



Submission to the

**Inquiry into the Climate Change (National Framework for
Adaptation and Mitigation) Bill 2020 and Climate Change
(National Framework for Adaptation and Mitigation)
(Consequential and Transitional Provisions) Bill 2020**

20 November 2020

Submitted by
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Table of Contents

About Amnesty International	3
Summary	4
Recommendations	4
International legal human rights framework	5
The right to life	5
The right to self-determination	6
The right to health	6
The right to education	7
The right to food	7
Climate change represents an existential threat to human rights	8
The climate crisis creates a more unequal world	9
Our recovery from the pandemic must place climate and human rights at the centre	9
Conclusion	10

About Amnesty International

Amnesty International is the world's largest independent human rights organisation with more than million supporters in more than 160 countries around the world.

Amnesty International is a worldwide movement to promote and defend all human rights enshrined in the Universal Declaration of Human Rights (UDHR) and other international human rights instruments. Amnesty International undertakes research focused on preventing and ending abuses of these rights.

Amnesty International is impartial and independent of any government, political persuasion or religious belief. Amnesty International Australia does not receive funding from governments or political parties.

1. Summary

- 1.1 Amnesty International Australia welcomes the opportunity to make a submission to the inquiry into the Climate Change (National Framework for Adaptation and Mitigation) Bill 2020 and Climate Change (National Framework for Adaptation and Mitigation) (Consequential and Transitional Provisions) Bill 2020 (the bills).
- 1.2 The climate crisis is one of the most significant human rights issues to date, threatening the enjoyment of a full range of human rights, for present and future generations.
- 1.3 Despite the impact that climate change is already having on human rights, and that it will continue to accelerate in the future, Australia's policies are exacerbating climate change and the existential threats it poses to human rights.
- 1.4 While climate change affects all, the rights of Indigenous peoples in Australia are at higher risk. Aboriginal and Torres Strait Islander peoples are especially vulnerable to the effects of climate change due to their deep connection to country.
- 1.5 Governments worldwide recognise the urgency of climate action, with Australia's major trading partners - China, Japan, South Korea, the UK and the EU - having clear commitments to net-zero emissions and strengthening their near-term commitments. The US under the incoming Biden administration is set to follow. Australia currently has no long-term plan for action.
- 1.6 A clear commitment to net-zero emissions is an essential first step towards Australia playing its part in tackling the global climate crisis. Amnesty International therefore supports the bills which provide a comprehensive framework that includes interim targets and plans with the aim of meeting the net-zero by 2050 target.

Recommendations

Amnesty International recommends that:

- 1) The Australian Government commits to tackling the climate crisis, in line with the best available science and our international responsibilities, by setting a target of achieving net-zero emissions by 2040, and with a robust and independent process to inform each five-yearly interim target. The Australian Government must also aim to achieve a reduction in greenhouse gas emissions of at least 50% by 2030.
- 2) The Australian Government recognises and embeds in whole-of-government policies that climate change is a serious threat to the enjoyment of human rights of all Australians, in particular the Aboriginal and Torres Strait Islander peoples who are especially vulnerable.
- 3) The Australian Government addresses the disproportionate impacts of climate change on the most marginalised people and allows communities most affected by the climate crisis to participate and shape climate decision-making meaningfully.

- 4) The Australian Government ensures that sufficient financing and support is in place for less developed countries to be able to reduce emissions, protect people facing the effects of the climate crisis, including through more robust adaptation measures, and provide remedy for the losses and damages people have already suffered.
- 5) The Australian Government ensures that the national risk assessment plan as proposed in the Bill takes into account the economic, social, health, water and food security and cultural effects of climate change, including effects on Indigenous Australians.
- 6) The Australian Government ensures that the membership of the proposed independent Climate Change Commission includes at least one indigenous Australian and one representative from a community directly affected by climate change.
- 7) The Australian Government commits to working with our Pacific and Southeast Asian neighbours to assist them to be able to also set targets of achieving net-zero emissions before 2050.
- 8) The Australian Government ensures that climate and human rights are placed at the centre of its response as we emerge from the COVID-19 pandemic.
- 9) The Climate Change (National Framework for Adaptation and Mitigation) Bill 2020 and Climate Change (National Framework for Adaptation and Mitigation) (Consequential and Transitional Provisions) Bill 2020 be passed.

2. International legal human rights framework

- 2.1 As affirmed by the UN Human Rights Council Resolution 41/21¹ and the Intergovernmental Panel on Climate Change (IPCC), climate change “directly and indirectly threaten the full and effective enjoyment of a range of human rights by people throughout the world, including the rights to life, safe drinking water and sanitation, food, health, housing, self-determination, culture, work and development.”
- 2.2 The Paris Agreement adopted under the United Nations Framework Convention on Climate Change acknowledges that “climate change is a common concern of humankind and that parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of Indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations, and the right to development, as well as gender equality, the empowerment of women and intergenerational equity”².

The right to life

- 2.3 According to the Universal Declaration of Human Rights (UDHR) “everyone has the right to life, liberty and security of person.”³ The International Covenant on Civil and Political Rights (ICCPR) reiterates that “every human being has the inherent right to life.”⁴ All States have

¹ UN Human Rights Council Resolution 41/21
<https://undocs.org/A/HRC/RES/41/21>

² Report of the Conference of the Parties on its twenty-first session
<https://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf>

³ Universal Declaration of Human Rights, Article 3

⁴ International Covenant on Civil and Political Rights, Article 6

committed to respect, protect, promote, and fulfil the right to life. This entails, at the very least, that States should take effective measures against foreseeable and preventable loss of life.⁵

- 2.4 Climate change is already responsible for more than approximately 400,000 deaths per year and that number is expected to rise to 700,000 per year by 2030.⁶
- 2.5 Extreme weather events may be the most visible and most dramatic threat to the enjoyment of the right to life but climate change kills through drought, increased heat, expanding disease vectors and many other ways.
- 2.6 In order to uphold the right to life, States must take effective measures to mitigate and adapt to climate change and prevent foreseeable loss of life.

The right to self-determination

- 2.7 Article 1 of the Universal Declaration of Human Rights calls for respect of the “self-determination of peoples”.⁷ Further, the ICCPR states that “all peoples have the right of self-determination.”⁸
- 2.8 The former United Nations Special Rapporteur on the rights of Indigenous peoples highlighted that “the realisation of the rights to self-determination and development” are “being seriously challenged” by climate change.⁹
- 2.9 States must respect the right to self-determination of all peoples and ensure that they have the necessary resources to provide for themselves. Climate change not only poses a threat to the lives of individuals; but also to their ways of life and livelihoods, and to the survival of entire peoples.
- 2.10 States are obliged to take adequate measures to guarantee the rights of all peoples to self-determination in the face of the looming threat posed by climate change but they have so far failed to do so.

The right to health

- 2.11 The Universal Declaration of Human Rights protects the right to health,¹⁰ and in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which provides that all persons have the right “to the enjoyment of the highest attainable standard of physical and mental health.”¹¹
- 2.12 Climate change impacts health in a number of ways: directly, through extreme weather or changes in temperature; and indirectly through changes to natural systems that result in crop failures, expanding disease vectors, and displacement of persons. These mechanisms

⁵ Office of the High Commissioner for Human Rights, *Submission to 21st Conference of the Parties to the United Nations Framework Convention on Climate Change*:

<https://www.ohchr.org/Documents/Issues/ClimateChange/COP21.pdf>

⁶ DARA and the Climate Vulnerable Forum, *Second edition: A guide to the cold calculus of a hot planet* (DARA and Climate Vulnerability Monitor, 2012), p. 17

⁷ UDHR, Article 1

⁸ ICCPR, Article 1

⁹ World Bank, *Turn down the heat 2012*, p. xiii.

¹⁰ UDHR, Article 25

¹¹ ICESCR, Article 12

contribute to human vulnerability to disease and injury, diminished occupational and mental health, and risks posed by resource scarcity and migration.¹²

- 2.13 The World Bank has stated that climate change will cause “health impacts [that] are likely to increase and be exacerbated by high rates of malnutrition,” including potential increases in vector-borne diseases and “heat-amplified levels of smog [that] could exacerbate respiratory disorders.”¹³
- 2.14 Action by States on climate change is required for them to uphold their obligation to the right to life.

The right to education

- 2.15 According to the Universal Declaration of Human Rights, “everyone has the right to education.”¹⁴ Article 13 of the ICESCR builds upon this and guarantees free, compulsory primary education and calls on States to progressively realise free secondary education for all.¹⁵
- 2.16 The effects of climate change are impacting people's right to education around the world. The Intergovernmental Panel on Climate Change Fifth Assessment Report predicts with high confidence that climate change will jeopardise human health, food security, and livelihoods, particularly among the world's poor. Climate-induced health and income shocks could in turn negatively affect educational outcomes if, for example, children experience poorer health and nutrition in early life, thereby impairing cognitive and physical development; if households are unable to pay school fees; or if children must participate in income generation activities during school ages.¹⁶
- 2.17 In his 2011 report to the General Assembly, the United Nations Special Rapporteur on the right to food stated that the impacts of successive droughts had caused some children to be “removed from schools because education became unaffordable and because their work was needed by the family as a source of revenue”.¹⁷
- 2.18 There is also considerable concern around the risk of governments needing to address climate-related disasters with funds earmarked for education and other social services. Failure to ensure fulfilment of the right to education and the diversion of funds from education not only violates this right but also has long term developmental consequences with substantial implications for the enjoyment of all rights by all.

The right to food

- 2.19 Article 25 of the Universal Declaration on Human Rights and Article 11 of ICESCR uphold people's right to food and to be “free from hunger”. As with all human rights, States must respect, protect, promote, and fulfil the human right to food. Further, States have committed

¹² Office of the High Commissioner on Human Rights, The impact of climate change on the enjoyment of the right to health, <https://www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/RightHealth.aspx>

¹³ World Bank, Turn down the heat 2012, p. xvii

¹⁴ UDHR, Article 26

¹⁵ ICESCR, Article 13

¹⁶ Heather Randall and Clark Gray, *Climate change and educational attainment in the global tropics*, 2019, <https://www.pnas.org/content/116/18/8840>

¹⁷ United Nations General Assembly, A/HRC/16/49/Add.2: Report of the Special Rapporteur on the right to food, Olivier De Schutter (2011), para. 13.

to mobilise maximum available resources for the progressive realisation of the right to food and all other rights contained in the ICESCR.

- 2.20 Climate change undermines food security, therefore, it threatens realisation of the right to food. The World Bank has estimated that a 2°C increase in average global temperature (the proposed target for international climate mitigation efforts) would put “between 100 million and 400 million more people at risk of hunger and could result in over 3 million additional deaths from malnutrition each year.”¹⁸
- 2.21 Any climate-related disturbance to food distribution and transport, internationally or domestically, may have significant impacts not only on safety and quality but also on food access. For example, the food transportation system in the United States frequently moves large volumes of grain by water. In the case of an extreme weather event affecting a waterway, there are few, if any, alternate pathways for transport. High temperatures and a shortage of rain in the summer of 2012 led to one of the most severe summer droughts the nation has seen and posed serious impacts to the Mississippi River watershed, a major transcontinental shipping route for Midwestern agriculture. This drought resulted in significant food and economic losses due to reductions in barge traffic, the volume of goods carried, and the number of Americans employed by the tugboat industry.¹⁹
- 2.22 Action on climate changes equals action on realising people’s right to food domestically, and globally.

3. Climate change represents an existential threat to human rights

- 3.1 The climate emergency threatens human survival, the environment, and the enjoyment of all human rights. This requires the Australian Government to take rapid and effective action at the national and international level to reduce emissions quickly (climate change mitigation), protect people from the foreseeable and unavoidable impacts of the climate crisis (climate change adaptation), and provide access to an effective remedy, including compensation, to people whose rights have been negatively affected as the result of loss and damage caused by the climate crisis, particularly in developing countries.
- 3.2 The IPCC showed that keeping the increase of global average temperatures below 1.5°C above pre-industrial level is an absolute necessity, as higher levels of global heating would have even more catastrophic consequences for people and their rights. The IPCC also stated that to keep global heating below 1.5°C, states must take measures to ensure that emissions are reduced by 45% from 2010 level by 2030 and reach net-zero by 2050.
- 3.3 The Australian government must acknowledge the urgency of the climate crisis and set world-leading, ambitious targets.

Recommendation 1: The Australian Government commits to tackling the climate crisis, in line with the best available science and our international responsibilities, by setting a target of achieving net-zero emissions by 2040, and with a robust and independent process to inform each five-yearly interim target. The Australian Government must also aim to achieve a reduction

¹⁸ The World Bank, World Development Report 2010: Development and Climate Change (2010), pp. 4 – 5.

¹⁹ United States Environmental Protection Agency, *Climate Impacts on Agriculture and Food Supply*: <https://archive.epa.gov/epa/climate-impacts/climate-impacts-agriculture-and-food-supply.html>

in greenhouse gas emissions of at least 50% by 2030.

Recommendation 2: The Australian Government recognises and embeds in whole-of-government policies that climate change is a serious threat to the enjoyment of human rights of all Australians, in particular the Indigenous people who are most vulnerable.

4. The climate crisis creates a more unequal world

- 4.1 Although the climate crisis is a global problem affecting everybody, the people most are those who are subjected to multiple and intersecting forms of discrimination and structural inequalities.
- 4.2 In Australia, Indigenous people are disproportionately affected by climate change because of a deep connection to the land and seas and dependence on wildlife, bush and healthy ecosystems for food and culture. Moreover, Torres Straits Islanders are seeing their homes inundated by rising sea levels. These effects are exacerbated by the Government's support to the fossil fuel industry, which is further contributing to First Australians' ongoing dispossession of land and culture.
- 4.3 The climate crisis also increases inequalities among countries, with least developed countries, low-lying, small island states such as our Pacific neighbours, and arid countries bearing the highest-burden, despite their much smaller contribution to climate change.

Recommendation 3: The Australian Government addresses the disproportionate impacts of climate change on the most marginalised people and allows communities most affected by the climate crisis to participate and shape climate decision-making meaningfully.

Recommendation 4: The Australian Government ensures that sufficient financing and support is in place for less developed countries to be able to reduce emissions, protect people facing the impacts of the climate crisis, including through more robust adaptation measures, and provide remedy for the losses and damages people have already suffered.

Recommendation 5: The Australian Government ensures that the national risk assessment plan as proposed in the Bill takes into account the economic, social, health, water and food security and cultural effects of climate change, including effects on Indigenous Australians.

Recommendation 6: The Australian Government ensures that the membership of the proposed independent Climate Change Commission includes at least one Indigenous person and one representative from a community directly affected by climate change.

Recommendation 7: The Australian Government commits to working with our Pacific and Southeast Asian neighbours to assist them to be able to also set targets of achieving net-zero emissions well before 2050.

5. Our recovery from the pandemic must place climate and human rights at the centre

- 5.1 The COVID-19 crisis has rightly focused the attention of all governments, including Australia, to respond to the public health emergency and the ensuing economic impacts. However, the pandemic has not washed the climate emergency away. Although some of the measures taken to limit its spread have temporarily reduced greenhouse gas emissions, these reductions are only temporary. Responses to the pandemic risk exacerbating the climate crisis if they roll back environmental protections, unduly delay climate action, or entrench fossil fuel dependency. This could have catastrophic impacts on human rights.

Recommendation 8: The Australian Government ensures a just recovery which puts people and climate at its centre. It must adopt a recovery plan that is human rights- compliant.

6. Conclusion

Climate change is already impacting human rights in Australia, including our rights to life, health, and culture. The bushfire crisis in late 2019 and early 2020 demonstrated just how real and catastrophic climate change is for Australia.

And beyond Australia's borders, people face similar threats to human rights, whether in the US or the Pacific Islands nations.

Amnesty International calls on the Australian Government to fulfil its human rights obligations to address the climate crisis. The Climate Change (Adaptation and Mitigation) Bill 2020 provides a comprehensive framework for Australia to take the necessary steps to tackle the climate crisis. Importantly, it calls for the net-zero target to be strengthened, in line with science and the global climate context.

Recommendation 9: The Climate Change (National Framework for Adaptation and Mitigation) Bill 2020 and Climate Change (National Framework for Adaptation and Mitigation) (Consequential and Transitional Provisions) Bill 2020 be passed.