human Rights 205-223, 212 <https://doi.org/10.1080/18918131.2021.1965367>.

30 Dorota Anna Gozdecka, 'Human Rights During the Pandemic: COVID-19 and the Securitisation of Health' (2021) 39(3) Nordic Journal of Human Rights 205-223, 223 <https://doi.org/10.1080/18918131.2021.1965367>.

31 'International Human Rights System', Attorney-General's Department (Web Page) <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/international-human-rights-system>. Note that Australia is not a party to two core United Nations human rights treaties – the International Convention on the Rights of all Migrant Workers and Members of their Families, signed on 18 December 1990, 2220 UNTS 3 (entered into force on 1 July 2003) and the International Convention for the Protection of All Persons from Enforced Disappearances, opened for signature 6 February 2007, 2716 UNTS 3 (entered into force 23 December 2010).

32 Charter of Human Rights and Responsibilities 2006 (Vic).

33 Human Rights Act 2019 (Qld).

34 Human Rights Act 2004 (ACT).

35 Australian Human Rights Commission, Free & Equal: Revitalising Australia's Commitment to Human Rights (Final Report, 2023).

36 'Embedding Human Rights During COVID-19', Victorian Equal Opportunity and Human Rights Commission (Web Page) <https://www.humanrights.vic.gov.au/legal-and-policy/covid-19-and-human-rights/embedding-human-rights-during-covid-19/>.

37 Kevin Bell, 'COVID-19 and Human Rights in Australia: Part 1', Castan Centre for Human Rights Law (Web Page, 21 April 2020) <https://www.monash.edu/law/research/centres/castancentre/assets/submissions/2020/covid19-and-human-rights-in-australia/covid19-and-human-rights-in-australia-part-1>; Human Rights Law Centre, Submission to the Department of Prime Minister and Cabinet, Federal Government COVID-19 Inquiry (8 January 2024) 2; JM Basseal et al, 'Key Lessons from the COVID-19 Public Health Response in Australia' (2022) 30(100616) The Lancet Regional Health -Western Pacific 1, 2.

38 'Embedding Human Rights During COVID-19', Victorian Equal Opportunity and Human Rights Commission (Web Page) <https://www.humanrights.vic.gov.au/legal-and-policy/covid-19-and-human-rights/embedding-human-rights-during-covid-19/>.

39 See e.g. 'Explainer: Masks, COVID-19 and Human Rights', Human Rights Law Centre (Web Page, 29 July 2020) <https://www.hrlc.org.au/reports-news-commentary/2020/7/29/explainer-masks-covid-19-and-human-rights>.

40 Elizabeth Hicks, 'Proportionality and Protracted Emergencies: Australia's COVID-19 Restrictions on Repatriation Rights Compared' (2023) 45(1) Sydney Law Review <https://www.austlii.edu.au/cgi-bin/viewdoc/au/journals/SydLawRw/2023/3.html>.

41 JM Basseal et al, 'Key Lessons from the COVID-19 Public Health Response in Australia' (2022) 30(100616) The Lancet Regional Health -Western Pacific 1-8, 2.

42 CSIRO Futures, Strengthening Australia's Pandemic Preparedness: Science and technology-enabled solutions, (Report, 2022) ii <https://www.csiro.au/en/work-with-us/services/consultancy-strategic-advice-services/csiro-futures/health-and-biosecurity/strengthening-australias-pandemic-preparedness>.

43 'People with Certain Medical Conditions and COVID-19 Risk Factors', U.S. Centres for Disease Control and Prevention (Web Page, 6 January 2025) <https://www.cdc.gov/covid/risk-factors/index.html#:~:text=Older%20adults%20are%20at%20highest,people%20ages%2018%2D29%20years>

44 See e.g. ICCPR arts 12(3), 19(3), 21 and 22; ICESCR, art 4.

45 Human Rights Act 2019 (Qld), s 13 See also Human Rights Act 2004 (ACT), s 28 and Charter of Human Rights and Responsibilities Act 2006 (Vic), s 7(2).

46 See 'Absolute rights - Public sector guidance sheet', Australian Government Attorney-General's Department (Web Page) <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/absolute-rights>.

47 ICCPR art 4.

48 See 'Absolute rights - Public sector guidance sheet', Australian Government Attorney-General's Department (Web Page) <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/absolute-rights>.

49 ICCPR art 4(3).

50 Human Rights Committee, Statement on derogations from the Covenant in connection with the COVID-19 pandemic, UN Doc. CCPR/C/128/2, 24 April 2020 1 [1].

51 'OHCHR & Human Rights Committee Address Derogations During COVID-19', International Justice Resource Centre (Web Page, 29 April 2020) <https://ijrcenter.org/2020/04/29/ohchr-human-rights-committee-address-derogations-during-covid-19/>.

52 'Absolute rights – Public sector guidance sheet', Australian Government Attorney-General's Department (Web Page) <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/absolute-rights#:~:text=Article%204%20of%20the%20International,certain%20conditions%2C%20including%20official%20notification>.

53 The Economist Intelligence Unit, Democracy Index 2020: In sickness and in health? (2021), 6.

54 The Hon Greg Hunt MP Former Minister for Health and Aged Care, 'Australia's biosecurity emergency pandemic measures to end' (Media Release, 25 March 2022) <https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/australias-biosecurity-emergency-pandemic-measures-to-end>.

55 The Hon Peter Dutton MP Former Minister for Home Affairs, 'Joint media release with the Prime Minister and Minister for Foreign Affairs - Border restrictions' (Media Release, 20 March 2020) <https://minister.homeaffairs.gov.au/peterdutton/Pages/border-restrictions.aspx>; Frances Mao, 'Australians stuck overseas 'abandoned' by their own country', BBC (online, 1 May 2021) <https://www.bbc.com/news/world-australia-56924188>.

56 Sarah Martin and Katharine Murphy, 'Government urges Australians overseas to return home and borders close around the world', The Guardian (online, 17 March 2020) <https://www.theguardian.com/business/2020/mar/17/coalitions-second-multibillion-dollar-coronavirus-stimulus-expected-to-target-businesses-and-low-income-earners>.

57 Joint Committee of Public Accounts and Audit, Report 494: Inquiry into the Department of Foreign Affairs and Trade's crisis management arrangements (Report, March 2023) 2 <https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/RB000043/toc_pdf/Report494InquiryintotheDepartmentofForeignAffairsandTrade%e2%80%99scrisismanagementarrangements.pdf>.

58 Joint Committee of Public Accounts and Audit, Report 494: Inquiry into the Department of Foreign Affairs and Trade's crisis management arrangements (Report, March 2023) 5-6 <https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/RB000043/toc_pdf/Report494InquiryintotheDepartmentofForeignAffairsandTrade%e2%80%99scrisismanagementarrangements.pdf>.

59 Joint Committee of Public Accounts and Audit, Report 494: Inquiry into the Department of Foreign Affairs and Trade's crisis management arrangements (Report, March 2023) 2 [1.7] <https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/RB000043/toc_pdf/Report494InquiryintotheDepartmentofForeignAffairsandTrade%e2%80%99scrisismanagementarrangements.pdf>.

60 The Hon Scott Morrison MP Prime Minister, National Cabinet (Media Statement, 10 July 2020) <https://pmtranscripts.pmc.gov.au/release/transcript-43995>; Perth—a cap of 525 international arrivals per week, Brisbane—a cap of 500 international arrivals per week and Sydney—a cap of 450 international arrivals per day.

61 Joint Committee of Public Accounts and Audit, Report 494: Inquiry into the Department of Foreign Affairs and Trade's crisis management arrangements (Report, March 2023) 15 [2.36] <https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/RB000043/toc_pdf/Report494InquiryintotheDepartmentofForeignAffairsandTrade%e2%80%99scrisismanagementarrangements.pdf>.

62 Jade Macmillian, 'More than 38,000 Australians stranded overseas due to COVID-19, with dozens of flights planned for August', ABC News (online, 20 July 2021) <https://www.abc.net.au/news/2021-07-30/stranded-australians-covid19-flights-international-repatriation/100337702>.

63 Joint Committee of Public Accounts and Audit, Report 494: Inquiry into the Department of Foreign Affairs and Trade's crisis management arrangements (Report, March 2023) 36 <https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/RB000043/toc_pdf/Report494InquiryintotheDepartmentofForeignAffairsandTrade%e2%80%99scrisismanagementarrangements.pdf>.

64 Sophie Meixner, 'Australia's outbound travel ban is one of the strictest coronavirus public health responses in the world', ABC News (online, 31 August 2020) <https://www.abc.net.au/news/2020-08-31/coronavirus-covid-outbound-international-travel-ban-morrison/12605404>; Australian Government Department of Home Affairs, 'COVID-19 Border Measures Procedural Instruction – Outward' (Procedural Instruction, 11 January 2021) 3 <https://www.homeaffairs.gov.au/foi/files/2021/fa-210600779-document-released.PDF>.

65 Georgia Hitch, 'International COVID-19 border closures to end, full reopening by February 21', ABC News (online, 7 February 2022) <https://www.abc.net.au/news/2022-02-07/international-covid-borders-to-reopen-scott-morrison/100810580>.

66 Hannah Murphy, 'Governments still chasing millions from people who stayed in Australia's quarantine hotels', ABC News (online, 24 March 2024) <https://www.abc.net.au/news/2024-03-25/hotel-quarantine-outstanding-bills/103578480>.

67 Department of Prime Minister and Cabinet, COVID-19 Response Inquiry Report (Report, 29 October 2024) 161 <https://www.pmc.gov.au/sites/default/files/resource/download/covid-19-response-inquiry-report.pdf>.

68 'Entering or leaving Australia', Embassy of Australia (Web Page, 2024) <https://usa.embassy.gov.au/travel-australia#:~:text=People%20entering%20Australia%20do%20not,evidence%20of%20their%20vaccination%20status>.

69 Department of Health and Aged Care 'First confirmed case of novel coronavirus in Australia' (Media Release, 25 January 2020) <https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/first-confirmed-case-of-novel-coronavirus-in-australia>.

70 https://www.pmc.gov.au/sites/default/files/resource/download/covid-19-response-inquiry-report.pdf p.177

71 Joint Committee of Public Accounts and Audit, Report 494: Inquiry into the Department of Foreign Affairs and Trade's crisis management arrangements (Report, March 2023) 2 <https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/RB000043/toc_pdf/Report494InquiryintotheDepartmentofForeignAffairsandTrade%e2%80%99scrisismanagementarrangements.pdf>.

72 Senator the Hon Marise Payne, Australians returning from overseas (Statement, 9 May 2020) <https://www.foreignminister.gov.au/minister/marise-payne/media-release/australians-returning-overseas>.

73 Grace Tobin, 'As coronavirus restrictions tighten, returning Australians risk losing their flights if they don't upgrade to business class' ABC News (online, 13 July 2020) <https://www.abc.net.au/news/2020-07-13/coronavirus-australians-risk-losing-return-flight-unless-upgrade/12443094>.

74 Abdrew Curran, 'The Crazy Price Of Returning To Australia During The Pandemic', Simple Flying (online, 6 July 2021) <https://simpleflying.com/australia-return-price-pandemic/>.

75 CCPR General Comment No. 27: Article 12 (Freedom of Movement) 5 [19].

76 CCPR General Comment No. 27: Article 12 (Freedom of Movement) 5 [21].

77 Olivera Simic, 'Australia, Covid-19, and the India Travel Ban' (2021) 9(2) Griffith Journal of Law & Human Dignity 1-36, 4 <https://doi.org/10.69970/gjlhd.v9i2.1224>; Dan Conifer, 'Data reveals more than 50 Australian citizens have died from COVID-19 while overseas', ABC News (online, 5 August 2021) <https://www.abc.net.au/news/2021-08-05/over-50-australian-citizens-died-abroad-from-covid-19/100354220>.

78 Olivera Simic and Kim Rubenstein, 'The challenge of 'COVID-19 free' Australia: international travel restrictions and stranded citizens' (2022) 27(5) The International Journal of Human Rights 830-843, 833 <https://doi.org/10.1080/13642987.2022.2058496>.

79 Law Futures Centre, 'Australia, COVID-19 and Travel Bans: Denying the Right to Return', Law Futures Centre Blog (Blog Post, 28 March 2022) <https://blogs.griffith.edu.au/law-futures-centre/2022/03/28/australia-covid-19-and-travel-bans-denying-the-right-to-return/>.

80 Frances Mao, 'Celebrities in Australia anger stranded citizens over 'double standard'', BBC (online, 2 April 2021) <https://www.bbc.com/news/world-australia-55851074>.

81 Jane Williams et al, 'Uncertainty and agency in COVID-19 hotel quarantine in Australia' (2022) Qualitive Research in Health 100034 :1-7, 1 <https://doi.org/10.1016/j.ssmqr.2021.100034>.

82 Jane Williams et al, 'Uncertainty and agency in COVID-19 hotel quarantine in Australia' (2022) Qualitive Research in Health 100034 :1-7, 1 <https://doi.org/10.1016/j.ssmqr.2021.100034>.

83 Jane Williams et al, 'Uncertainty and agency in COVID-19 hotel quarantine in Australia' (2022) Qualitive Research in Health 100034 :1-7, 1 <https://doi.org/10.1016/j.ssmqr.2021.100034>.

84 Department of Health and Aged Care, National Review of Hotel Quarantine (Report, 23 October 2020) 13. <https://www.health.gov.au/sites/default/files/documents/2020/10/national-review-of-hotel-quarantine.pdf>.

85 Kari Pahlman et al 'Reciprocity, Fairness and the Financial Burden of Undertaking COVID-19 Hotel Quarantine in Australia' (2023) 17(1-2) Public Health Ethics 67-79, 67 <https://doi.org/10.1093/phe/phad027>.

86 Kari Pahlman et al 'Reciprocity, Fairness and the Financial Burden of Undertaking COVID-19 Hotel Quarantine in Australia' (2023) 17(1-2) Public Health Ethics 67-79, 68 <https://doi.org/10.1093/phe/phad027>.

87 Kari Pahlman et al 'Reciprocity, Fairness and the Financial Burden of Undertaking COVID-19 Hotel Quarantine in Australia' (2023) 17(1-2) Public Health Ethics 67-79, 68 <https://doi.org/10.1093/phe/phad027>.

88 'Centres for National Resilience', Australian Government Department of Finance (Web Page, 17 November 2022) <https://www.finance.gov.au/government/property-and-construction/centres-national-resilience>.

89 See Human Rights Law Centre, Submission to the Second National Review of Quarantine Arrangements (20 September 2021) <https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/61492a57255ef35c1a8391a4/1632184920643/HRLC+Submission+Further+Hotel+Quarantine+Review+2021.pdf>.

90 Pauline Wright, 'National Review of Hotel Quarantine' (2 September 2020) 1-2 <https://lawcouncil.au/publicassets/bb10d874-0818-eb11-9435-005056be13b5/3874%20-%20National%20Review%20of%20Hotel%20Quarantine.pdf>.

91 Parliament of Australia, Select Committee on COVID-19 - First Interim Report (Report, December 2020) 109 [7.21] <https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024513/toc_pdf/Firstinterimreport.pdf;fileType=application%2Fpdf>.

92 Department of the Prime Minister and Cabinet, National Review of Quarantine (Report, 15 November 2021) 5-6 <https://www.pmc.gov.au/sites/default/files/resource/download/national-review-of-quarantine.pdf>.

93 Frances Mao, 'Covid: Why Australia's 'world-class' quarantine system has seen breaches', BBC (online, 9 February 2021) <https://www.bbc.com/news/world-australia-55929180>.

94 See Human Rights Law Centre, Submission to the Second National Review of Quarantine Arrangements (20 September 2021) 5 <https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/61492a57255ef35c1a8391a4/1632184920643/HRLC+Submission+Further+Hotel+Quarantine+Review+2021.pdf>.

95 Bridget Haire et al, 'Experiences of risk in Australian hotel quarantine: a qualitative study' (2022) 22 BMC Public Health 1-8, 5-6 <https://doi.org/10.1186/s12889-022-13339-x>.

96 Australian Government Department of Health and Aged Care, National Review of Hotel Quarantine (20 October 2020); COVID-19 Hotel Quarantine Inquiry, Final Report and Recommendations, Volume 1 Parl paper no. 191 (2018-2020).

97 ICCPR, art 9(1).

98 UN Office of the High Commissioner for Human Rights, About Arbitrary Detention (Working Group on Arbitrary Detention) (Web Page). <https://www.ohchr.org/en/about-arbitrary-detention>.

99 Biosecurity Act 2015 (Cth) ss 475 & 477-478 allowed a human biosecurity emergency to be declared which in turn empowered the Health Minister to make declarations and determine requirements at the federal level.

100 Olivera Simic, 'Australia, Covid-19, and the India Travel Ban' (2021) 9(2) Griffith Journal of Law & Human Dignity 1-36, 1 <https://doi.org/10.69970/gjlhd.v9i2.1224>; Law Futures Centre, 'Australia, COVID-19 and Travel Bans: Denying the Right to Return', Law Futures Centre Blog (Blog Post, 28 March 2022) <https://blogs.griffith.edu.au/law-futures-centre/2022/03/28/australia-covid-19-and-travel-bans-denying-the-right-to-return/>.

101 Sophie Meixner, 'Australia's outbound travel ban is one of the strictest coronavirus public health responses in the world', ABC News (online, 31 August 2020) <https://www.abc.net.au/news/2020-08-31/coronavirus-covid-outbound-international-travel-ban-morrison/12605404>.

102 Sophie Meixner, 'Australia's outbound travel ban is one of the strictest coronavirus public health responses in the world', ABC News (online, 31 August 2020) <https://www.abc.net.au/news/2020-08-31/coronavirus-covid-outbound-international-travel-ban-morrison/12605404>.

103 ICCPR art 12(3).

104 Paul M. Taylor, A Commentary on the International Covenant on Civil and Political Rights (Cambridge University Press, 2020), 336.

105 Australian National Audit Office, Australia's COVID-19 Vaccine Rollout (Report, 17 August 2022) [6] <https://www.anao.gov.au/work/performance-audit/australia-covid-19-vaccine-rollout>.

106 Department of Health and Aged Care, Covid-19 Vaccination Rollout (Update, 22 December 2022) 2.

107 Australian Government Department of Health and Aged Care, 'COVID-19 Vaccine Program' (Program, 8 January 2025) 2 <www.health.gov.au/sites/default/files/2025-01/covid-19-vaccine-rollout-update-10-january-2025.pdf>.

108 'About the National COVID-19 Vaccine Program' Australian Government Department of Health and Aged Care (Web Page, 11 November 2024) <https://www.health.gov.au/our-work/covid-19-vaccines/about-rollout>

109 Department of Health and Aged Care Therapeutic Goods Administration, COVID-19 vaccines regulatory status (Webpage) <https://www.tga.gov.au/products/covid-19/covid-19-vaccines/covid-19-vaccines-regulatory-status>.

110 'Australia's COVID-19 Vaccine Rollout', Australian National Audit Office (Web Page, 17 August 2022) <https://www.anao.gov.au/work/performance-audit/australia-covid-19-vaccine-rollout>.

111 'COVID-19 Vaccinations and Federal Discrimination Law', Australian Human Rights Commission (Web Page) <https://humanrights.gov.au/about/covid19-and-human-rights/covid-19-vaccinations-and-federal-discrimination-law>; Katie Attwell et al, 'COVID-19 Vaccine Mandates: An Australian Attitudinal Study' (2022) 40 Vaccine 7360, 7360.

112 'COVID-19 Vaccinations and Federal Discrimination Law', Australian Human Rights Commission (Web Page) <https://humanrights.gov.au/about/covid19-and-human-rights/covid-19-vaccinations-and-federal-discrimination-law>.

113 'Vaccination for Healthcare Workers', Victoria Department of Health (Web Page, 4 October 2024) <https://www.health.vic.gov.au/immunisation/vaccination-for-healthcare-workers>; 'COVID-19, Mandatory Vaccines and Work', Victoria Legal Aid (Web Page, 14 October 2024) <https://www.legalaid.vic.gov.au/covid-19-mandatory-vaccines-and-work>.

114 'COVID-19, Mandatory Vaccines and Work', Victoria Legal Aid (Web Page, 14 October 2024) <https://www.legalaid.vic.gov.au/covid-19-mandatory-vaccines-and-work>.

115 Nathan Roberts, 'Vaccinations and the workplace', McCullough Robertson Lawyers (Web Page, 13 April 2021) <https://www.mccullough.com.au/2021/04/13/vaccinations-and-the-workplace/>.

116 NSW Government, COVID-19 vaccinations and your business What you need to know (Guidance, 1 October 2021) <https://www.nationalretail.org.au/app/uploads/2021/10/COVID_19_vaccinations_and-your_business.pdf>.
Jordan Hayne, 'How National Cabinet wants to ditch lockdowns and open borders as COVID vaccination rates rise', ABC News (online, 2 July 2021) <https://www.abc.net.au/news/2021-07-02/covid-lockdown-vaccination-phases-national-cabinet/100262808>.

117 'COVID-19 vaccination for residential aged care workers', Australian Government Department of Health and Aged Care (Web Page, 21 January 2025) <https://www.health.gov.au/our-work/covid-19-vaccines/information-for-aged-care-providers-workers-and-residents-about-covid-19-vaccines/residential-aged-care-workers>.

118 'Human rights considerations for vaccine passports and certificates', Australian Human Rights Commission (Web Page) <https://humanrights.gov.au/our-work/rights-and-freedoms/human-rights-considerations-vaccine-passports-and-certificates>.

119 Department of Prime Minister and Cabinet, COVID-19 Response Inquiry Report (Report, 29 October 2024) 251 <https://www.pmc.gov.au/sites/default/files/resource/download/covid-19-response-inquiry-report.pdf>.

120 Australian Government Department of Health and Aged Care, Australian COVID-19 Vaccination Policy (Policy, 13 November 2020) 6 <https://www.health.gov.au/sites/default/files/documents/2020/12/covid-19-vaccination-australian-covid-19-vaccination-policy.pdf>.

121 'Immunisation requirements', Services Australia (Web Page, 17 September 2024) <https://www.servicesaustralia.gov.au/what-are-immunisation-requirements?context=41186>.

122 'No Jab No Play, No Jab No Pay', National Centre for Immunisation Research and Surveillance Australia (Web Page, December 2024) <https://ncirs.org.au/public/no-jab-no-play-no-jab-no-pay>.

123 Sally Hall Dykgraaf et al, 'Implementing mandatory COVID-19 vaccination for Australian aged care workers' (2022) 217(11) The Medical Journal of Australia 570-574, 570 <https://doi.org/10.5694/mja2.51770>.

124 'Human rights considerations for vaccine passports and certificates', Australian Human Rights Commission (Web Page) <https://humanrights.gov.au/our-work/rights-and-freedoms/human-rights-considerations-vaccine-passports-and-certificates>.

125 World Health Organization, Covid-10 and mandatory vaccination: Ethical considerations (Policy brief, 30 May 2022) <https://iris.who.int/bitstream/handle/10665/354585/WHO-2019-nCoV-Policy-brief-Mandatory-vaccination-2022.1-eng.pdf?sequence=1>.

126 World Health Organization, Covid-10 and mandatory vaccination: Ethical considerations (Policy brief, 30 May 2022) <https://iris.who.int/bitstream/handle/10665/354585/WHO-2019-nCoV-Policy-brief-Mandatory-vaccination-2022.1-eng.pdf?sequence=1>.

127 Jessica Kaufman et al, 'Misperceptions about routine childhood vaccination among parents in Australia, before and after the COVID- 19 pandemic: a cross- sectional survey study' (Research Letter, 3 June 2024) <https://www.mja.com.au/journal/2024/220/10/misperceptions-about-routine-childhood-vaccination-among-parents-australia-and>.

128 'Human rights considerations for vaccine passports and certificates', Australian Human Rights Commission (Web Page) <https://humanrights.gov.au/our-work/rights-and-freedoms/human-rights-considerations-vaccine-passports-and-certificates>.

129 Peter Shergold et al, Fault Lines - An independent review into Australia's response to COVID-19 (Report, 20 October 2022) 22 <https://cdn.prod.website-files.com/62b998c0c9af9f65bba26051/6350438b7df8c77439846e97_FAULT-LINES-1.pdf>.

130 Sean McDonell, Katie Attwell and Lara McKenzie, 'Including the isolated: Place, rurality, and the state in regional Western Australia during the COVID-19 pandemic and vaccine rollout' (2024) 5 SSM – Qualitative Research in Health 1-9, 6 <https://doi.org/10.1016/j.ssmqr.2023.100382>.

131 UN Human Rights Committee, General comment No. 35: Article 9 (Liberty and security of person), CCPR/C/GC/35, 16 December 2014. <https://documents.un.org/doc/undoc/gen/g14/244/51/pdf/g1424451.pdf>.

132 Within the context of vaccine related workplace dismissals see e.g. Owens v I-Med Radiology Ltd [2022] FWC 1823.

133 See, for example, Public Health (COVID-19 General) Order 2021 (3 October 2021, as amended on 5 November 2021) <https://legislation.nsw.gov.au/file/Public%20Health%20(COVID-19%20General)%20Order%202021_211105_2.42pm.pdf>; Holly Seale, 'Soon you'll need to be vaccinated to enjoy shops, cafes and events - but how will staff cope?', UNSW Sydney (Web Page, 23 September 2021) <https://www.unsw.edu.au/newsroom/news/2021/09/soon-you-ll-need-to-be-vaccinated-to-enjoy-shops--cafes-and-even>.

134 'Human rights considerations for vaccine passports and certificates', Australian Human Rights Commission (Web Page) <https://humanrights.gov.au/our-work/rights-and-freedoms/human-rights-considerations-vaccine-passports-and-certificates>.

135 Anton Nilsson, 'Penalties foreshadowed for NSW businesses that refuse to check vaccination status', news.com.au (online, 13 September 2021) <https://www.news.com.au/lifestyle/food/drink/penalties-foreshadowed-for-nsw-businesses-that-refuse-to-check-vaccination-status/news-story/0510f2d90a409612531da77745771fe6>.

136 'COVID-19 vaccine FAQs', healthdirect (Web Page, November 2024) <https://www.healthdirect.gov.au/covid-19-vaccine-faqs>.

137 'COVID-19 vaccine side effects', AusVaxSafety (Web Page, August 2022) <https://ausvaxsafety.org.au/covid-19-vaccine-side-effects>.

138 'COVID-19 vaccine safety report - 02-11-23', Australian Government Department of Health and Aged Care – Therapeutic Goods Administration (Web Page, 2 November 2023) <https://www.tga.gov.au/news/covid-19-vaccine-safety-reports/covid-19-vaccine-safety-report-02-11-23>.

139 'COVID-19 vaccine safety report - 02-11-23', Australian Government Department of Health and Aged Care – Therapeutic Goods Administration (Web Page, 2 November 2023) <https://www.tga.gov.au/news/covid-19-vaccine-safety-reports/covid-19-vaccine-safety-report-02-11-23>.

140 'COVID-19 Vaccine Claims Scheme', Australian Government department of Health and Aged Care (Web Page, 8 October 2024) <https://www.health.gov.au/our-work/covid-19-vaccine-claims-scheme>.

141 Therapeutic Goods Administration, COVID-19 vaccines regulatory status (Web Page) <https://www.tga.gov.au/products/covid-19/covid-19-vaccines/covid-19-vaccines-regulatory-status#:~:text=Provisionally%20approved%20vaccines%20and%20those,required%20for%20use%20in%20Australia.>.

142 Maud de Feijter et al, 'The risk of miscarriage after COVID-19 vaccination before and during pregnancy' (2024) 33(1) Pharmacoepidemiol & Drug Safety 1-10 <https://doi.org/10.1002/pds.5724>; Michael P. Rimmer et al, 'The risk of miscarriage following COVID-19 vaccination: a systematic review and meta-analysis' (2023) 38(5) Human Reproduction 840-852 <https://doi.org/10.1093/humrep/dead036>.

143 Australian Passport Office, 'Australia's International COVID-19 Vaccination Certificate', Department of Foreign Affairs and Trade (Presentation, October 2021) <https://www.biometricsinstitute.org/?smd_process_download=1&download_id=9288>; Australian Passport Office, 'How the International COVID-19 Vaccination Certificate works', Department of Foreign Affairs and Trade (Web Page [Archived]) <https://www.passports.gov.au/how-international-covid-19-vaccination-certificate-works>.

144 Australian Passport Office, 'Frequently asked questions (FAQs)', Department of Foreign Affairs and Trade (Web Page) <https://www.passports.gov.au/FAQ#24>.

145 Holly Seale, 'Soon you'll need to be vaccinated to enjoy shops, cafes and events - but how will staff cope?', UNSW Sydney (Web Page, 23 September 2021) <https://www.unsw.edu.au/newsroom/news/2021/09/soon-you-ll-need-to-be-vaccinated-to-enjoy-shops--cafes-and-even>.

146 Australian Passport Office, 'Using your International COVID-19 Vaccination Certificate Overseas', Department of Foreign Affairs and Trade (Web Page [Archived]) <https://www.passports.gov.au/using-your-international-covid-19-vaccination-certificate-overseas>.

147 Australian Government Department of Health, COVID-19 Vaccine exemptions (Fact Sheet) <https://www.health.gov.au/sites/default/files/documents/2022/02/general-covid-19-vaccine-exemptions-fact-sheet-covid-19-vaccine-exemptions_0.pdf>

148 Evelyn Manfield, 'Police access SafeWA app data for murder investigation, prompting urgent law change', ABC News (online, 15 June 2021) <https://www.abc.net.au/news/2021-06-15/safewa-app-sparks-urgent-law-change-after-police-access-data/100201340>.

149 The Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Bill 2021 (WA).

150 Tama Leaver, 'Police debacle leaves the McGowan government battling to rebuild public trust in the SafeWA app', The Conversation (online, 16 June 2021) <https://theconversation.com/police-debacle-leaves-the-mcgowan-government-battling-to-rebuild-public-trust-in-the-safewa-app-162850>.

151 UN Human Rights Committee, General Comment No 16: Article 17 (Right to Privacy). <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=11>.

152 Aged Care Quality and Safety Commission, COVID-19 Restrictions in Residential Aged Care – Your Rights (Fact Sheet, 20 September 2022) 2 <https://www.agedcarequality.gov.au/sites/default/files/media/covid-19-restrictions-in-residential-aged-care-your-rights-fact-sheet_0.pdf>.

153 'Visitor Restrictions', Australian Government Aged Care Quality and Safety Commission (Web Page) <https://www.agedcarequality.gov.au/providers/clinical-governance/dealing-infectious-outbreaks/visitor-restrictions>.

154 Aged Care Quality and Safety Commission, Residential Care Visitor Access Survey Report (Report, March 2021) 3 <https://www.agedcarequality.gov.au/sites/default/files/media/Residential%20care%20visitor%20access%20survey%20report%20%28March%202021%29%20v1.pdf>.

155 Aged Care Quality and Safety Commission, Residential Care Visitor Access Survey Report (Report, March 2021) 5 <https://www.agedcarequality.gov.au/sites/default/files/media/Residential%20care%20visitor%20access%20survey%20report%20%28March%202021%29%20v1.pdf>; Aged Care Quality and Safety Commission, COVID-19 Restrictions in Residential Aged Care – Your Rights (Fact Sheet, 20 September 2022) 1 <https://www.agedcarequality.gov.au/sites/default/files/media/covid-19-restrictions-in-residential-aged-care-your-rights-fact-sheet_0.pdf>.

156 Aged Care Quality and Safety Commission, Residential Care Visitor Access Survey Report (Report, March 2021) 5 <https://www.agedcarequality.gov.au/sites/default/files/media/Residential%20care%20visitor%20access%20survey%20report%20%28March%202021%29%20v1.pdf>.

157 'COVID-19 advice for older people and carers', Australian Government Department of Health and Aged Care (Web Page, 4 December 2023) <https://www.health.gov.au/topics/aged-care/managing-covid-19/for-older-people-and-carers#:~:text=Translated%20resources-,Older%20people%20are%20at%20risk,or%20a%20weakened%20immune%20system>

158 Australian Government Department of Health and Aged Care, COVID-19 outbreaks in Australian residential aged care facilities (Report, 7 February 2025) <https://www.health.gov.au/sites/default/files/2025-02/covid-19-outbreaks-in-australian-residential-aged-care-homes-7-february-2025_0.pdf>.

159 Paul M. Taylor, A Commentary on the International Covenant on Civil and Political Rights (Cambridge University Press, 2020), 139.

160 UN Human Rights Committee, General Comment No 36 (Article 6: Right to Life), 3 September 2019. <https://documents.un.org/doc/undoc/gen/g19/261/15/pdf/g1926115.pdf>.

161 Paul M. Taylor, A Commentary on the International Covenant on Civil and Political Rights (Cambridge University Press, 2020), 139.

162 UN Human Rights Committee, General Comment No 36 (Article 6: Right to Life), 3 September 2019, [23]. <https://documents.un.org/doc/undoc/gen/g19/261/15/pdf/g1926115.pdf>.

163 UN Human Rights Committee, General Comment No 36 (Article 6: Right to Life), 3 September 2019, [26]. <https://documents.un.org/doc/undoc/gen/g19/261/15/pdf/g1926115.pdf>

164 Stakeholder Consultation Session – 20 May 2024 [240520].

165 Stakeholder Consultation Session – 20 May 2024 [240520].

166 Stakeholder Consultation Session – 20 May 2024 [240520].

167 Stakeholder Consultation Session – 4 June 2024 [240604.1].

168 Stakeholder Consultation Session – 20 May 2024 [240520].

169 Aged Care Quality and Safety Commission, COVID-19 Restrictions in Residential Aged Care – Your Rights (Fact Sheet, 20 September 2022) 3 <https://www.agedcarequality.gov.au/sites/default/files/media/covid-19-restrictions-in-residential-aged-care-your-rights-fact-sheet_0.pdf>.

170 Aged Care Quality and Safety Commission, COVID-19 Restrictions in Residential Aged Care – Your Rights (Fact Sheet, 20 September 2022) 3 <https://www.agedcarequality.gov.au/sites/default/files/media/covid-19-restrictions-in-residential-aged-care-your-rights-fact-sheet_0.pdf>.

171 Clay Lucas, ''Older people shouldn't be left': Calls to allow visits for fully vaccinated in aged care', The Age (online, 2 October 2021) <https://www.theage.com.au/politics/victoria/older-people-shouldn-t-be-left-calls-to-allow-visits-for-fully-vaccinated-in-aged-care-20211001-p58whk.html>; see e.g. Tony Ibrahim and Rani Hayman, 'Magaret Watts took her husband out of aged care facility because of COVID-19 visiting ban', ABC News (online, 30 August 2021) <https://www.abc.net.au/news/2021-08-30/banned-aged-care-visits-due-to-covid-19-detrimental-for-patients/100414430>.

172 Tony Ibrahim and Rani Hayman, 'Magaret Watts took her husband out of aged care facility because of COVID-19 visiting ban', ABC News (online, 30 August 2021) <https://www.abc.net.au/news/2021-08-30/banned-aged-care-visits-due-to-covid-19-detrimental-for-patients/100414430>.

173 Rani Hayman, 'COVID-19 restrictions on NSW hospital visits to be changed after devastated families speak out', ABC News (online, 10 February 2022) <https://www.abc.net.au/news/2022-02-10/nsw-hospital-visitation-laws-changed/100817892>.

174 Victorian Government, Victoria's roadmap for reopening – How we live in Metropolitan Melbourne (Roadmap, 2020) 2 <https://www.amaze.org.au/wp-content/uploads/2020/09/Victoria-roadmap-Melbourne-Metro_0.pdf>.

175 'Infection Control Expert Group - Advice for funeral directors', Australian Government Department of Health (Web Page, 19 November 2020) <https://www.health.gov.au/sites/default/files/documents/2020/11/coronavirus-covid-19-advice-for-funeral-directors-advice-for-funeral-directors-covid-19_0.pdf>.

176 Victorian Government, Restrictions from 11:59 pm Thursday 3 June (Table of Restrictions, Webpage) <https://www.premier.vic.gov.au/sites/default/files/2021-08/20210805%20Restrictions%20Change.pdf>.

177 See e.g. Pandemic (Movement and Gathering) Order 2021 (No. 1) (Vic); 'FAQs: Face masks and human rights', Victorian Equal Opportunity & Human Rights Commission (Web Page, November 2021) <https://www.humanrights.vic.gov.au/resources/faqs-face-masks-and-human-rights/>.

178 See e.g. Stay Safe Directions (Victoria) (No. 13) (Vic).

179 See e.g. Stay Safe Directions (Victoria) (No. 13) (Vic) s (16)(e).

180 Many people were given on the spot $100 fines for non-compliance with mask requirements, however Pandemic (Movement and Gathering) Order 2021 (No. 1) (Vic), for example, provides a maximum 60 penalty unit (currently as of July 2024 $11,855.40) for natural persons; Francesco Paolucci et al, 'A $200 fine for not wearing a mask is fair, as long as free masks go to those in need', The Conversation (online, 22 July 2020) <https://theconversation.com/a-200-fine-for-not-wearing-a-mask-is-fair-as-long-as-free-masks-go-to-those-in-need-142988>.

181 Australian Government Department of Health and Aged Care, AHPPC statement on the role of face masks to protect individuals and the community from COVID-19 (Statement, 15 November 2021) <https://www.health.gov.au/news/ahppc-statement-on-the-role-of-face-masks-to-protect-individuals-and-the-community-from-covid-19>; 'Face Masks', ACT Government (Web Page, 22 September 2023) <https://www.covid19.act.gov.au/stay-safe-and-healthy/face-masks>.

182 Stakeholder Consultation Session – 19 June 2024 [240619].

183 UN Human Rights Committee, General Comment No 34 (Article 19: Freedom of opinion and expression), 102nd sess, UN Doc CCPR/C/GC/34 (12 September 2011), [2].

184 'Explainer: Masks, COVID-19 and human rights', Human Rights Law Centre (Web Page, 29 July 2020) <https://www.hrlc.org.au/news/2020/7/29/explainer-masks-covid-19-and-human-rights>.

185 ICCPR, art 19(3).

186 Frank La Rue, Annual Report of the Special Rapporteur on the promotion and protection of the right to freedom of expression and opinion, UN Doc A/HRC/14/23, 20 April 2010, [79-81]. See also UN Human Rights Committee, General Comment No 34 (Article 19: Freedom of opinion and expression), 102nd sess, UN Doc CCPR/C/GC/34 (12 September 2011), [22].

187 Frank La Rue, Annual Report of the Special Rapporteur on the promotion and protection of the right to freedom of expression and opinion (UN Doc A/HRC/14/23, 20 April 2010) 13-15 [79]-[81]; See also United Nations ('UN') Human Rights Committee, General Comment No 34 (Article 19: Freedom of opinion and expression) (UN Doc CCPR/C/GC/34, 12 September 2011) 6 [22].

188 Phoebe Hosier and Emma Pollard, 'What are the rules around Greater Brisbane's coronavirus mask mandate? Your questions answered', ABC News (9 January 2021) <https://www.abc.net.au/news/2021-01-09/coronavirus-queensland-masks-mandate-greater-brisbane-lockdown/13043068?fbclid=IwY2xjawIGXeBleHRuA2FlbQIxMQABHQ9UaoVdU7YdYFP4VABmc42thftyjMcsgARByHn-ZAgijJDcfDrTwY2JCg_aem_NOMMKvH48ZodMbJzPjFIhQ>.

189 The Health Minister made the Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements—High Risk Country Travel Pause) Determination 2021 (Cth) requiring certain people not to enter Australia using human biosecurity emergency powers provided by s 477 of the Biosecurity Act 2015 (Cth).

190 Australian Human Rights Commission, 'Travel ban and sanctions on Australians travelling from India' (Media Release, 1 May 2021) <https://humanrights.gov.au/about/news/media-releases/travel-ban-and-sanctions-australians-travelling-india>.

191 The Hon Greg Hunt MP (Minister for Health and Aged Care), 'Travel arrangements to be strengthened for people who have been in India' (Media Release, 1 May 2021) <https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/travel-arrangements-to-be-strengthened-for-people-who-have-been-in-india>.

192 See Biosecurity Act 2015 (Cth) s 479; Liz Hicks & Sangeetha Pillai, 'Proportionality, rights and Australia's COVID-19 response: Insights from the India travel ban', Australian Public Law (Web Page, 16 August 2021) <https://www.auspublaw.org/blog/2021/08/proportionality-rights-and-australias-covid-19-response-insights-from-the-india-travel-ban>.

193 Regina Jefferies , Jane McAdam and Sangeetha Pillai, 'Can we still call Australia home? The right to return and the legality of Australia's COVID-19 travel restrictions' (2022) 27(2) Australian Journal of Human Rights 211-231, 212-216 <https://doi.org/10.1080/1323238X.2021.1996529>.

194 The Hon Greg Hunt MP (Minister for Health and Aged Care), 'Travel arrangements to be strengthened for people who have been in India' (Media Release, 1 May 2021) <https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/travel-arrangements-to-be-strengthened-for-people-who-have-been-in-india>.

195 The Hon Greg Hunt MP (Minister for Health and Aged Care), 'Travel arrangements to be strengthened for people who have been in India' (Media Release, 1 May 2021) <https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/travel-arrangements-to-be-strengthened-for-people-who-have-been-in-india>.

196 Australian Human Rights Commission, 'Travel ban and sanctions on Australians travelling from India' (Media Release, 1 May 2021) <https://humanrights.gov.au/about/news/media-releases/travel-ban-and-sanctions-australians-travelling-india>; Olivera Simic, 'Australia, Covid-19, and the India Travel Ban' (2022) 9(2) Griffith Journal of Law and Human Dignity 1-36, 12 <https://griffithlawjournal.org/index.php/gjlhd/article/view/1224>; Paul Karp and Sarah Martin, 'Australian man launches legal challenge to India travel ban, as number of vulnerable citizens rises', The Guardian (online, 5 May 2021) <https://www.theguardian.com/australia-news/2021/may/05/australian-man-launches-legal-challenge-to-india-travel-ban-as-number-of-vulnerable-citizens-rises>.

197 Australian Human Rights Commission, 'Travel ban and sanctions on Australians travelling from India' (Media Release, 1 May 2021<https://humanrights.gov.au/about/news/media-releases/travel-ban-and-sanctions-australians-travelling-india>.

198 Regina Jefferies, Jane McAdam and Sangeetha Pillai, 'Can we still call Australia home? The right to return and the legality of Australia's COVID-19 travel restrictions' (2022) 27(2) Australian Journal of Human Rights 211-231, 215 <https://doi.org/10.1080/1323238X.2021.1996529>.

199 Frances Mao, 'Australians stuck overseas "abandoned" by their own country', BBC News (online, 1 May 2021) < https://www.bbc.com/news/world-australia-56924188>.

200 Newman v Minister for Health and Aged Care [2021] FCA 517.

201 ICCPR art 12(4).

202 CCPR General Comment No. 27: Article 12 (Freedom of Movement) 5 [21].

203 Daniel Hurst, 'UN raises serious human rights concerns over Australia's India travel ban', The Guardian (5 May 2021) <https://www.theguardian.com/australia-news/2021/may/05/un-raises-serious-human-rights-concerns-over-australia-india-travel-ban>.

204 PJCHR, Human Rights Scrutiny Report (Report 6, 2021) 6-7 [1.17]-[1.18].

205 UNGA (UN General Assembly). 1957a. Official Records. A/C.3/SR.810. November 14. [17].

206 Jose Ingles, Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including His Own, and Return to His Country (Report of the Special Rapporteur of the Sub-Committee on Prevention of Discrimination and Protection of Minorities, 1963) UN Doc No. E/CN.4/Sub.2/220/Rev.1, 41.

207 Stephanie L. Wood, 'The Right to Protest During a Pandemic: Using Public Health Ethics to Bridge the Divide Between Public Health Goals and Human Rights' (2023) 20(2) Journal of Bioethical Inquiry 169-176, 170 <https://doi.org/10.1007/s11673-023-10235-w>.

208 Stephanie L. Wood, 'The Right to Protest During a Pandemic: Using Public Health Ethics to Bridge the Divide Between Public Health Goals and Human Rights' (2023) 20(2) Journal of Bioethical Inquiry 169-176, 170 <https://doi.org/10.1007/s11673-023-10235-w>.

209 See e.g. Stay Safe Directions (No 1)-(No 30) (Vic) which placed restrictions on the number of people who could publicly gather at different stages during the pandemic; see also Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 3) 2020 (NSW).

210 ICCPR art 19.

211 ICCPR art 21.

212 ICCPR art 22.

213 Human Rights Committee, General Comment No. 37 (2020) on the right of peaceful assembly (Article 21), 129th sess, UN Doc CCPR/C/GC/37 (17 September 2020)

214 ICCPR arts 19(3)(b), 21 & 22(2).

215 Human Rights Committee, General Comment No. 37 (2020) on the right of peaceful assembly (Article 21), 129th sess, UN Doc CCPR/C/GC/37 (17 September 2020) 44; see European Court of Human Rights, Cisse v. France (application No. 51346/99), judgment of 9 April 2002.

216 Victorian Charter of Human Rights and Responsibilities Act 2006, Queensland Human Rights Act 2019, ACT Human Rights Act 2004; Anna Talbot, 'The right to protests: Challenges during the pandemic' (2022) 169 Precedent 18.

217 Victorian Equal Opportunity and Human Rights Commission, Protest, the Policing Response Selections from the 2020 Report of the Operations of the Charter of Human Rights and Responsibilities (Report, 2020) 58; see also Human Rights Law Centre, Protest in Peril: Our Shrinking Democracy (Report, June 2024) 10 <https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/668629dc39da074c14416561/1720068581189/20240704_ProtestInPeril_HRLC-FINAL.pdf>.

218 This was due to restrictions not allowing public gatherings, or placing severe limitations on the number of people allowed to congregate together.

219 Human Rights Law Centre, Protest in Peril: Our Shrinking Democracy (Report, June 2024) 10 <https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/668629dc39da074c14416561/1720068581189/20240704_ProtestInPeril_HRLC-FINAL.pdf>; Liberty Victoria, Refugee Protest Arrest and Fines (Media Release) <https://libertyvictoria.org.au/civicrm/mailing/view?reset=1&id=1395>.

220 Human Rights Law Centre, Protest in Peril: Our Shrinking Democracy (Report, June 2024) 10 <https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/668629dc39da074c14416561/1720068581189/20240704_ProtestInPeril_HRLC-FINAL.pdf>; Refugee Action Collective, Car convoy fines update (Webpage) <https://rac-vic.org/2022/09/07/car-convoy-fines-update/>.

221 Victorian Equal Opportunity and Human Rights Commission, Protest, the Policing Response Selections from the 2020 Report of the Operations of the Charter of Human Rights and Responsibilities (Report, 2020) 58; Crimes Act 1958 (Vic) s 321I.

222 Janet Albrechtsen, 'Zeo Buhler: one mum's desperate voice silenced by fascist behaviour', The Australian (online, 5 September 2020).

223 Crimes Act 1958 (Vic), s 321I.

224 Lexis Jeuniewic, 'Police drop anti-lockdown incitement charge against Ballarat woman Zoe Buhler', ABC News (30 August 2022). <https://www.abc.net.au/news/2022-08-30/anti-lockdown-protest-charges-thrown-out-ballarat-woman/101385396>.

225 Human Rights Committee, General Comment No. 37 (2020) on the right of peaceful assembly (Article 21), 129th sess, UN Doc CCPR/C/GC/37 (17 September 2020), [13].

226 Yuval Shany, Panel Discussion on the Promotion and Protection of Human Rights in the Context of Peaceful Protests (29 September 2021) <https://www.ohchr.org/en/press-releases/2021/09/high-commissioner-human-rights-council-has-given-disturbing-diagnosis-human>.

227 Human Rights Law Centre, Protest in Peril: Our Shrinking Democracy (2024), 5.

228 Human Rights Law Centre, Protest in Peril: Our Shrinking Democracy (2024), 5.

229 Australian National Audit Office, Australia's COVID-19 Vaccine Rollout (Report, 17 August 2022) [1.17] <https://www.anao.gov.au/work/performance-audit/australia-covid-19-vaccine-rollout>.

230 'About the National COVID-19 Vaccine Program', Australian Government Department of Health and Aged Care (Web Page, 11 November 2024) <https://www.health.gov.au/our-work/covid-19-vaccines/about-rollout>.

231 Department of Health and Aged Care, About the National COVID-19 Vaccine Program (Web Page) <https://www.health.gov.au/our-work/covid-19-vaccines/about-rollout>.

232 'COVID-19 Vaccinations and Federal Discrimination Law', Australian Human Rights Commission (Web Page) <https://humanrights.gov.au/about/covid19-and-human-rights/covid-19-vaccinations-and-federal-discrimination-law>; Katie Attwell et al, 'COVID-19 Vaccine Mandates: An Australian Attitudinal Study' (2022) 40(51) Vaccine 7360-7369, 7360 <https://doi.org/10.1016/j.vaccine.2021.11.056>.

233 ''Vaccination for Healthcare Workers', Victoria Department of Health (Web Page, 4 October 2024) <https://www.health.vic.gov.au/immunisation/vaccination-for-healthcare-workers>; 'COVID-19, Mandatory Vaccines and Work', Victoria Legal Aid (Web Page, 14 October 2024) <https://www.legalaid.vic.gov.au/covid-19-mandatory-vaccines-and-work>.

234 'COVID-19, Mandatory Vaccines and Work', Victoria Legal Aid (Web Page, 14 October 2024) <https://www.legalaid.vic.gov.au/covid-19-mandatory-vaccines-and-work>.

235 The Hon Scott Morrison MP (Prime Minister), National Cabinet Statement (Media Statement, 6 August 2021). <https://pmtranscripts.pmc.gov.au/release/transcript-44093>.

236 Stakeholder Consultation Session – 14 August 2024 [240814.1]; Thomas Chamberlin, 'Sacked cops fighting to get jobs back after Covid jab ruling', Courier Mail (online, 12 June 2024) <https://www.couriermail.com.au/coronavirus/sacked-cops-fighting-to-get-jobs-back-after-covid-jab-ruling/news-story/b866a3c436ea3cffc46381e1a6b901ba>.

237 Catherine Hanrahan, Olivana Lathouris and Mindy Burrows, 'Police officers overworked as unfilled vacancies and sick leave surge, driving thousands to leave the force', ABC News (28 September 2024). <https://www.abc.net.au/news/2024-09-28/police-officers-shortage-overwork-unions/104384048>.

238 General Comment No. 18: The Right to Work (Art. 6 of the Covenant) 3 [4].

239 See, for example, Kassam v Hazzard [2021] NSWCA 299; (2021) 106 NSWLR 520; Kassam v Hazzard [2021] NSWSC 1320; (2021) 393 ALR 664; Larter v Hazzard [No 2] [2021] NSWSC 145; Harding v Sutton [2021] VSC 741; Falconer v Commissioner of Police (WA) (No 4) [2022] WASC 271; Falconer v Commissioner of Police (WA) (No 2) [2024] WASCA 47.

240 Johnson v Carroll (2024) 329 IR 365.

241 Specifically s 58(1)(b) of the Human Rights Act 2019 (Qld).

242 Christopher Rudge, 'Challenging Pandemic Law: From Vaccine Mandates to Judicial Review of Vaccine Approvals' (2024) 31 Journal of Law & Medicine 225, 226.

243 Lily McCann et al, 'Police, permits and politics: Navigating life on Australia's state borders during the COVID-19 pandemic' (2022) 30(3) Australian Journal of Rural Health 363-372, 370 <https://doi.org/10.1111/ajr.12845>.

244 Ben Smee, 'How will they Police It? Tweed Heads and Coolangatta Brace for Queensland Border Lock down', The Guardian (online, 24 March 2020) <https://www.theguardian.com/world/2020/mar/24/how-will-they-police-it-tweed-heads-and-coolangatta-brace-for-queensland-border-lockdown>; 9News Staff, 'Everything you need to know about Victoria-NSW border permits', 9 News (online, 8 July 2020) <https://www.9news.com.au/national/victoria-nsw-border-permit-how-to-apply-and-who-is-eligible-key-questions-explained/5b6b193a-48c2-45e9-840e-6681b4dd52f5>.

245 Lily McCann et al, 'Police, permits and politics: Navigating life on Australia's state borders during the COVID-19 pandemic' (2022) 30(3) Australian Journal of Rural Health 363-372, 367 <https://doi.org/10.1111/ajr.12845>.

246 Lily McCann et al, 'Police, permits and politics: Navigating life on Australia's state borders during the COVID-19 pandemic' (2022) 30(3) Australian Journal of Rural Health 363-372, 366 <https://doi.org/10.1111/ajr.12845>.

247 Stakeholder Consultation Session – 21 August 2024 [240821].

248 Lily McCann et al, 'Police, permits and politics: Navigating life on Australia's state borders during the COVID-19 pandemic' (2022) 30(3) Australian Journal of Rural Health 363-372, 369 <https://doi.org/10.1111/ajr.12845>.

249 Lily McCann et al, 'Police, permits and politics: Navigating life on Australia's state borders during the COVID-19 pandemic' (2022) 30(3) Australian Journal of Rural Health 363-372, 367 <https://doi.org/10.1111/ajr.12845>.

250 Stakeholder Consultation Session – 12 August 2024 [240812.1].

251 Jennifer White et al, 'The experience of delayed health care access during the COVID 19 pandemic in Australian women: A mixed methods exploration' (2021) 30(4) Health Soc Care Community e1384-e1395, e1385 <https://doi.org/10.1111/hsc.13546>.

252 SBS News, Unborn twin baby dies in NSW after Queensland border confusion (28 August 2020). <https://www.sbs.com.au/news/article/unborn-twin-baby-dies-in-nsw-after-queensland-border-confusion/ckpcbpibh>.

253 Caroline Overington, 'Coronavirus: Tragedy that should end the border debate', The Australian, 30 August 2020. <https://www.theaustralian.com.au/commentary/coronavirus-tragedy-that-should-end-the-border-debate/news-story/87077dd847a351af70d383bbae4be7a1>.

254 Stakeholder Consultation Session – 14 August 2024 [240814.1].

255 Stakeholder Consultation Session – 16 August 2024 [240816.1].

256 Stakeholder Consultation Session – 14 August 2024 [240814.1].

257 Stakeholder Consultation Session – 16 August 2024 [240816.2].

258 Catherine Bennett, 'Australia's mishmash of COVID border closures is confusing, inconsistent and counterproductive', The Conversation (online, 6 January 2021) <https://theconversation.com/australias-mishmash-of-covid-border-closures-is-confusing-inconsistent-and-counterproductive-152620>; Ted O'Connor, 'Conflicting advice from WA authorities confuses travellers looking to enter from NT', ABC News (online, 24 August 2021) <https://www.abc.net.au/news/2021-08-25/wa-border-mixed-messaging/100406170>.

259 Stakeholder Consultation Session – 6 August 2024 [240806.1].

260 Stakeholder Consultation Session – 14 August 2024 [240814.1]; Stakeholder Consultation Session – 12 August 2024 [240812.1].

261 Julie Leask and Claire Hooker, 'How risk communication could have reduced controversy about school closures in Australia during the COVID-19 pandemic' (2020) 30(2) Public Health Research & Practice 302207:1-5,1 <www.phrp.com.au/wp-content/uploads/2020/06/PHRP3022007.pdf>.

262 Dr Shannon Clark, 'COVID-19: chronology of state and territory announcements on schools and early childhood education in 2020' (Parliamentary Library; Research Paper Series, 2021-22; 1 March 2022) <https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/8445625/upload_binary/8445625.pdf>.

263 Leanna Fray et al, 'Schooling upheaval during COVID-19: troubling consequences for students' return to school' (2022) 50 Australian Educational Researcher 1533-1550, 1534 <https://doi.org/10.1007/s13384-022-00572-x>.

264 Department of the Prime Minister and Cabinet, COVID-19 Response Inquiry Report (2024), 376.

265 Department of the Prime Minister and Cabinet, COVID-19 Response Inquiry Report (2024), 377.

266 Department of the Prime Minister and Cabinet, COVID-19 Response Inquiry Report (2024), 375.

267 Committee on Economic, Social and Cultural Rights, General Comment No 13: The Right to Education (Art.13 of the Covenant), 21st sess, UN Doc E/C.12/1999/10 (8 December 1999) ('General Comment No.13').

268 General Comment No. 13 (n 46).

269 ICESCR, art. 4.

270 Peter Shergold et al, Fault Lines: An Independent Review into Australia's Response to COVID-19 (Report, 20 October 2022) 22 <https://cdn.prod.website-files.com/62b998c0c9af9f65bba26051/6350438b7df8c77439846e97_FAULT-LINES-1.pdf>.

271 Australian Human Rights Commission, Safeguarding Children: Using a Child Rights Impact Assessment to Improve our Laws and Policies (Report, 25 October 2023) 74 <https://humanrights.gov.au/sites/default/files/document/publication/cria_2023_-_final_-_18aug2023_1_1_0.pdf>.

272 Grattan Institute, Women's Work: The Impact of the COVID crisis on Australian Women (Report No 1, March 2021) 18 <https://grattan.edu.au/wp-content/uploads/2021/03/Womens-work-Grattan-Institute-report.pdf>

273 Stephen Lamb et al, Impact of learning from home on educational outcomes for disadvantaged children (Brief Assessment, April 2020) 6-7 <https://www.vu.edu.au/sites/default/files/submission-government-impact-learning-from-home.pdf>.

274 See 'COVID takes a Toll on young Australians' Education', Australian National University College of Arts and Social Sciences – News (Web Page, 17 November 2023) <https://cass.anu.edu.au/news/covid-takes-toll-young-australians-education#:~:text=One%2Din%2Dtwo%20high%20school,of%20young%20Australians%20has%20found>.

275 Department of Prime Minister and Cabinet, COVID-19 Response Inquiry Report (Final Report, 29 October 2024) 392-393 <https://www.pmc.gov.au/sites/default/files/resource/download/covid-19-response-inquiry-report.pdf>.

276 Victorian Commission for Children and Young People, Impact of COVID-19 on children and young people: Education (Snapshot, 2020) 4 <https://ccyp.vic.gov.au/assets/COVID-Engagement/CCYP-Education-Snapshot-web.pdf>.

277 Victorian Commission for Children and Young People, Impact of COVID-19 on children and young people: Education (Snapshot, 2020) 8 <https://ccyp.vic.gov.au/assets/COVID-Engagement/CCYP-Education-Snapshot-web.pdf>.

278 Committee on the Rights of Persons with Disabilities, General Comment No 4: Right to Inclusive Education (Art.24 of the Covenant), 12th sess, UN Doc CRPD/C/GC/4 (25 November 2016) [9].

279 Committee on the Rights of Persons with Disabilities, General Comment No 4: Right to Inclusive Education (Art.24 of the Covenant), 12th sess, UN Doc CRPD/C/GC/4 (25 November 2016) [9], [11].

280 Loud Days, Raising a Deaf Child during the Pandemic (Deaf Children Australia, 29 November 2021) <https://www.deafchildrenaustralia.org.au/raising-a-deaf-child-during-the-pandemic/>.

281 Stakeholder Consultation Session – 19 June 2024 [240619].

282 Stakeholder Consultation Session – 20 June 2024 [240620.1].

283 Australian Human Rights Commission, Safeguarding Children: Using a Child Rights Impact Assessment to Improve our Laws and Policies (Report, 2023) 72 <https://humanrights.gov.au/sites/default/files/document/publication/cria_2023_-_final_-_18aug2023_1_1_0.pdf>.

284 Convention on the Rights of the Child (n 47) arts 6, 19.

285 Committee on the Rights of the Child, General Comment No 13: The Right of the Child to Freedom from all Forms of Violence, UN Doc CRC/C/GC/13 (18 April 2011) [14].

286 Committee on the Rights of the Child, General Comment No 13: The Right of the Child to Freedom from all Forms of Violence, UN Doc CRC/C/GC/13 (18 April 2011) [49].

287 Youth Affairs Council of Western Australia, Migrant, Refugee and Multicultural Young People: Experiences of COVID-19 (Position Paper, 2020) 2 <https://www.yacwa.org.au/wp-content/uploads/YACWA_PositionPaper_Multicultural_OCT20_PROOF4.pdf>.

288 Stephanie Borys, 'Australia's university sector is unlikely to recover from COVID-19 this year, experts say', ABC News (3 February 2021). <https://www.abc.net.au/news/2021-02-03/universities-covid19-unemployment-sector-recovery-unlikely/13114542>.

289 Valeriya Sytnik, ‘The Impact of COVID-19 on the Social, Physical, Occupational, Intellectual, Emotional and Spiritual Lives of Students and Suggested Coping Strategies’ (Research Paper, Issue 3 Article 7, Universal Business Scholarship Series Centre for Scholarship and Research, 31 May 2022) <https://www.ubss.edu.au/articles/2022/may/the-impact-of-covid-19-on-the-social-physical-occupational-intellectual-emotional-and-spiritual-lives-of-students-and-suggested-coping-strategies/>.

290 Valeriya Sytnik, ‘The Impact of COVID-19 on the Social, Physical, Occupational, Intellectual, Emotional and Spiritual Lives of Students and Suggested Coping Strategies’ (Research Paper, Issue 3 Article 7, Universal Business Scholarship Series Centre for Scholarship and Research, 31 May 2022) <https://www.ubss.edu.au/articles/2022/may/the-impact-of-covid-19-on-the-social-physical-occupational-intellectual-emotional-and-spiritual-lives-of-students-and-suggested-coping-strategies/>.

291 Cassidy Knowlton, ‘A Timeline of Covid-19 in Australia, Two Years On’, Time Out (Web Page, 20 February 2023) < https://www.timeout.com/melbourne/things-to-do/a-timeline-of-covid-19-in-australia-two-years-on>; New South Wales Ombudsman, NSW Public Health Restrictions to Deal with the COVID Pandemic: A Chronology (Issues Paper No 5, November 2020) 5-14 <https://www.parliament.nsw.gov.au/researchpapers/Documents/NSW%20public%20health%20restrictions%20to%20deal%20with%20the%20COVID-19%20pandemic.pdf>.

292 Ian Macreadie, ‘Reflections from Melbourne, the world’s most locked-down city, through the COVID-19 pandemic and beyond’ (2022) 43(1) Microbiology Australia 3.

293 Premier of Victoria, ‘Extended Melbourne Lockdown to Keep Victorians Safe’ (Media Release, 16 August 2021) < https://www.premier.vic.gov.au/extended-melbourne-lockdown-keep-victorians-safe-0>.

294 Australian Institute of Health and Welfare, Family, domestic and sexual violence service responses in the time of COVID-19 (Paper, December 2021) 5 <https://www.aihw.gov.au/getmedia/9d808ec3-8c3a-452d-b435-b0afa1df866d/aihw-fdv-8.pdf?v=20230605172500&inline=true>.

295 Kate Fitz-Gibbon, Jacqui True and Naomi Pfitzner, ’More help required: the crisis in family violence during the coronavirus pandemic’ The Conversation (online, 18 August 2020) <https://theconversation.com/more-help-required-the-crisis-in-family-violence-during-the-coronavirus-pandemic-144126>.

296 ‘Domestic Violence Support During COVID-19 Crisis’, New South Wales Government (Web Page, 31 March 2020) <https://www.nsw.gov.au/news/domestic-violence-support-during-covid-19-crisis>; Hayley Boxall, Anthony Morgan and Rick Brown, ‘The prevalence of domestic violence among women during the COVID-19 pandemic’ (2020) 28 Australian Institute of Criminology Statistical Bulletin 1-19, 5 <https://doi.org/10.52922/sb04718>.

297 Hayley Boxall, Anthony Morgan and Rick Brown, ‘The prevalence of domestic violence among women during the COVID-19 pandemic’ (2020) 28 Australian Institute of Criminology Statistical Bulletin 1-19, 16 <https://doi.org/10.52922/sb04718>.

298 United Nations Women, ‘UN Women raises awareness of the shadow pandemic of violence against women during COVID-19’ (Press Release, 27 May 2020) <https://www.unwomen.org/en/news/stories/2020/5/press-release-the-shadow-pandemic-of-violence-against-women-during-covid-19>.

299 Hayley Boxall and Anthony Morgan, Intimate Partner Violence during the COVID-19 Pandemic: A Survey of Women in Australia (Research Report, Issue 3, October 2021) 9 <https://www.aic.gov.au/sites/default/files/2022-01/intimate-partner-violence-during-the-covid-19-pandemic.pdf>.

300 Domestic violence can be perpetrated by either men or women however statistically women are more likely to experience this type of abuse. ‘FDSV Summary’, Australian Institute of Health and Welfare (Web Page, 9 December 2024) <https://www.aihw.gov.au/family-domestic-and-sexual-violence/resources/fdsv-summary>.

301 Dubravka Šimonović, Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences: Intersection between the Coronavirus Disease (COVID-19) Pandemic and the Pandemic of Gender-based Violence and the ‘Peace in the Home’ Initiative, 75th sess, Agenda Item 72(b), UN Doc A/75/144 (24 July 2020) [41]; Angela Lynch AM, ‘COVID-19 and its Impact on the Family Violence Legal and Service System’ Australian Institute of Family Studies (Webinar, 25 June 2020) <https://aifs.gov.au/webinars/covid-19-and-its-impact-family-violence-legal-and-service-system>.

302 World Health Organization, COVID-19 and Violence against Women: What the Health Sector/System Can Do (Brief, 7 April 2020) 1 <https://iris.who.int/bitstream/handle/10665/331699/WHO-SRH-20.04-eng.pdf?sequence=1>; Stakeholder Consultation Session – 15 August 2024 [240815.5].

303 Stakeholder Consultation Session – 14 August 2024 [240815.1].

304 Stakeholder Consultation Session – 15 August 2024 [240815.5].

305 Dubravka Šimonović, Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences: Intersection between the Coronavirus Disease (COVID-19) Pandemic and the Pandemic of Gender-based Violence and the ‘Peace in the Home’ Initiative, 75th sess, Agenda Item 72(b), UN Doc A/75/144 (24 July 2020) [7].

306 World Health Organization, COVID-19 and Violence against Women: What the Health Sector/System Can Do (Brief, 7 April 2020) 1 <https://iris.who.int/bitstream/handle/10665/331699/WHO-SRH-20.04-eng.pdf?sequence=1>; Australian Human Rights Institute, Submission to the United Nations Special Rapporteur on Violence Against Women (2 July 2020) 9-10.

307 Anthony Morgan and Hayley Boxall, Economic insecurity and intimate partner violence in Australia during the COVID-19 pandemic, (Research Report, Issue 2, January 2022) 54 <https://www.aic.gov.au/sites/default/files/2022-05/economic-insecurity-and-ipv-in_australia-during-the-covid-19-pandemic.pdf>.

308 See e.g. Committee on the Elimination of All Forms of Discrimination Against Women, General Recommendation No. 35 on Gender-based Violence against Women, Updating General Recommendation No. 19, UN Doc CEDAW/C/GC/35 (26 July 2017) [15]; Australian Human Rights Institute, Submission to the UN Special Rapporteur on Violence Against Women's Report on Domestic Violence During the COVID-19 pandemic.

309 Kerry Carrington et al, ‘The impact of COVID-19 pandemic on Australian domestic and family violence services and their clients’ (2021) 56(4) Australian Journal of Social Issues 539-558, 540 <https://doi.org/10.1002/ajs4.183>.

310 Committee on the Elimination of All Forms of Discrimination Against Women, General Recommendation No. 35 on Gender-based Violence against Women, Updating General Recommendation No. 19, UN Doc CEDAW/C/GC/35 (26 July 2017) [24].

311 Australian Human Rights Institute, Submission to the United Nations Special Rapporteur on Violence Against Women (2 July 2020) 7-8.

312 Australian Human Rights Institute, Submission to the United Nations Special Rapporteur on Violence Against Women (2 July 2020) 8.

313 United Nations Women, Prevention: Violence against Women and Girls & COVID-19 (Brief, 2020); World Health Organization, COVID-19 and Violence against Women: What the Health Sector/System Can Do (Brief, 7 April 2020) 1 <https://iris.who.int/bitstream/handle/10665/331699/WHO-SRH-20.04-eng.pdf?sequence=1>; Australian Institute of Health and Welfare, Family, domestic and sexual violence service responses in the time of COVID-19 (Paper, December 2021) 4 <https://www.aihw.gov.au/getmedia/9d808ec3-8c3a-452d-b435-b0afa1df866d/aihw-fdv-8.pdf?v=20230605172500&inline=true>; ‘Family, Domestic and Sexual Violence and COVID-19’ Australian Institute of Health and Welfare (Web Page, 24 November 2023) <https://www.aihw.gov.au/family-domestic-and-sexual-violence/responses-and-outcomes/covid-19>.

314 Australian Institute of Health and Welfare, Family, domestic and sexual violence service responses in the time of COVID-19 (Paper, December 2021) 5 <https://www.aihw.gov.au/getmedia/9d808ec3-8c3a-452d-b435-b0afa1df866d/aihw-fdv-8.pdf?v=20230605172500&inline=true>.

315 Dubravka Šimonović, Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences: Intersection between the Coronavirus Disease (COVID-19) Pandemic and the Pandemic of Gender-based Violence and the 'Peace in the Home' Initiative, 75th sess, Agenda Item 72(b), UN Doc A/75/144 (24 July 2020) [28].

316 United Nations Women, Prevention: Violence against Women and Girls & COVID-19 (Brief, 2020) <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2020/Brief-Prevention-Violence-against-women-and-girls-and-COVID-19-en.pdf>.

317 Stakeholder Consultation Session – 14 August 2024 [240815.1].

318 'Family, Domestic and Sexual Violence and COVID-19' Australian Institute of Health and Welfare, (Web Page, 24 November 2023) <https://www.aihw.gov.au/family-domestic-and-sexual-violence/responses-and-outcomes/covid-19>.

319 'Family, Domestic and Sexual Violence and COVID-19' Australian Institute of Health and Welfare, (Web Page, 24 November 2023) <https://www.aihw.gov.au/family-domestic-and-sexual-violence/responses-and-outcomes/covid-19>.

320 Stakeholder Consultation Session – 14 August 2024 [240815.1].

321 Rainbow Health Australia, What have we learnt about COVID-19 and LGBTIQ communities? (Fact Sheet, 2022) 6-7 <https://rainbowhealthaustralia.org.au/media/pages/research-resources/research-matters-covid-19-and-lgbtiq-communities/3033295656-1709686056/research-matters-covid-lgbtiq.pdf>; Equality Australia, Inequality Magnified: Submission to the Australian Senate Inquiry into Australia's Response to COVID-19 (Report, 2020) 9-11 <https://equalityaustralia.org.au/wp-content/uploads/2020/06/Magnifying-Inequality-Submission-to-Senate-COVID19-Inquiry-1.pdf>.

322 Rainbow Health Australia, What have we learnt about COVID-19 and LGBTIQ communities? (Fact Sheet, 2022) 7 <https://rainbowhealthaustralia.org.au/media/pages/research-resources/research-matters-covid-19-and-lgbtiq-communities/3033295656-1709686056/research-matters-covid-lgbtiq.pdf>.

323 Natalie Amos et al, Pride and Pandemic: Health Experiences and Coping Strategies among LGBTQ+ People during the COVID-19 Pandemic in Australia (National Report, 2022) 43 <https://opal.latrobe.edu.au/ndownloader/files/37894713>.

324 Natalie Amos et al, Pride and Pandemic: Health Experiences and Coping Strategies among LGBTQ+ People during the COVID-19 Pandemic in Australia (National Report, 2022) 43 <https://opal.latrobe.edu.au/ndownloader/files/37894713>.

325 Stakeholder Consultation Session – 15 August 2024 [240815.5].

326 Natalie Amos et al, Pride and Pandemic: Health Experiences and Coping Strategies among LGBTQ+ People during the COVID-19 Pandemic in Australia (National Report, 2022) 43 <https://opal.latrobe.edu.au/ndownloader/files/37894713>.

327 Finbarr Toesland, 'Coronavirus restrictions highlight LGBTQ domestic abuse crisis', NBC News (online, 18 April 2020) <https://www.nbcnews.com/feature/nbc-out/coronavirus-restrictions-highlight-lgbtq-domestic-abuse-crisis-n1186376>.

328 Stakeholder Consultation Session – 13 August 2024 [240813.3].

329 Seniors Rights Victoria, Elder Abuse and COVID-19 (Brief) 1 <https://seniorsrights.org.au/wp-content/uploads/2021/07/Summary-of-COVID-19-impact-on-SRV_web.pdf>.

330 Paula Whiteman et al, 'Violence and Abuse: A Pandemic Within a Pandemic' (2023) 24(4) Western Journal of Emergency Medicine 743-750, 746-7 <https://doi.org/10.5811/westjem.58405>.

331 Else Kennedy, ''Confronting': alleged elder abuse cases rise sharply in Australia amid Covid', The Guardian (online, 25 February 2021) <https://www.theguardian.com/australia-news/2021/feb/25/confronting-alleged-elder-abuse-cases-rise-sharply-in-australia-amid-covid>.

332 Stakeholder Consultation Session – 20 June 2024 [240620.1].

333 Stakeholder Consultation Session – 15 August 2024 [240815.5].

334 Yona Lunsky, 'People with disabilities put at risk by COVID-19 triage and vaccine priorities', The Conversation (online, 15 February 2021) <https://theconversation.com/people-with-disabilities-put-at-risk-by-covid-19-triage-and-vaccine-priorities-154741>.

Stakeholder Consultation Session – 20 June 2024 [240620.2]; Vanamali Hermans, 'We are not Disposable', People with Disability Australia (Blog Post, 12 August 2020) <https://pwd.org.au/we-are-not-disposable/>.

335 Stakeholder Consultation Session – 20 June 2024 [240620.2].

336 Disability Royal Commission and COVID-19', Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Web Page) <https://disability.royalcommission.gov.au/news-and-media/coronavirus-covid-19-update#:~:text=The%20Royal%20Commission%20completed%20two,the%20ongoing%20COVID%2D19%20pandemic>.

337 Stakeholder Consultation Session – 19 June 2024 [240619]; 'Work at Home/Telework as a Reasonable Accommodation', U.S Equal Employment Opportunity Commission (Web Page, 2 March 2003) <https://www.eeoc.gov/laws/guidance/work-hometelework-reasonable-accommodation>.

338 Stakeholder Consultation Session – 20 June 2024 [240620.1].

339 Feby Savira, 'Use of General Practitioner Telehealth Services During the COVID-19 Pandemic in Regional Victoria, Australia: Retrospective Analysis' (Research Paper, Volume 25, 7 February 2023) <https://doi.org/10.2196/39384>.

340 Australian Institute of Health and Welfare, The first year of COVID-19 in Australia: direct and indirect health effects (Report, 2021) vii <https://www.aihw.gov.au/getmedia/a69ee08a-857f-412b-b617-a29acb66a475/aihw-phe-287.pdf?v=20230605184353&inline=true>.

341 Australian Bureau of Statistics, Patient Experiences, 2023-24 Financial Year (Catalogue No 4839.0, 18 November 2024) <https://www.abs.gov.au/statistics/health/health-services/patient-experiences/latest-release>.

342 Stakeholder Consultation Session – 19 June 2024 [240619].

343 Stakeholder Consultation Session – 20 June 2024 [240620.1].

344 Stakeholder Consultation Session – 19 June 2024 [240619]; Anne Kavanagh et al, 'Improving health care for disabled people in COVID-19 and beyond: Lessons from Australia and England', (2021) 14 Disability and Health Journal 1-7, 4 <https://doi.org/10.1016/j.dhjo.2020.101050>.

345 Stakeholder Consultation Session – 20 June 2024 [240620.2].

346 Stakeholder Consultation Session – 20 June 2024 [240620.2].

347 Office of the Public Advocate, Community Visitors Annual Report 2020-2021(Report, 18 November 2021) 6 <https://www.publicadvocate.vic.gov.au/opa-volunteers/community-visitor-annual-reports/363-community-visitor-annual-report-2020-2021>.

348 Stakeholder Consultation Session – 16 July 2024 [240716.3].

349 Convention on the Rights of Persons with Disabilities art 25(d), 25(e).

350 Convention on the Rights of Persons with Disabilities art 25(b).

351 Stakeholder Consultation Session – 20 June 2024 [240620.1].

352 Stakeholder Consultation Session – 19 June 2024 [240619]; Neryssa Azlan, 'For adults and children on the autism spectrum, getting a COVID-19 vaccine is easier said than done', ABC News (online, 07 November 2021) <https://www.abc.net.au/news/2021-11-07/covid-vaccines-and-children-autism-spectrum/100479328>.

353 Stakeholder Consultation Session – 15 August 2024 [240815.5].

354 Australian Government, Australia's COVID-19 vaccine national roll-out strategy (Strategy) 2-3 <https://www.health.gov.au/sites/default/files/documents/2021/01/covid-19-vaccination-australia-s-covid-19-vaccine-national-roll-out-strategy.pdf>.

355 IESCR Committee, General Comment No. 12: The Right to Adequate Food (Art. 11) (UN Doc. E/C.12/1999/5, 12 May 1999) 3 [6].

356 ICESCR General Comment No 12: The Right to Adequate Food (Art. 11), [6].

357 UN Human Rights Council, Report of the Special Rapporteur on the right to food, Olivier De Schutter, Final Report: the transformative potential for the right to food; A/HRC/25/57. UN General Assembly. 24 January 2014.

358 Serena Louise, Yumeng Shi & Margaret Allman-Farinelli, 'The effects of the COVID-19 pandemic on food security in Australia: A scoping review' (2021) Nutrition & Dietetics 28, 44-45.

359 Foodbank, Hunger Report 2022 (Report, online) <https://reports.foodbank.org.au/foodbank-hunger-report-2022/>.

360 Serena Louise, Yumeng Shi & Margaret Allman-Farinelli, 'The effects of the COVID-19 pandemic on food security in Australia: A scoping review' (2021) Nutrition & Dietetics 28, 29.

361 See e.g. Stay at home Directions (Restricted Areas) (Vic); Areas Directions (Vic); See e.g. Fair Work Commission, 'Information note – Government responses to COVID-19 pandemic' (Information Note, 26 July 2021) <https://www.fwc.gov.au/documents/resources/covid-19-information/information-note-government-responses-covid-19-2021-07-26.pdf>.

362 Rebecca Storen and Nikki Corrigan, 'COVID-19: a chronology of state and territory government announcements (up until 30 June 2020)' Parliament of Australia (Web Page, 22 October 2020) <https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/Research/Chronologies/2020-21/COVID-19StateTerritoryGovernmentAnnouncements>.

363 'Protecting remote communities', National Indigenous Australians Agency (Web Page) <https://www.niaa.gov.au/covid-19/protecting-remote-communities>.

364 National Indigenous Australians Agency, 'Travel restrictions for remote communities – COVID-19' (Update, 27 March 2020) <https://www.niaa.gov.au/news-and-media/travel-restrictions-remote-communities-covid-19>.

365 Indigenous.gov.au, 'Support for remote Indigenous communities at high risks from COVID-19' (Media Release, 24 August 2020) <https://www.indigenous.gov.au/news/support-remote-indigenous-communities-high-risk-from-covid-19>.

366 Stakeholder Consultation Session – 15 August 2024 [240815.5]; Stakeholder Consultation Session – 6 August 2024 [240806.1]; Stakeholder Consultation Session – 16 August 2024 [240816.2].

367 Stakeholder Consultation Session – 21 August 2024 [240821].

368 Stakeholder Consultation Session – 15 August 2024 [240815.5].

369 Stakeholder Consultation Session – 21 August 2024 [240821].

370 Michelle S Fitts et al, 'Remote health service vulnerabilities and responses to the COVID-19 pandemic' (2020) 28(6) Australian Journal of Rural Health 613-617, 614 <https://doi.org/10.1111/ajr.12672>.

371 Stakeholder Consultation Session – 21 August 2024 [240821].

372 Stakeholder Consultation Session – 21 August 2024 [240821].

373 Stakeholder Consultation Session – 16 August 2024 [240816.2].

374 Rebecca Storen and Nikki Corrigan, 'COVID-19: a chronology of state and territory government announcements (up until 30 June 2020)' Parliament of Australia (Web Page, 22 October 2020) <https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/Research/Chronologies/2020-21/COVID-19StateTerritoryGovernmentAnnouncements>.

375 Simon Atkinson, 'Coronavirus: Why are Australia's Remote Aboriginal Communities at Risk' BBC News (online, 21 March 2020) <https://www.bbc.com/news/world-australia-51971891>.

376 June Oscar, 'Coronavirus means traditional homelands may be safest for Indigenous people but it comes with unexpected lessons' ABC News (online, 17 May 2020) <https://www.abc.net.au/news/2020-05-17/coronavirus-indigenous-health-safe-homeland-june-oscar/12245728>.

377 Stakeholder Consultation Session – 6 August 2024 [240806.1].

378 Stakeholder Consultation Session – 16 August 2024 [240816.2].

379 Stakeholder Consultation Session – 2 August 2024 [240802].

380 Stakeholder Consultation Session – 16 June 2024 [240617].

381 Stakeholder Consultation Session – 19 July 2024 [240719.1]; Clinical Excellence Queensland, 'Partnering with Palm Island First Nations community to deliver COVID-19 care on country', Queensland Government (Web Page, 6 March 2022) <https://clinicalexcellence.qld.gov.au/improvement-exchange/partnering-palm-island-first-nations-community-deliver-covid-19-care-country>.

382 Townsville Hospital and Health Service, Partnering with Palm Island First Nations community to deliver COVID-19 care on country (16 December 2022). <https://clinicalexcellence.qld.gov.au/improvement-exchange/partnering-palm-island-first-nations-community-deliver-covid-19-care-country>.

383 June Oscar, 'Coronavirus means traditional homelands may be safest for Indigenous people but it comes with unexpected lessons' ABC News (online, 17 May 2020) <https://www.abc.net.au/news/2020-05-17/coronavirus-indigenous-health-safe-homeland-june-oscar/12245728>.

384 Stakeholder Consultation Session – 16 June 2024 [240617].

385 Melissa Phillips, ''It's Time to Make You Way Home': Implications of the COVID-19 Pandemic for Multicultural Policies in Australia' (2024) 45(3) Journal of Intercultural Studies 564-577, 570-571. <https://doi.org/10.1080/07256868.2024.2331163>.

386 Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 6 <https://static1.squarespace.com/static/593f6d9fe4fcb5c458624206/t/5f6056e68758b84c79540c5c/1600149242800/As+if+we+weren%E2%80%99t+humans+Report.pdf>.

387 Melissa Phillips, ''It's Time to Make You Way Home': Implications of the COVID-19 Pandemic for Multicultural Policies in Australia' (2024) 45(3) Journal of Intercultural Studies 564-577, 571 <https://doi.org/10.1080/07256868.2024.2331163>; Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 17 <https://www.migrantjustice.org/s/As-if-we-werent-humans-Report.pdf>.

388 Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 17 <https://www.migrantjustice.org/s/As-if-we-werent-humans-Report.pdf>.

389 The Hon Alan Tudge MP, Coronavirus and Temporary Visa holders (Media Release, 4 April 2020) <https://minister.homeaffairs.gov.au/alantudge/Pages/Coronavirus-and-Temporary-Visa-holders.aspx>.

390 Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 17 <https://www.migrantjustice.org/s/As-if-we-werent-humans-Report.pdf>.

391 Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 17 <https://www.migrantjustice.org/s/As-if-we-werent-humans-Report.pdf>.

392 See generally University of Melbourne et al, Under the Radar with no Support: Access to Justice for Newly Arrived, Migrant and Refugee Communities during COVID-19 in Victoria (Report, 2023) <https://events.unimelb.edu.au/live/files/94-access-to-justice-reportfinal9-octpdf>.

393 University of Melbourne et al, Under the Radar with no Support: Access to Justice for Newly Arrived, Migrant and Refugee Communities during COVID-19 in Victoria (Report, 2023) 5-6 <https://events.unimelb.edu.au/live/files/94-access-to-justice-reportfinal9-octpdf>.

394 Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 13 <https://www.migrantjustice.org/s/As-if-we-werent-humans-Report.pdf>.

395 Melissa Phillips, ''It's Time to Make You Way Home': Implications of the COVID-19 Pandemic for Multicultural Policies in Australia' (2024) 45(3) Journal of Intercultural Studies 564-577, 565 <https://doi.org/10.1080/07256868.2024.2331163>.

396 Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 11 <https://www.migrantjustice.org/s/As-if-we-werent-humans-Report.pdf>.

397 Jano Gibson and Alexis Moran, 'As coronavirus spreads, 'it's time to go home' Scott Morrison tells visitors and international students', ABC News, 3 April 2020. <https://www.abc.net.au/news/2020-04-03/coronavirus-pm-tells-international-students-time-to-go-to-home/12119568>.

398 Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 6 <https://www.migrantjustice.org/s/As-if-we-werent-humans-Report.pdf>.

399 Jano Gibson and Alexis Moran, 'As coronavirus spreads, 'it's time to go home' Scott Morrison tells visitors and international students' ABC News (online, 03 April 2020) <https://www.abc.net.au/news/2020-04-03/coronavirus-pm-tells-international-students-time-to-go-to-home/12119568>.

400 Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 6 <https://www.migrantjustice.org/s/As-if-we-werent-humans-Report.pdf>.

401 Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 6 <https://www.migrantjustice.org/s/As-if-we-werent-humans-Report.pdf>.

402 Brendan Coates, Trent Wiltshire, and Tyler Reysenbach, Short-changed: How to stop the exploitation of migration (Report, May 2023) 3-6 <https://grattan.edu.au/wp-content/uploads/2023/05/Short-changed-How-to-stop-the-exploitation-of-migrant-workers-in-Australia.pdf>.

403 Heli Askola, Helen Forbes-Mewett and Olha Shmihelska, 'Migrant Precariousness in the Time of COVID-19: Migrant Workers, Risks and Rights' (Research Paper, January 2021) 3 <https://www.monash.edu/__data/assets/pdf_file/0004/2489233/Migrant-Precariousness-in-the-Time-of-COVID-19-Migrant-Workers,-Risks-and-Rights.pdf>.

404 Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 6 <https://www.migrantjustice.org/s/As-if-we-werent-humans-Report.pdf>.

405 See Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) <https://www.migrantjustice.org/s/As-if-we-werent-humans-Report.pdf>.

406 Stakeholder Engagement Session – 16 July 2024 [240716.2].

407 Hastings et al, 'Precarity before and During the Pandemic: International Student Employment and Personal Finances in Australia' (2023) 27(1) Journal of Studies in International Education 39-63, 45 <https://doi.org/10.1177/10283153211065136>.

408 Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 7 <https://www.migrantjustice.org/s/As-if-we-werent-humans-Report.pdf>.

409 Stakeholder Engagement Session – 16 July 2024 [240716.2].

410 Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 7 <https://www.migrantjustice.org/s/As-if-we-werent-humans-Report.pdf>.

411 Sebastian Trew et al, '"We Were Already in Lockdown": Exploring the Impact of the COVID-19 Pandemic on Asylum Seekers and Refugees in Australia—Mental Health, Social Isolation, Abandonment, and Financial Precarity' [2023] (1) Health and Social Care in the Community 6650961:1-10, 2 <https://doi.org/10.1155/2023/6650961>.

412 Sebastian Trew et al, '"We Were Already in Lockdown": Exploring the Impact of the COVID-19 Pandemic on Asylum Seekers and Refugees in Australia—Mental Health, Social Isolation, Abandonment, and Financial Precarity' [2023] (1) Health and Social Care in the Community 6650961:1-10, 2 <https://doi.org/10.1155/2023/6650961>.

413 See, Harriet Spinks, 'COVID-19 - impacts on refugees and asylum seekers' (Flagpost, Parliamentary Library, Parliament of Australia, 19 May 2020) 2 <https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/7351606/upload_binary/7351606.pdf>; Australian Human Rights Commission, Management of COVID-19 risks in immigration detention (2021) <https://humanrights.gov.au/sites/default/files/document/publication/ahrc_covid-19_immigration_detention_2021.pdf>.

414 Australian Human Rights Commission, Management of COVID-19 risks in immigration detention (2021), 47 <https://humanrights.gov.au/sites/default/files/document/publication/ahrc_covid-19_immigration_detention_2021.pdf>.

415 Sebastian Trew et al, '"We Were Already in Lockdown": Exploring the Impact of the COVID-19 Pandemic on Asylum Seekers and Refugees in Australia—Mental Health, Social Isolation, Abandonment, and Financial Precarity' [2023] (1) Health and Social Care in the Community 6650961:1-10, 2 <https://doi.org/10.1155/2023/6650961>.

416 Sebastian Trew et al, '"We Were Already in Lockdown": Exploring the Impact of the COVID-19 Pandemic on Asylum Seekers and Refugees in Australia—Mental Health, Social Isolation, Abandonment, and Financial Precarity' [2023] (1) Health and Social Care in the Community 6650961:1-10, 5 <https://doi.org/10.1155/2023/6650961>.

417 John van Kooy, The impacts of COVID-19 on people seeking asylum and refugees on temporary visas (Research Briefing Note, May 2020) <https://www.refugeecouncil.org.au/wp-content/uploads/2020/07/JvKooy-Cost-analysis-briefing-FINAL.pdf>.

418 Sebastian Trew et al, '"We Were Already in Lockdown": Exploring the Impact of the COVID-19 Pandemic on Asylum Seekers and Refugees in Australia—Mental Health, Social Isolation, Abandonment, and Financial Precarity' [2023] (1) Health and Social Care in the Community 6650961:1-10, 7 <https://doi.org/10.1155/2023/6650961>.

419 Ashleigh Haw and Karen Farquharson, 'Covid-19, Migration, and Racism in Australia: Key Challenges and Research Directions' (2024) 45(3) Journal of Intercultural Studies 381-392, 382 <https://doi.org/10.1080/07256868.2024.2350138>; Ben Doherty, 'Australia's coronavirus relief exclusions prove we are not all in this together', The Guardian, (online, 23 April 2020) <https://www.theguardian.com/australia-news/2020/apr/23/australias-coronavirus-relief-exclusions-prove-we-are-not-all-in-this-together>.

420 Stakeholder Engagement Session – 24 July 2024 [240724].

421 Sebastian Trew et al, '"We Were Already in Lockdown": Exploring the Impact of the COVID-19 Pandemic on Asylum Seekers and Refugees in Australia—Mental Health, Social Isolation, Abandonment, and Financial Precarity' [2023] (1) Health and Social Care in the Community 6650961:1-10, 7 <https://doi.org/10.1155/2023/6650961>; Jano Gibson and Alexis Moran, 'As coronavirus spreads, 'it's time to go home' Scott Morrison tells visitors and international students', ABC News, 3 April 2020. <https://www.abc.net.au/news/2020-04-03/coronavirus-pm-tells-international-students-time-to-go-to-home/12119568>.

422 Australian Human Rights Commission, Management of COVID-19 risks in immigration detention (2021), 11 <https://humanrights.gov.au/sites/default/files/document/publication/ahrc_covid-19_immigration_detention_2021.pdf>.

423 World Health Organisation, Preparedness, prevention and control of COVID-19 in prisons, and other places of detention (Interim guidance, 8 February 2021).

424 World Health Organisation, Preparedness, prevention and control of COVID-19 in prisons, and other places of detention (Interim guidance, 8 February 2021).

425 See, for example, Australian Human Rights Commission, Management of COVID-19 risks in immigration detention (2021). <https://humanrights.gov.au/sites/default/files/document/publication/ahrc_covid-19_immigration_detention_2021.pdf>; Australian Human Rights Commission, The Use of Hotels as Alternative Places of Detention (APODS) (June 2023) <https://humanrights.gov.au/sites/default/files/document/publication/final_version_-_the_use_of_hotels_as_alternative_places_of_detention_apods_2023_0.pdf>.

426 See e.g. Victorian Government, Metropolitan Melbourne Restrictions from 11:59 pm Monday 16 August 2021 (Table of Restrictions, 2021) 2 <https://www.premier.vic.gov.au/sites/default/files/2021-08/210816%20-%20Table%20of%20Restrictions_0.pdf>; see also Premier of Victoria, 'Extended Melbourne Lockdown to Keep Victorians Safe' (Media Release, 16 August 2021) <https://www.premier.vic.gov.au/extended-melbourne-lockdown-keep-victorians-safe-0>.

427 Mary Lloyd and Norman Hermant, 'The COVID-19 Delta outbreak caused Victoria to close playgrounds, but NSW kept them open. Some parents want answers', ABC News (28 August 2021). <https://www.abc.net.au/news/2021-08-28/covid-restrictions-mental-health-children/100413262>.

428 Ally Foster, 'Playgrounds to open in Victoria under stringent new rules', Kidspot (1 September 2021). <https://www.kidspot.com.au/news/playgrounds-opening-in-melbourne-under-stringent-new-rules/news-story/d7e96025ddf71ef450b4ce5fdadb5d89>.

429 See e.g. Farrah Tomazin and Melissa Cunningham, 'Push for playgrounds to reopen amid fears for children's mental health', The Age (online, 18 August 2021) <https://www.theage.com.au/politics/victoria/push-for-playgrounds-to-reopen-amid-fears-for-children-s-mental-health-20210818-p58jwz.html>; Donna Lu, 'Is it necessary to close children's playgrounds during Covid outbreaks in Australia?', The Guardian (online, 20 August 2021) <https://www.theguardian.com/australia-news/2021/aug/20/its-risky-is-it-necessary-to-close-childrens-playgrounds-during-covid-outbreaks-in-australia>.

430 See e.g. ICESCR; ICCPR.

431 UN Committee on the Rights of the Child, General Comment No 17: The Right of the Child to Rest, Leisure, Play, Recreational Activities, Cultural Life and the Arts, 62nd sess, UN Doc CRC/C/GC/17 (17 April 2013) 4 [9].

432 Farrah Tomazin & Melissa Cunningham, 'Push for playgrounds to reopen amid fears for children's mental health', The Age (online, 18 August 2021) <https://www.theage.com.au/politics/victoria/push-for-playgrounds-to-reopen-amid-fears-for-children-s-mental-health-20210818-p58jwz.html>.

433 Sharon Goldfeld & Jill Sewell, 'Children need playgrounds now, more than ever. We can reduce COVID risk and keep them open', The Conversation (online, 24 August 2021) <https://theconversation.com/children-need-playgrounds-now-more-than-ever-we-can-reduce-covid-risk-and-keep-them-open-166562> citing Deanna Perez, et al., 'Nowhere to Go: Parents' Descriptions of Children's Physical Activity During a Global Pandemic' (2021) 9 Front Public Health 1-8 < https://doi.org/10.3389/fpubh.2021.642932>.

434 Donna Lu, 'Is it necessary to close children's playgrounds during Covid outbreaks in Australia?', The Guardian, 20 August 2021. <https://www.theguardian.com/australia-news/2021/aug/20/its-risky-is-it-necessary-to-close-childrens-playgrounds-during-covid-outbreaks-in-australia>.

435 Sharon Goldfield and Jill Sewell, 'Children need playgrounds now, more than ever. We can reduce COVID risk and keep them open', The Conversation, 24 August 2021. <https://theconversation.com/children-need-playgrounds-now-more-than-ever-we-can-reduce-covid-risk-and-keep-them-open-166562>.

436 Public Health (COVID-19 Mass Gatherings) Order 2020 (NSW).

437 Public Health (COVID-19 Gatherings) Order 2020 (NSW).

438 See NSW Government, Public health orders relating to gathering and movement (Web Page) <https://legislation.nsw.gov.au/information/covid19-legislation/gathering-and-movement>.

439 See e.g Stay Safe Directions (No. 14) (Vic) was issued on 13 February 2021. Just five days later Stay Safe Directions (No. 15) (Vic) was published.

440 Senate Select Committee on COVID-19, First Interim Report (December 2020), [7.16]-[7.20]. <https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024513/toc_pdf/Firstinterimreport.pdf;fileType=application%2Fpdf>.

441 Senate Select Committee on COVID-19, First Interim Report (December 2020), [7.16]-[7.20]. <https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024513/toc_pdf/Firstinterimreport.pdf;fileType=application%2Fpdf>.

442 Jason Om, 'Coronavirus self-isolation rule change caught Richard Neville mid-flight. The disease has also smashed his business', ABC News (online, 18 March 2020) <https://www.abc.net.au/news/2020-03-18/coronavirus-isolation-rule-catches-returning-travellers-mid-flig/12066446>.

443 See generally Victorian Ombudsman, Investigation into the detention and treatment of public housing residents arising from a COVID-19 ‘hard lockdown’ in July 2020 (Report, 17 December 2020) <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/Public-housing-tower-lockdown/Victorian-Ombudsman-report-Investigation-into-the-detention-and-treatment-of-public-housing-residents-arising-from-a-COVID-19-hard-lockdown-in-July-2020.pdf>.

444 Julie Leask & Claire Hooker, ‘How risk communication could have reduced controversy about school closures in Australia during the COVID-19 pandemic’ (2020) 30(2) Public Health Research & Practice 1-5, 2 <https://doi.org/10.17061/phrp3022007>.

445 Stakeholder Consultation Session – 18 July 2024 [240718.1].

446 ICESCR art 12(1).

447 General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant) 4 [12](b).

448 Peter Shergold et al, Fault Lines - An independent review into Australia’s response to COVID-19 (Report, 20 October 2022) 22 <https://cdn.prod.website-files.com/62b998c0c9af9f65bba26051/6350438b7df8c77439846e97_FAULT-LINES-1.pdf>.

449 Peter Shergold et al, Fault Lines - An independent review into Australia’s response to COVID-19 (Report, 20 October 2022) 29 <https://cdn.prod.website-files.com/62b998c0c9af9f65bba26051/6350438b7df8c77439846e97_FAULT-LINES-1.pdf>.

450 Stakeholder Consultation Session – 5 September 2024 [240905].

451 Stakeholder Consultation Session – 20 June 2024 [240620.1].

452 Stakeholder Consultation Session – 25 July 2024 [240725.2].

453 Stakeholder Consultation Session – 25 July 2024 [240725.2].

454 Stakeholder Consultation Session – 25 July 2024 [240725.2].

455 Stakeholder Consultation Session – 16 July 2024 [240716.4].

456 Stakeholder Consultation Session – 16 July 2024 [240716.3].

457 Stakeholder Consultation Session – 16 July 2024 [240716.1].

458 Lowitja Institute, Close The Gap Campaign Report 2021, (Report, 2021) 26 <https://www.lowitja.org.au/wp-content/uploads/2023/05/CTG_Report_2021_FINAL_WEB.pdf>.

459 Stakeholder Consultation Session – 2 August 2024 [240802].

460 Stakeholder Consultation Session – 2 August 2024 [240802].

461 Stakeholder Consultation Session – 19 July 2024 [240719.2].

462 Holly Seale et al, “It’s no use saying it in English”: A qualitative study exploring community leaders’ perceptions of the challenges and opportunities with translating and interpreting COVID-19 related public health messaging to reach ethnic minorities in Australia’ (2024) 19(2) PLOS ONE 1-24, 5-6 < https://doi.org/10.1371/journal.pone.0284000>; Rashida Yosufzai, ’The Australian community translators fighting coronavirus one word at a time’ SBS News (online, 30 September 2020) <https://www.sbs.com.au/news/article/the-australian-community-translators-fighting-coronavirus-one-word-at-a-time/st9mqz5a8>.

463 Stakeholder Consultation Session – 20 June 2024 [240620.1].

464 Stakeholder Consultation Session – 20 June 2024 [240620.1].

465 Stakeholder Consultation Session – 19 June 2024 [240619].

466 Stakeholder Consultation Session – 16 July 2024 [240716.3].

467 Stakeholder Consultation Session – 16 July 2024 [240716.3].

468 Stakeholder Consultation Session – 16 July 2024 [240716.3].

469 Stay Safe Direction (No. 15) (Vic) cl 5(8).

470 See, for example, the International Covenant on Civil and Political Rights (articles 2.1, 14, 24, 25 and 26), the International Covenant on Economic, Social and Cultural Rights (article 2.2), the Convention on the Elimination of All Forms of Racial Discrimination (articles 1, 2, 4 and 5), the Convention on the Rights of the Child (article 2), the Convention on the Elimination of All Forms of Discrimination Against Women (articles 2, 3, 4 and 15) the Convention on the Rights of Persons with Disabilities (articles 3, 4, 5 and 12).

471 Stakeholder Consultation Session – 20 June 2024 [240620.1].

472 Stakeholder Consultation Session – 14 August 2024 [240815.1].

473 World Health Organization, COVID-19 and Violence against Women: What the Health Sector/System Can Do (Brief, 7 April 2020) 1 <https://iris.who.int/bitstream/handle/10665/331699/WHO-SRH-20.04-eng.pdf?sequence=1>; Stakeholder Consultation Session – 14 August 2024 [240814.3].

474 Stakeholder Consultation Session – 14 August 2024 [240815.1].

475 ’Unvaccinated Australian Citizens and Permanent Residents’, Department of Home Affairs (Web Page, 14 April 2022) <https://www.homeaffairs.gov.au/covid-19/Pages/unvaccinated-travellers/unvaccinated-aus-citz-pr-exemption-process.aspx>.

476 Stakeholder Consultation Session – 13 August 2024 [240813.1].

477 Stakeholder Consultation Session – 3 June 2024 [240603].

478 Human Rights Watch, ‘Covid-19 Fueling Anti-Asian Racism and Xenophobia Worldwide’, Human Rights Watch (online, 12 May 2020) < https://www.hrw.org/news/2020/05/12/covid-19-fueling-anti-asian-racism-and-xenophobia-worldwide>.

479 Rachel Sharples, Matteo Vergani and Nida Denson, ‘Asian Australian’s Experiences and Reporting of Racism During the COVID-19 Pandemic’ (2023) 45(3) Journal of Intercultural Studies 452-472, 453 < https://doi.org/10.1080/07256868.2023.2290676>.

480 See e.g. Dr. Mishal Reja, ‘Trump’s ‘Chinese Virus’ tweet helped lead to rise in racist anti-Asian Twitter content: Study’, ABC News (online, 19 March 2021) <https://abcnews.go.com/Health/trumps-chinese-virus-tweet-helped-lead-rise-racist/story?id=76530148>.

481 Laurie Berg and Bassina Farbenblum, As if we weren’t humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 8 <https://static1.squarespace.com/static/593f6d9fe4fcb5c458624206/t/5f6056e68758b84c79540c5c/1600149242800/As+if+we+weren%E2%80%99t+humans+Report.pdf>.

482 Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 8 <https://static1.squarespace.com/static/593f6d9fe4fcb5c458624206/t/5f6056e68758b84c79540c5c/1600149242800/As+if+we+weren%E2%80%99t+humans+Report.pdf>.

483 Laurie Berg and Bassina Farbenblum, As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (Report, 2020) 8 <https://static1.squarespace.com/static/593f6d9fe4fcb5c458624206/t/5f6056e68758b84c79540c5c/1600149242800/As+if+we+weren%E2%80%99t+humans+Report.pdf>.

484 Alanna Kamp, Rachel Sharples, Matteo Vergani and Nida Denson, 'Asian Australian's Experiences and Reporting of Racism During the COVID-19 Pandemic' (2024) 45(3) Journal of Intercultural Studies 452, 452. <https://www.tandfonline.com/doi/epdf/10.1080/07256868.2023.2290676?needAccess=true>.

485 Stakeholder Consultation Session – 20 May 2024 [240520].

486 Stakeholder Consultation Session – 20 May 2024 [240520].

487 Gender and Disaster Pod and the National Ageing Research Institute, The impact of the COVID-19 pandemic response on older people (Report, 2020) 37-38, 57 <https://www.respectvictoria.vic.gov.au/sites/default/files/documents/202102/COVID-19%20and%20older%20people%20full%20report.PDF>.

488 Julian Savulescu and Dominic Wilkinson, 'Who gets the ventilator in the coronavirus pandemic? These are the ethical approaches to allocating medical care', ABC News (online, 18 March 2020 <https://www.abc.net.au/news/2020-03-18/ethics-of-medical-care-ventilator-in-the-coronavirus-pandemic/12063536>.

489 Stakeholder Consultation Session – 20 June 2024 [240620.2].

490 Electoral Integrity Assurance Taskforce, Disinformation and Misinformation (Factsheet) <https://www.aec.gov.au/About_AEC/files/eiat/eiat-disinformation-factsheet.pdf>. See also Australian Human Rights Commission, Finding balance: combatting misinformation and disinformation without threatening free expression (Submission to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts), 18 August 2023. <https://humanrights.gov.au/our-work/legal/submission/finding-balance-fighting-disinformation-without-threatening-free>.

491 Department of the Prime Minister and Cabinet, COVID-19 Response Inquiry Report (Report, 29 October 2024), 301 < https://www.pmc.gov.au/sites/default/files/resource/download/covid-19-response-inquiry-report.pdf>.

492 Department of the Prime Minister and Cabinet, COVID-19 Response Inquiry Report (Report, 29 October 2024), 301 <https://www.pmc.gov.au/sites/default/files/resource/download/covid-19-response-inquiry-report.pdf>.

493 World Economic Forum, Global Risks Report 2024 (19th ed), 8; Lorraine Finlay, 'The federal government's proposed mis- and disinformation laws need to have clearer definitions – and include AI', The Conversation, 30 August 2024.

494 Australian Human Rights Commission, Inquiry into the risk posed to Australia's democracy by foreign interference through social media (Submission to Senate Select Committee on Foreign Interference through Social Media, 16 February 2023), [16]. <https://humanrights.gov.au/our-work/legal/submission/foreign-interference-through-social-media>.

495 Andrea Carson and Liam Fallon, Fighting Fake News: A Study of Online Misinformation Regulation in the Asia Pacific (January 2021) <https://www.latrobe.edu.au/news/articles/2021/release/fighting-fake-news-in-the-covid-19-era>.

496 Digital Industry Group Inc (DIGI), Australian Code of Practice on Disinformation and Misinformation (22 December 2022). <https://digi.org.au/wp-content/uploads/2022/12/Australian-Code-of-Practice-on-Disinformation-and-Misinformation-FINAL-_-December-22-2022.docx.pdf>.

497 The nine current signatories to the Australian Code of Practice on Disinformation and Misinformation are Adobe, Apple, Google, Meta, Redbubble, Tiktok, Twitch and Legitimate.

498 Professor Paul Kelly, 'Chief Medical Officer opinion piece on stopping the spread of COVID-19 misinformation' (Department of Health and Aged Care, 12 August 2021). <https://www.health.gov.au/news/chief-medical-officer-opinion-piece-on-stopping-the-spread-of-covid-19-misinformation>.

499 UN Human Rights Committee, General Comment No 34 (Article 19: Freedom of opinion and expression), 102nd sess, UN Doc CCPR/C/GC/34 (12 September 2011), [21].

500 Adrian Shahbaz and Allie Funk, Information Isolation: Censoring the COVID-19 Outbreak (Freedom House, 2020). <https://freedomhouse.org/report/report-sub-page/2020/information-isolation-censoring-covid-19-outbreak>. See also Human Rights Watch, COVID-19 Triggers Wave of Free Speech Abuse (11 February 2021) <https://www.hrw.org/news/2021/02/11/covid-19-triggers-wave-free-speech-abuse>.

501 Department of the Prime Minister and Cabinet, COVID-19 Response Inquiry Report (2024), 301

502 Chris Kenny, 'Many censored social media posts did not contain COVID-19 misinformation', The Australian, 21 July 2023. <https://www.theaustralian.com.au/nation/many-censored-social-media-posts-did-not-contain-covid19-misinformation/news-story/c47a8217ffada2cf576475aef3c12c63>.

503 Chris Kenny, 'Exposed censorship fuels demands for Covid-19 royal commission', The Australian, 21 May 2023. <https://www.theaustralian.com.au/nation/politics/exposed-censorship-fuels-demands-for-royal-commission/news-story/8d544e949b4a170ea2fc0dccf28d0cd0>.

504 Cambridge Dictionary, Fearmongering (Webpage) <https://dictionary.cambridge.org/dictionary/english/fearmongering>.

505 Stakeholder Consultation Session – 25 July 2025 [240725.1].

506 Lorraine Finlay and Rosalind Croucher, 'Limiting Rights and Freedoms in the Name of Public Health: Ensuring Accountability during the COVID-19 Pandemic Response' in Belinda Bennet and Ian Freckelton (eds) Australian Public Law: Contemporary issues and Challenges (The Federation Press, 2023) 120, 135-136.

507 Anna Patty, ''I feel hopeless': Coronavirus border ban stops visits to dying relatives', The Sydney Morning Herald (online, 20 August 2020) <https://www.smh.com.au/national/i-am-never-going-to-see-my-mum-again-families-cut-off-by-border-closures-20200819-p55n8e.html>; Sara Tomevska, 'Adelaide man stranded by COVID-19 travel restrictions pleads for exemption to see dying mother', ABC News (online, 30 July 2021) <https://www.abc.net.au/news/2021-07-30/sa-resident-stuck-interstate-over-covid-border-closures/100336314>.

508 Shannon Clark, 'School Refusal' (Research Paper, Parliamentary Library, Parliament of Australia, 19 April 2023) 1, <https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/9124340/upload_binary/9124340.pdf>.

509 'The COVID-19 Pandemic: 2020 to 2021' Reserve Bank of Australia (Web Page) <https://www.rba.gov.au/education/resources/explainers/the-covid-19-pandemic-2020-to-2021.html>

510 'COVID-19 Response Inquiry Summary Report: Lessons for the next crisis', Department of Prime Minister and Cabinet (Web Page, 29 October 2024) <https://www.pmc.gov.au/resources/covid-19-response-inquiry-summary-report-lessons-next-crisis/introduction#covid-19-in-australia>.

511 Minister for Health and Ambulance Services, 'Public health emergency declaration to lift on 31 October' (Media Statement, 27 October 2022) <https://statements.qld.gov.au/statements/96421>.

512 ‘COVID-19 coronavirus: Declarations’, Government of Western Australia (Web Page, 4 November 2022) <https://www.wa.gov.au/government/document-collections/covid-19-coronavirus-declarations#:~:text=There%20are%20no%20declarations%20in,COVID%2D19%20in%20Western%20Australia>.

513 Office of the Chief Health Officer, ‘Chief Health Officer Advice – Public Health (COVID-19 Management) Declaration 2022’, ACT Health (Media Release, 20 September 2022) <https://www.covid19.act.gov.au/__data/assets/pdf_file/0005/2081228/Attachment-A-Chief-Health-Officer-Advice-COVID-19-Management-Declaration.pdf>.

514 Premier of Victoria, ‘State Of Emergency Declared In Victoria Over COVID-19’ (Media Release, 16 March 2020) <https://www.premier.vic.gov.au/state-emergency-declared-victoria-over-covid-19>; ‘Victoria’s pandemic management framework’, Victorian Government Department of Health (Web Page, 28 November 2023) <https://www.health.vic.gov.au/covid-19/victorias-pandemic-management-framework>.

515 Tasmanian Government Department of Health, COVID-19 End of Public Health Emergency Report (Report, 4 June 2024) <https://www.health.tas.gov.au/sites/default/files/2024-10/covid_-19_end_of_public_health_emergency_report.pdf>.

516 Northern Territory Chief Health Officer, COVID-19 Directions (No. 1) 2020 (Directions) <https://coronavirus.nt.gov.au/__data/assets/pdf_file/0005/806837/CHO-Directions-No-1-SIGNED.PDF; ‘NT COVID-19 update: Public Health Emergency Declaration has ended’, National Disability Services (Web Page) <https://nds.org.au/component/content/article/nt-covid-19-update-northern-territory-s-public-health-emergency-declaration-will-cease?catid=8&Itemid=101>.

517 Aaron P. Jackson, ‘The South Australian Department of Health and Wellbeing approach to emergency management during the COVID-19 pandemic’ (2024) 39(4) Australian Journal of Emergency Management 71-79, 71 <https://doi.org/10.47389/39.4.71>.

518 Further details can be found at: Lenny Roth, ‘NSW public health restrictions to deal with the COVID-19 pandemic: A chronology’, NSW Parliament (Research Paper, 18 November 2020) <https://www.parliament.nsw.gov.au/researchpapers/Documents/NSW%20public%20health%20restrictions%20to%20deal%20with%20the%20COVID-19%20pandemic.pdf>.

519 Hon. Roger Cook MLA (Deputy Premier), $70 million injection to drive tourism and support local businesses (Media Release, 12 May 2022). <https://www.wa.gov.au/government/media-statements/McGowan%20Labor%20Government/$70-million-injection-to-drive-tourism-and-support-local-businesses-20220512>.

520 Lorraine Finlay, ‘Why there are questions about WA’s use of emergency powers’, The West Australian 4 November 2022. <https://thewest.com.au/opinion/lorraine-finlay-why-there-are-questions-about-was-use-of-emergency-powers-c-8745020>.

521 Emergency Management Act 1986 (Vic) s 24(1).

522 Emergency Management Act 1986 (Vic) s 36B.

523 Emergency Management Act 1986 (Vic) ss 24(1), 24(2)(a).

524 Emergency Management Act 1986 (Vic)s 24(2)(b).

525 ’Australia: Harsh Police Response During Covid-19’ Human Rights Watch (Web Page, 24 September 2020) <https://www.hrw.org/news/2020/09/24/australia-harsh-police-response-during-covid-19>.

526 Lorraine Finlay, ‘Human rights can’t be left at mercy of emergency orders’, The Australian (online, 8 August 2022) <https://www.theaustralian.com.au/commentary/human-rights-cant-be-left-at-mercy-of-emergency-orders/news-story/6817ed379526b78d6c8c1abc543a68cf>.

527 Lorraine Finlay, ‘Human rights can’t be left at mercy of emergency orders’, The Australian, (online, 8 August 2022) <https://www.theaustralian.com.au/commentary/human-rights-cant-be-left-at-mercy-of-emergency-orders/news-story/6817ed379526b78d6c8c1abc543a68cf>.

528 Luke McNamara et al, COVID-19 Criminalisation in NSW: A ’Law and Order’ Response to a Public Health Crisis? (Report, November 2022) 6 <https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/resources/files/cclj-covid-fines-nsw-report-nov-2022.pdf>; Rory Cross, ’Policing the pandemic didn’t work: report shows where COVID fines went wrong’ University of New South Wales Sydney (Web Page, 14 March 2023) <https://www.unsw.edu.au/newsroom/news/2023/03/policing-the-pandemic-didn-t-work--report-shows-where-covid-fine>; Julia Quilter, Luke McNamara et al, Children and COVID-19 Fines in NSW: Impacts and Lessons for the Future Use of Penalty Notices (2024) <https://apo.org.au/sites/default/files/resource-files/2024-05/apo-nid326879.pdf>

529 ‘Explainer: Increased Police powers and COVID-19’, Human Rights Law Centre (Web Page, 11 August 2020) <https://www.hrlc.org.au/reports-news-commentary/2020/8/11/explainer-increased-police-powers-and-covid-19>.

530 ‘Explainer: Increased Police powers and COVID-19’, Human Rights Law Centre (Web Page, 11 August 2020) <https://www.hrlc.org.au/reports-news-commentary/2020/8/11/explainer-increased-police-powers-and-covid-19>.

531 Justice and Equity Centre, Complaint lodged against NSW Police over ‘excessive’ COVID fines, 5 June 2023 <https://jec.org.au/civil-rights/policing-and-detention/complaint-lodged-against-nsw-police-over-excessive-covid-fines/>.

532 Redfern Legal Centre, NSW government to withdraw more than 23,000 invalid COVID fines (Media Release, 26 November 2024) <https://rlc.org.au/news-and-media/media-releases/media-release-nsw-government-withdraw-more-23000-invalid-covid-fines>; Mostafa Rachwani and Nick Evershed, ‘’Incredible Imbalance: NSW Covid Fines during Delta in higher disadvantaged suburbs’ The Guardian (online, 10 February 2022) <https://www.theguardian.com/australia-news/datablog/2022/feb/10/incredible-imbalance-nsw-covid-fines-during-delta-higher-in-disadvantaged-suburbs>.

533 UNSW Centre for Crime, Law & Justice, COVID-19 Criminalisation in NSW: A ‘Law and Order’ Response to a Public Health Crisis? (Report, November 2022) 33 <https://www.unsw.edu.au/content/dam/pdfs/research/2023-10-coop/CCLJ%20Covid%20Fines%20NSW%20Report%20Nov%202022.pdf>

534 Rory Cross, ‘Policing the pandemic didn’t work: report shows where COVID fines went wrong’, UNSW Sydney (Web Page, 14 March 2023) <https://www.unsw.edu.au/newsroom/news/2023/03/policing-the-pandemic-didn-t-work--report-shows-where-covid-fine>.

535 Inner Melbourne Community Legal, Policing COVID-19 in Victoria: Exploring the Impact of Perceived Race in the Issuing of COVID-19 Fines During 2020 (Report, June 2023) 10 <https://cdn.prod.website-files.com/64e6d2582dd4319151be6a26/65655d32905872b79db1b407_2304_IMCL_PAP_AA_V2.pdf>.

536 Julia Quilter et al, Children and COVID-19 Fines in NSW: Impacts and lessons for the future use of penalty notices (Report, 2024) 6 <https://drive.google.com/file/d/1UEKrRaKU1CCjT0willOmLlinOqaRMkPe/view>.

537 Julia Quilter et al, Children and COVID-19 Fines in NSW: Impacts and lessons for the future use of penalty notices (Report, 2024), 5 <https://drive.google.com/file/d/1UEKrRaKU1CCjT0willOmLlinOqaRMkPe/view>.

538 Julia Quilter et al, Children and COVID-19 Fines in NSW: Impacts and lessons for the future use of penalty notices (Report, 2024), 6 <https://drive.google.com/file/d/1UEKrRaKU1CCjT0willOmLlinOqaRMkPe/view>.

539 Justice and Equity Centre, Complaint lodged against NSW Police over ‘excessive’ COVID fines, 5 June 2023 <https://jec.org.au/civil-rights/policing-and-detention/complaint-lodged-against-nsw-police-over-excessive-covid-fines/>.

540 'Operation Stay at Home' was described as a '21-day blitz on non-compliance with lockdown restrictions' that 'involved 500 additional ADF officers, increased police patrols enforcing higher penalties and the use of random checkpoints in areas of concern'. See Paige Cockburn, 'NSW toughens lockdown rules and boosts fines – here's what you need to know', ABC News (14 August 2021). <https://www.abc.net.au/news/2021-08-14/nsw-new-covid-rules-and-fines/100377514>.

541 Angus Thompson, 'Police Commissioner says officers wrongly issuing tickets won't be held to account', Sydney Morning Herald, 19 August 2021. <https://www.smh.com.au/national/police-commissioner-says-officers-wrongly-issuing-tickets-won-t-be-held-to-account-20210819-p58k76.html>.

542 NSW Government, Statement by Revenue NSW, (Media Release) 29 November 2022. <https://www.nsw.gov.au/departments-and-agencies/customer-service/media-releases/statement-by-revenue-nsw>.

543 Beame; Els v Commissioner of Police & Ors [2023] NSWSC 347. See also Michael McGowan, 'More than 33,000 Covid fines withdrawn in NSW after adverse court ruling', The Guardian, 29 November 2022. <https://www.theguardian.com/australia-news/2022/nov/29/more-than-33000-covid-fines-withdrawn-in-nsw-after-adverse-court-ruling>.

544 NSW Government, NSW to withdraw remaining COVID-19 fines, (Media Release) 26 November 2024. <https://www.nsw.gov.au/departments-and-agencies/customer-service/media-releases/nsw-to-withdraw-remaining-covid-19-fines>; Joshua Boscaini and Sam Nichols, 'NSW government to withdraw and repay more than 23,000 fines issued during the COVID-19 pandemic', ABC News, 26 November 2024. <https://www.abc.net.au/news/2024-11-26/nsw-covid-19-fines-withdrawn/104649680>.

545 Department of Defence, Defence support to the national Covid response concludes (Media Release, 7 October 2022). <https://www.minister.defence.gov.au/media-releases/2022-10-07/defence-support-national-covid-response-concludes>.

546 Shaimaa Khalil, 'Covid in Sydney: Communities feel under siege as troops deployed', BBC (online, 08 August 2021) <https://www.bbc.com/news/world-australia-58066389>.

547 See e.g. Open Premise Order (Vic) (No.1)-(No.6); Movement and Gathering Order 2021 (Vic) (No.1)-(No.5).

548 These penalties varied in jurisdictions, but in Victoria failure to comply could result in a penalty of 60 penalty units for a natural person or 300 penalty units for a body corporate. See Public Health and Wellbeing Act 2008 (Vic) s 165BN.

549 Stakeholder Consultation Session – 18 July 2024 [240718.3].

550 Transport Workers' Union NSW, 'NSW Bus Driver And Passenger Safety As Coronavirus Restrictions Ease' (Media Release. 15 May 2020) <https://twunsw.org.au/press/nsw-bus-driver-and-passenger-safety-as-coronavirus-restrictions-ease/>.

551 Stakeholder Consultation Session – 18 July 2024 [240718.3].

552 See e.g. 'Guidance for Businesses with a Worker who tests positive for COVID-19', NSW Government (Web Page, 3 October 2023) <https://www.nsw.gov.au/business-and-economy/business/guidance-for-businesses-a-worker-who-tests-positive-for-covid-19>; 'COVIDSafe Deep Cleaning Rebate', Business Victoria (Web Page) <https://business.vic.gov.au/grants-and-programs/covid-safe-deep-cleaning-rebate>.

553 Stakeholder Consultation Session – 18 July 2024 [240718.3].

554 ICESCR art 7(b).

555 ILO 1998 Declaration on Fundamental Principles and Rights at Work and its Follow-up.

556 Stakeholder Consultation Session – 18 July 2024 [240718.3].

557 Matt Bamford, 'Sexual assault survivors tackle trauma to stay COVID-safe, self-isolate and wear face masks', ABC News (online, 31 July 2020) <https://www.abc.net.au/news/2020-07-31/sexual-assault-survivor-pushes-through-covid-face-mask-fears/12486728>.

558 Victorian Equal Opportunity and Human Rights Commission, Retailers' guide: Face masks and discrimination (Guide, August 2021) 5 <https://www.humanrights.vic.gov.au/static/3258992821f2d494599a81e39054503b/Resource-COVID-Retailers_guide_face_masks_vaccination-Aug_2021-1.pdf>.

559 Stakeholder Consultation Session – 18 July 2024 [240718.3]; See eg, Victorian Equal Opportunity and Human Rights Commission, Retailer's Guide: Face Masks and Discrimination (Guide, August 2021) <https://www.humanrights.vic.gov.au/static/3258992821f2d494599a81e39054503b/Resource-COVID-Retailers_guide_face_masks_vaccination-Aug_2021-1.pdf>.

560 Australian Government, 'Impacts of COVID-19 on Businesses' (Report) 6-7 <https://www.jobsandskills.gov.au/sites/default/files/2022-03/impacts-of-covid-19-on-businesses.pdf>; Courtney Molloy, Karen Handley & Leanne Faulkner, COVID-19 and Small Business Owners: Report on Stage One Findings (Report, April 2021) 6 <https://www.sira.nsw.gov.au/__data/assets/pdf_file/0012/1011360/COVID-19-and-small-business-owners-report-on-stage-one-findings.pdf>; National Skills Commission, Impacts of COVID-19 on businesses (Survey) <https://www.jobsandskills.gov.au/sites/default/files/2022-03/impacts-of-covid-19-on-businesses.pdf>.

561 Rebecca Storen and Nikki Corrigan, 'COVID-19: a chronology of state and territory government announcements (up until 30 June 2020)' Parliament of Australia (Web Page, 22 October 2020) <https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/Research/Chronologies/2020-21/COVID-19StateTerritoryGovernmentAnnouncements>; Anthony Holley, Nick Coatsworth and Jeffrey Lipman, 'The Australian response to the COVID-19 pandemic: A co-ordinated and effective strategy' (2021) 40 Anaesthesia Critical Care & Pain Medicine 1-3, 2 <https://doi.org/10.1016/j.accpm.2021.100859>.

562 ABC News, 'Victorian Elective Surgeries suspended as Coronavirus Cases Grow by 384 with six more deaths' ABC News (online, 28 July 2020) <https://www.abc.net.au/news/2020-07-28/coronavirus-case-numbers-victoria-rise-384-with-six-new-deaths/12498024>.

563 Australian Institute of Health and Welfare, 'COVID-19 disruptions led to lowest number of public elective surgeries performed in over a decade' Australian Government (Media Release, 7 December 2022) <https://www.aihw.gov.au/news-media/media-releases/2021/december/covid-19-disruptions-led-to-lowest-number-of-publi#:~:text=%27In%202021%E2%80%9322%2C%20public,Adrian%20Webster%20(PhD).>.

564 Australian Institute of Health and Welfare, 'Public hospitals worked to clear elective surgery backlog during 2020-21' (Media Release, 25 January 2022) <https://www.aihw.gov.au/news-media/media-releases/2021/january-1/public-hospitals-worked-to-clear-elective-surgery>.

565 Henry Cutler, 'Clearing the elective surgery backlog will take more than one budget. It'll need major reform' The Conversation (online, 3 May 2024) <https://theconversation.com/clearing-the-elective-surgery-backlog-will-take-more-than-one-budget-itll-need-major-reform-228611>.

566 National Health and Medical Research Council, Strengthening Australia's health system post COVID-19 (Report, 17 June 2022) 1 <https://www.nhmrc.gov.au/sites/default/files/2023-02/NCHRAC-Advice-30-Strengthening-Health-systems.pdf>.

567 See ICESCR art 12(2)(c), (d).

568 ICESCR, art 2(1).

569 See ICESCR art 12(2).

570 See e.g. Australian Institute of Health and Welfare, 'Public hospitals worked to clear elective surgery backlog during 2020-2021' (Media Release, 25 January 2022) <https://www.aihw.gov.au/news-media/media-releases/2021/january-1/public-hospitals-worked-to-clear-elective-surgery>.

571 Australian Institute of Health and Welfare, The first year of COVID-19 in Australia: direct and indirect health effects (Report, 2021) vii < https://www.aihw.gov.au/getmedia/a69ee08a-857f-412b-b617-a29acb66a475/aihw-phe-287.pdf?v=20230605184353&inline=true>.

572 Continuity of Care Collaboration, Consumer Survey: Access to Healthcare During COVID-19 (Survey Results, June 2020) 1 <https://ahpa.com.au/wp-content/uploads/2020/09/Continuity-of-Care-Collaboration-Consumer-Survey-Results.pdf>.

573 Stakeholder Consultation Session – 16 July 2024 [240716.4].

574 National Indigenous Australians Agency, '1.09 Diabetes', Australian Institute of Health and Welfare (Webpage, 21 May 2024) <https://www.indigenoushpf.gov.au/measures/1-09-diabetes>.

575 Australian Institute of Health and Welfare, The first year of COVID-19 in Australia: direct and indirect health effects (Report, 2021) vii < https://www.aihw.gov.au/getmedia/a69ee08a-857f-412b-b617-a29acb66a475/aihw-phe-287.pdf?v=20230605184353&inline=true>.

576 Linda Sweet et al, 'Childbearing women's experiences of the maternity care system in Australia during the first wave of the COVID-19 pandemic' (Research Paper, 2022) 226 <https://doi.org/10.1016/j.wombi.2021.08.010>.

577 Linda Sweet et al, 'Childbearing women's experiences of the maternity care system in Australia during the first wave of the COVID-19 pandemic' (Research Paper, 2022) 224 <https://doi.org/10.1016/j.wombi.2021.08.010>.

578 Linda Sweet et al, 'Childbearing women's experiences of the maternity care system in Australia during the first wave of the COVID-19 pandemic' (Research Paper, 2022) 226 <https://doi.org/10.1016/j.wombi.2021.08.010>.

579 Linda Sweet et al, 'Childbearing women's experiences of the maternity care system in Australia during the first wave of the COVID-19 pandemic' (Research Paper, 2022) 226 <https://doi.org/10.1016/j.wombi.2021.08.010>.

580 Adeshola Ore, 'Babies missing out on health checks in Melbourne due to Covid-related workforce shortages', The Guardian, 13 April 2022. <https://www.theguardian.com/australia-news/2022/apr/13/babies-missing-out-on-health-checks-in-melbourne-due-to-covid-related-workforce-shortages>.

581 Cameron Parsell, Andrew Clarke & Ella Kuskoff, 'Understanding responses to homelessness during COVID19: an examination of Australia' (2023) 38(1) Housing Studies 8-21, 9 <https://doi.org/10.1080/02673037.2020.1829564>.

582 Cameron Parsell, Andrew Clarke & Ella Kuskoff, 'Understanding responses to homelessness during COVID19: an examination of Australia' (2023) 38(1) Housing Studies 8-21, 13 <https://doi.org/10.1080/02673037.2020.1829564>.

583 Cameron Parsell, Andrew Clarke & Ella Kuskoff, 'Understanding responses to homelessness during COVID19: an examination of Australia' (2023) 38(1) Housing Studies 8-21, 13 <https://doi.org/10.1080/02673037.2020.1829564>.

584 For further information on stand down directions see Fair Work Act 2009 (Cth) ss 524-525.

585 CERD ARTS 2 & 5; cedaw ARTS 13-15; CRPD arts 19 & 28; CRC art 27.

586 AHRC sub Inquiry into the National Housing and Homelessness Plan Bill 2024 (No. 2) 8-9 [23] <https://humanrights.gov.au/sites/default/files/31.australian.human_.rights.commission_2_0.pdf>.

587 Paul Flatau et al, Homelessness and COVID-19: CSI Response (Statement, 3 April 2020) 3 <https://assets.csi.edu.au/assets/research/Homelessness-and-COVID-19_Updated-Report.pdf>.

588 Lisa Crouzet et al, 'Impact of the COVID-19 pandemic on vulnerable groups, including homeless persons and migrants, in France: A qualitative study' (2022) 26 Preventative Medicine Reports 1-6, 2 <https://doi.org/10.1016/j.pmedr.2022.101727>.

589 Stakeholder Consultation Session – 14 August 2024 [240814.6].

590 Government of Western Australia, 'Hotel rooms pilot to protect rough sleepers from COVID-19' (Media Statement, 31 March 2020) <https://www.wagov.pipeline.preproduction.digital.wa.gov.au/government/media-statements/McGowan%20Labor%20Government/Hotel-rooms-pilot-to-protect-rough-sleepers-from-COVID-19-20200331>.

591 Jacob Kagi, 'Coronavirus pandemic homeless program Hotels with Heart abandoned in Perth after 'setbacks', ABC News (online, 5 May 2020) <https://www.abc.net.au/news/2020-05-05/perth-coronavirus-homeless-program-hotels-with-heart-abandoned/12215276>.

592 Stakeholder Consultation Session – 14 August 2024 [240814.6].

593 Stakeholder Consultation Session – 14 August 2024 [240814.6].

594 '1.1.E.95 Essential worker' Australian Government (Web Page, 20 September 2023) <https://guides.dss.gov.au/paid-parental-leave-guide/1/1/e/95>.

595 Department of the Prime Minister and Cabinet, Permissions and Restrictions for Essential Workers (Interim Guidance, 13 January 2022) 1 <https://pmtranscripts.pmc.gov.au/sites/default/files/2022-06/Essential-services-Interim-Guidance-Update.pdf>.

596 See ABC News, 'Which jobs are now considered essential under the new national cabinet agreement?', ABC News (online, 14 January 2022) <https://www.abc.net.au/news/2022-01-14/which-jobs-are-considered-essential-by-national-cabinet-covid/100756354>; See Jennifer Duke and Nick Bonyhady, ''No definition' of essential worker amid push to vaccinate real estate agents, drivers, retail staff', The Sydney Morning Herald (online, 14 July 2021) <https://www.smh.com.au/politics/federal/no-definition-of-essential-worker-amid-push-to-vaccinate-real-estate-agents-drivers-retail-staff-20210713-p58994.html>.

597 Department of the Prime Minister and Cabinet, Permissions and Restrictions for Essential Workers (Interim Guidance, 13 January 2022) 6 <https://pmtranscripts.pmc.gov.au/sites/default/files/2022-06/Essential-services-Interim-Guidance-Update.pdf>; Emilia Terzon, 'Essential workers can now be on the job despite COVID-19 exposure. So what are the risks?', ABC News (online 20 January 2022) <https://www.abc.net.au/news/2022-01-20/essential-workers-covid-exposure-exemptions-lawyers/100766406>.

598 ICESCR art 11.

599 ICESCR art 12(1).

600 Stakeholder Consultation Session – 16 July 2024 [240716.3].

601 Stakeholder Consultation Session – 14 August 2024 [240815.1]; Naomi Pfitzner et al 'Helping from Home: DFV Worker Wellbeing During the 'Shadow Pandemic'' in Violence Against Women During Coronavirus (Palgrave Macmillan, Cham, 2023) 93, 104 <https://doi.org/10.1007/978-3-031-29356-6_6>.

602 Stakeholder Consultation Session – 14 August 2024 [240815.1]; Naomi Pfitzner et al 'Helping from Home: DFV Worker Wellbeing During the 'Shadow Pandemic'' in Violence Against Women During Coronavirus (Palgrave Macmillan, Cham, 2023) 93, 105 <https://doi.org/10.1007/978-3-031-29356-6_6>.

603 Stakeholder Consultation Session – 12 August 2024 [240812.1].

604 ‘Tower lockdown breached human rights, Ombudsman finds’, Victorian Ombudsman (Web Page, 17 December 2020) <https://www.ombudsman.vic.gov.au/our-impact/news/public-housing-tower-lockdown/>.

605 Victorian Ombudsman, Investigation into the detention and treatment of public housing residents arising from a COVID-19 ‘hard lockdown’ in July 2020 (Report, 17 December 2020) 4-5, 36-37. <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/Public-housing-tower-lockdown/Victorian-Ombudsman-report-Investigation-into-the-detention-and-treatment-of-public-housing-residents-arising-from-a-COVID-19-hard-lockdown-in-July-2020.pdf>.

606 Margaret Simons, ‘‘We thought we were Australian’: Melbourne tower lockdown lives on in legacy of trauma’, The Guardian (online, 4 July 2021) <https://www.theguardian.com/australia-news/2021/jul/04/we-thought-we-were-australian-melbourne-tower-lockdown-lives-on-in-legacy-of-trauma>.

607 ‘Embedding human rights during COVID-19’, Victorian Equal Opportunity & Human Rights Commission (Web Page) <https://www.humanrights.vic.gov.au/legal-and-policy/covid-19-and-human-rights/embedding-human-rights-during-covid-19/>.

608 Stakeholder Consultation Session – 6 August 2024 [240806.2]; Camille Bianchi, Rachel Cary and Biwa Kwan, ‘It’s horrific: Residents of Melbourne’s locked-down towers are struggling to receive essential supplies’, SBS News, 6 July 2020 <https://www.sbs.com.au/news/article/its-horrific-residents-of-melbournes-locked-down-towers-are-struggling-to-receive-essential-supplies/6trugh6og>.

609 ‘Tower lockdown breached human rights, Ombudsman finds’, Victorian Ombudsman (Web Page, 17 December 2020) <https://www.ombudsman.vic.gov.au/our-impact/news/public-housing-tower-lockdown/>.

610 ‘Tower lockdown breached human rights, Ombudsman finds’, Victorian Ombudsman (Web Page, 17 December 2020) <https://www.ombudsman.vic.gov.au/our-impact/news/public-housing-tower-lockdown/>.

611 Australian Associated Press, ‘Melbourne public housing tower residents offered $5m payout over Covid lockdown’, The Guardian (online, 9 May 2023) <https://www.theguardian.com/australia-news/2023/may/09/melbourne-public-housing-tower-residents-win-5m-payout-over-covid-lockdown>.

612 Victorian Ombudsman, Investigation into the detention and treatment of public housing residents arising from a COVID-19 ‘hard lockdown’ in July 2020 (Report, 17 December 2020) 4 <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/Public-housing-tower-lockdown/Victorian-Ombudsman-report-Investigation-into-the-detention-and-treatment-of-public-housing-residents-arising-from-a-COVID-19-hard-lockdown-in-July-2020.pdf>.

613 Margaret Simons, ‘‘We thought we were Australian’: Melbourne tower lockdown lives on in legacy of trauma’, The Guardian (online, 4 July 2021) <https://www.theguardian.com/australia-news/2021/jul/04/we-thought-we-were-australian-melbourne-tower-lockdown-lives-on-in-legacy-of-trauma>.

614 Victorian Ombudsman, Investigation into the detention and treatment of public housing residents arising from a COVID-19 ‘hard lockdown’ in July 2020 (Report, 17 December 2020) 16 [52], 18 [76], 79 [357], 174 [907] & 178 [959] <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/Public-housing-tower-lockdown/Victorian-Ombudsman-report-Investigation-into-the-detention-and-treatment-of-public-housing-residents-arising-from-a-COVID-19-hard-lockdown-in-July-2020.pdf>.

615 Victorian Ombudsman, Investigation into the detention and treatment of public housing residents arising from a COVID-19 ‘hard lockdown’ in July 2020 (Report, 17 December 2020) 4-5, 18, 36-37, 144, 147 <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/Public-housing-tower-lockdown/Victorian-Ombudsman-report-Investigation-into-the-detention-and-treatment-of-public-housing-residents-arising-from-a-COVID-19-hard-lockdown-in-July-2020.pdf>.

616 Stakeholder Consultation Session – 6 August 2024 [240806.2].

617 See e.g. Margaret Simons, ‘‘We thought we were Australian’: Melbourne tower lockdown lives on in legacy of trauma’, The Guardian (online, 4 July 2021) <https://www.theguardian.com/australia-news/2021/jul/04/we-thought-we-were-australian-melbourne-tower-lockdown-lives-on-in-legacy-of-trauma>; see also Victorian Ombudsman, Investigation into the detention and treatment of public housing residents arising from a COVID-19 ‘hard lockdown’ in July 2020 (Report, 17 December 2020) 125 <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/Public-housing-tower-lockdown/Victorian-Ombudsman-report-Investigation-into-the-detention-and-treatment-of-public-housing-residents-arising-from-a-COVID-19-hard-lockdown-in-July-2020.pdf>.

618 ‘Embedding human rights during COVID-19’, Victorian Equal Opportunity and Human Rights Commission (Web Page) <https://www.humanrights.vic.gov.au/legal-and-policy/covid-19-and-human-rights/embedding-human-rights-during-covid-19/>.

619 Stakeholder Consultation Session – 6 August 2024 [240806.2].

620 Victorian Ombudsman, Investigation into the detention and treatment of public housing residents arising from a COVID-19 ‘hard lockdown’ in July 2020 (Report, 17 December 2020) 4 <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/Public-housing-tower-lockdown/Victorian-Ombudsman-report-Investigation-into-the-detention-and-treatment-of-public-housing-residents-arising-from-a-COVID-19-hard-lockdown-in-July-2020.pdf>.

621 Victorian Ombudsman, Investigation into the detention and treatment of public housing residents arising from a COVID-19 ‘hard lockdown’ in July 2020 (Report, 17 December 2020) 70-74 <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/Public-housing-tower-lockdown/Victorian-Ombudsman-report-Investigation-into-the-detention-and-treatment-of-public-housing-residents-arising-from-a-COVID-19-hard-lockdown-in-July-2020.pdf>.

622 Victorian Ombudsman, Investigation into the detention and treatment of public housing residents arising from a COVID-19 ‘hard lockdown’ in July 2020 (Report, 17 December 2020) 4 <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/Public-housing-tower-lockdown/Victorian-Ombudsman-report-Investigation-into-the-detention-and-treatment-of-public-housing-residents-arising-from-a-COVID-19-hard-lockdown-in-July-2020.pdf>.

623 Victoria Department of Health, Settlement of Towers class action (Supreme Court of Victoria, S ECI 2021 00826) (Web Page) <https://www.health.vic.gov.au/covid-19-towers>; Australian Associated Press, ‘Melbourne public housing tower residents offered $5m payout over Covid lockdown’, The Guardian (online, 9 May 2023) <https://www.theguardian.com/australia-news/2023/may/09/melbourne-public-housing-tower-residents-win-5m-payout-over-covid-lockdown>.

624 Victoria Department of Health, Settlement of Towers class action (Supreme Court of Victoria, S ECI 2021 00826) (Web Page) <https://www.health.vic.gov.au/covid-19-towers>.

625 Australian Associated Press, ‘Melbourne public housing tower residents offered $5m payout over Covid lockdown’, The Guardian, 9 May 2023. <https://www.theguardian.com/australia-news/2023/may/09/melbourne-public-housing-tower-residents-win-5m-payout-over-covid-lockdown>.

626 Victorian Ombudsman, Investigation into the detention and treatment of public housing residents arising from a COVID-19 ‘hard lockdown’ in July 2020 (Report, 17 December 2020) 5 <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/Public-housing-tower-lockdown/Victorian-Ombudsman-report-Investigation-into-the-detention-and-treatment-of-public-housing-residents-arising-from-a-COVID-19-hard-lockdown-in-July-2020.pdf>.

627 Victorian Ombudsman, Investigation into the detention and treatment of public housing residents arising from a COVID-19 ‘hard lockdown’ in July 2020 (Report, 17 December 2020) 17 [68] <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/Public-housing-tower-lockdown/Victorian-Ombudsman-report-Investigation-into-the-detention-and-treatment-of-public-housing-residents-arising-from-a-COVID-19-hard-lockdown-in-July-2020.pdf>.

628 Victorian Ombudsman, Investigation into the detention and treatment of public housing residents arising from a COVID-19 ‘hard lockdown’ in July 2020 (Report, 17 December 2020) 153 [757-760] <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/Public-housing-tower-lockdown/Victorian-Ombudsman-report-Investigation-into-the-detention-and-treatment-of-public-housing-residents-arising-from-a-COVID-19-hard-lockdown-in-July-2020.pdf>.

629 See e.g. Victorian Ombudsman, Investigation into the detention and treatment of public housing residents arising from a COVID-19 ‘hard lockdown’ in July 2020 (Report, 17 December 2020) 110 <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/Public-housing-tower-lockdown/Victorian-Ombudsman-report-Investigation-into-the-detention-and-treatment-of-public-housing-residents-arising-from-a-COVID-19-hard-lockdown-in-July-2020.pdf>.

630 Victorian Ombudsman, Investigation into the detention and treatment of public housing residents arising from a COVID-19 ‘hard lockdown’ in July 2020 (Report, 17 December 2020) 5 <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/Public-housing-tower-lockdown/Victorian-Ombudsman-report-Investigation-into-the-detention-and-treatment-of-public-housing-residents-arising-from-a-COVID-19-hard-lockdown-in-July-2020.pdf>.

631 Victorian Ombudsman, Investigation into the detention and treatment of public housing residents arising from a COVID-19 ‘hard lockdown’ in July 2020 (Report, 17 December 2020) 15 [39] <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/Public-housing-tower-lockdown/Victorian-Ombudsman-report-Investigation-into-the-detention-and-treatment-of-public-housing-residents-arising-from-a-COVID-19-hard-lockdown-in-July-2020.pdf>.

632 Stakeholder Consultation Session – 6 August 2024 [240806.2].

633 See Masha Menhat et al, ’Rain, Rain, go away, come again another day: do climate variations enhance the spread of COVID-19?’ (2024) 20(43) Global Health 1-16, 1 <https://doi.org/10.1186/s12992-024-01044-w>.

634 Department of the Prime Minister and Cabinet, COVID-19 Response Inquiry Report (Report, 29 October 2024), 131 <https://www.pmc.gov.au/sites/default/files/resource/download/covid-19-response-inquiry-report.pdf>.

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