**Special Rapporteur on the Human Rights of Migrants (pursuant to resolution 43/6 of the Human Rights Council)**

***‘After one and half years: the impact of COVID-19 on the human rights of migrants’***

1. Please provide information on the healthcare responses taken by your Government to counter the pandemic providing migrants and their families’ access to adequate health care on the same basis as nationals. These include equitable access to treatment, testing vaccines, reproductive health, gender responsive health protocols, protective equipment and other health and basic services such as water, sanitation, and information. Please also indicate if adequate firewall protections and professional capacities are available to ensure that migrants who fear seeking medical support can access health services without risking immigration enforcement measures; as well as personal data protection measures.

The Australian response to COVID-19 includes a range of measures to mitigate the health, social and economic impacts of COVID-19, including a boost to telehealth and mental health services, domestic violence support, and social security. To support Australia’s response, the Australian Government’s COVID-19 National Health Plan outlines a comprehensive range of measures intended to protect all Australians, including high-risk populations and vulnerable groups.

A $200 million Community Support Package is providing funding to charities and community organisations delivering emergency relief, food relief, financial counselling and no interest loans.

* The Community Support Package is on top of the nearly $300 million the Australian Government is already providing to over 300 organisations across Australia to deliver Financial Wellbeing and Capability services from 1 January 2019 to 30 June 2023.
* This includes $13 million for the Australian Red Cross to deliver Emergency Relief and counselling support to temporary migrants to December 2020.

The Australian Government provides COVID-19 testing and treatment, free of charge, to every person in Australia, irrespective of their visa status. This includes unlawful non-citizens. In addition, COVID-19 vaccines are free for everyone in Australia, even if they are not an Australian citizen or permanent resident. This includes people without a Medicare card, overseas visitors, international students, migrant workers and asylum seekers, regardless of visa status.

Information and factsheets relating to health and economic measures and business resources were quickly translated into 63 languages other than English and widely distributed through to multicultural community organisations.

State and Territory governments have assisted temporary visa holders to find safe accommodation and provide messaging regarding quarantine and self-isolation requirements. For people living in rural and remote areas, the Australian Government is expanding access to appointments with doctors and specialists via video-conference or telephone. Further telehealth services have been made available during COVID-19.

1. Please indicate what solidarity measures and initiatives have been put in place or are planned by the Government, the civil society and other relevant stakeholders to support migrants in the context of the pandemic.

In March 2020, the Australian Government announced a $150 million domestic violence support package to ensure that women and their children can continue to access supports during the   
COVID-19 pandemic.

The Australian Government also launched a Strengthening Social Cohesion information campaign to support the multicultural communities most affected by COVID-19 related racism (see response to question 4 below). Advertising messages encouraged people to visit a campaign webpage (australia.gov.au/helpstopracism) which provided detailed information in English and 63 other languages including examples of racist behaviour, victim rights, how to make a report, how bystanders can assist, and support services.

Throughout the COVID-19 pandemic, the Australian Government has maintained a zero tolerance for the exploitation of vulnerable workers, including migrant workers. Migrant workers are covered by the same basic rights and protections as Australian citizens and permanent residents under national workplace laws. The national workplace regulator, the Fair Work Ombudsman, regulates compliance with national workplace laws, and uses a range of educational, advisory, compliance and enforcement tools to ensure the workplace rights of all workers, including migrant workers, are protected.

* The Fair Work Ombudsman, is continuing to provide support and advice services to ensure migrant workers are aware of and can seek assistance in relation to their workplace rights throughout the COVID-19 pandemic.
* The Australian Government is providing $46.3 million in additional funding over three years from 2019-20 for the FWO to support its response to COVID-19, including providing COVID-specific advice and assistance to employers and employees on their rights and obligations throughout the pandemic with specific materials tailored to migrant workers.

1. In the context of immigration detention, please indicate if measures have been considered to minimize health risks associated with the COVID-19 transmission by reducing migrants’ detention and opting for alternatives to detention and if not, kindly elaborate on challenges preventing such options. Please indicate if immigration detention of children has been practiced during the pandemic.

The Australian Government is committed to the health and safety of detainees and has put in place measures to prevent COVID-19 entering and spreading in immigration detention facilities across Australia. The Australian Border Force and detention service providers remain focused on preventing the entry of COVID-19 into immigration detention facilities including alternative places of detention. The health and safety of the detainees and staff is the priority for the Australian Border Force.

Planning and infection control measures at all immigration detention facilities adhere to the Communicable Diseases Network Australia’s *National Guidelines for the Prevention, Control and Public Health Management of COVID-19 Outbreaks in Correctional and Detention Facilities in Australia*. The Guidelines, noted by the Australian Health Protection Principal Committee, require facilities such as corrections and detention to work to prevent an outbreak of infection as a priority, but to also have in place Outbreak Management Plans to effectively manage an outbreak in a facility.

To this end, Outbreak Management Plans have been prepared by the Australian Border Force and its service providers for all immigration detention facilities, including alternative places of detention. A range of measures have been introduced to actively manage health, hygiene and cleaning requirements in all detention facilities. These measures are continually reviewed in line with the prevailing health advice. To date, these measures have been successful.

The Australian Border Force continues to closely monitor any COVID-19 cases in the community and the impact on the nearby immigration detention network. The Australian Border Force and its service providers continue to communicate regularly with detainees about the current national COVID-19 response, this complements the more general publicly available information.

All detainees continue to have ongoing access to the medical professionals located within facilities, including after hours. Any detainee presenting with flu-like or potential COVID-19 symptoms is being tested, quarantined and receives appropriate medical care.

As the Commonwealth National Preventive Mechanism, the Commonwealth Ombudsman is responsible for monitoring Commonwealth places of detention, including immigration detention facilities. The Office of the Commonwealth Ombudsman temporarily ceased regular physical inspections of immigration detention facilities during the pandemic and implemented a remote monitoring model. The Office has since recommenced short site visits, focussing on monitoring compliance with COVID-19 guidelines.

On 1 July 2020 the Commonwealth Ombudsman released a public statement about his Office’s observations of the Australian Government’s management of COVID-19 in immigration detention. The Ombudsman stated he was broadly satisfied with the Department of Home Affairs’ (the Department) implementation of site-level strategies to prevent, and respond to COVID-19 but recommended that, to better facilitate social distancing arrangements, the department work with its ministers to reduce the number of people held in immigration detention facilities.

It is the Australian Government’s policy that children be accommodated in immigration detention as a last resort, for the shortest possible time and under the least restrictive arrangements. As at 10 June 2021, there were less than 5 minors in held detention and 176 minors residing in the community under residence determination arrangements.

1. Please provide information on actions taken to prevent and address racial discrimination, hate speech, xenophobia and related intolerance faced by migrants, particularly in the COVID-19 context.

Our universal non-discriminatory migration and citizenship programs means Australia will continue to welcome migrants, irrespective of race, national or ethnic origin, who embrace Australian values and laws, and who become active members of our community and meet the criteria set out in the law. All applications for migration to Australia are assessed on their merits against the criteria set out in the *Migration Act 1958* and *Migration Regulations 1994*.

In early 2020 there were reports of an increase in racist behaviour targeting people of Asian appearance. In response the Australian Government undertook a number of activities to support multicultural communities and strengthen social cohesion:

* The Government undertook an information campaign to support and inform communities affected by racism. It ran between 18 June and 8 August 2020 on print, radio, digital, and ‘out of home’ advertising for key communities including the Chinese, Vietnamese, Filipino and Korean communities.
* The digital advertising component of the campaign delivered almost 20 million digital ad impressions which resulted in approximately 70,000 click-throughs to the campaign website.
* On 29 April 2020, the Government launched a new dedicated website, covid19inlanguage. As at 31 March 2021, 129 key documents had been uploaded onto the covid19inlanguage website, including information on health, education, business and financial support, community safety and services and immigration and border arrangements, totalling over 7,600 translated documents.
* The website has had more than 1.76 million unique page views.
* Between 1 April 2020 and 31 March 2021, the Department of Home Affairs’ Community Liaison Officer Network undertook more than 12,020 engagements with representatives from culturally diverse communities.

1. Please provide information on any emergency measures or declaration or any special legislation activating extraordinary powers based on the COVID-19 pandemic taken by your Government at national or local level, and whether such measures have been temporary and proportional and tailored to migrants’ human rights and fundamental freedoms.

Australia has implemented a number of measures under the *Biosecurity Act 2015* (the Biosecurity Act) that both defend human rights through the protection of the right to the highest attainable standard of health while also limiting human rights through restrictions relating to travel and therefore freedom of movement.

The restrictions implemented under the Biosecurity Act have been deemed necessary by the Australian Government and consistent with international human rights law. Temporary restrictions on the human right to freedom of movement are ultimately to protect the human right to health.

The restrictions are reviewed constantly to ensure people are not restricted beyond what is necessary to protect the health of the population. At all times, the restrictions imposed under the Biosecurity Act as well as other emergency measures were proportionate to the assessed risk that COVID-19 posed to lives at that specific period in time.

Travel to Australia is restricted to Australian citizens, permanent residents and travellers in an exempt category. Passengers travelling to Australia require a negative COVID-19 Polymerase Chain Reaction (PCR) test result taken 72 hours or less prior to the scheduled flight departure, To prevent the spread of COVID-19, travellers arriving in Australia by air or sea may also need to go into government approved mandatory quarantine for 14 days from arrival. On completion, travel within Australia is permitted in line with state and territory domestic travel restrictions.

Restrictions relating to travel, deemed necessary to protect the right to health, are reviewed constantly. Persons who are not Australian citizens or permanent residents are not restricted from departing Australia. However, visa holders seeking to leave and then return to Australia may apply for an inwards exemption before they leave and will be subject to mandatory quarantine upon return.

1. Please provide information on any relevant legislation or policy adopted during the pandemic in relation to the regularization of migrants, including those in an irregular situation, through the adoption of for example regularization processes and pathways, extensions of work visas, and other appropriate measures for improving decent work and dignified living conditions, strengthening migrants’ contributions and fosteringcooperation. Please indicate if the regularization programs are devised as long-term solutions.

The Australian Government has introduced visa arrangements that are flexible to ensure foreign nationals, including migrant workers, in Australia remain lawful, while adhering to Australia’s public health measures to prevent the spread of COVID-19 in the community. The Government has introduced a series of interim COVID-19 visa concessions to help foreign nationals continue on their visa pathway if they have been disadvantaged by COVID-19 border closures, business restrictions or the economic downturn. Disruptions arising from the pandemic are taken into account when considering visa applications. Visa applicants are being given additional time to complete the necessary requirements.

A series of visa changes have been made to allow temporary visa holders to continue working in critical sectors, such as health, aged and disability care, agriculture, food processing or childcare. Visa conditions have been relaxed for temporary visa holders whose employment prospects have been impacted by COVID-19. These visa changes do not impact the workplace rights of migrant workers in Australia. Migrant workers and visa holders have the same workplace rights as all other workers. Recent legislative amendments have introduced, as a long-term solution for migrants generally, measures aimed at improving social and economic inclusion of migrants by providing access for permanent residents and some temporary visa holders to free English tuition for longer, and until they reach a higher level of proficiency, and which are more flexible for those working or who have caring responsibilities.

1. Please indicate if your country has adopted or is planning to adopt a COVID-19 socio-economic response and recovery plan, and if a human rights-based approach and human rights and gender-sensitive indicators are considered to ensure that no one will be left behind. Please indicate which are the available mechanism enabling different parts of the Government as well as civil society actors and other key stakeholders to participate at all stages of the response and recovery plans and to monitor them.

The Australian Government has implemented a $305 billion COVID-19 economic support package, which represents the largest fiscal response in Australian history. Central to the response was the JobKeeper Payment to keep Australians employed and an Early Childhood Education and Care Relief Package to support child care services to remain open and to provide free child care for those families who need it. The Australian Government has also been working to connect the significant number of new job seekers to appropriate support.

Migrant workers are covered by the same workplace rights and protections as Australian citizens and permanent residents. The national workplace regulator, the Fair Work Ombudsman, is continuing to provide support and advice services to ensure migrant workers are aware of and can seek assistance in relation to their workplace rights throughout the COVID-19 pandemic. The Australian Government is providing $46.3 million in additional funding over three years from 2019-20 for the Fair Work Ombudsman to support its response to COVID-19, including providing COVID-specific advice and assistance to employers and employees on their rights and obligations throughout the pandemic with specific materials tailored to migrant workers.