

**SHADOW REPORT TO THE COMMITTEE  
ON ECONOMIC, SOCIAL AND CULTURAL  
RIGHTS (CESCR)  
79<sup>TH</sup> SESSION**

**AUSTRALIA'S  
EXTRATERRITORIAL  
OBLIGATIONS IN  
THE PACIFIC IN THE  
CONTEXT OF AUKUS**



DEVELOPMENT  
ALTERNATIVES  
WITH WOMEN  
FOR A NEW ERA

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ON ICESCR 79<sup>TH</sup> SESSION  
9<sup>TH</sup> FEBRUARY TO 25 FEBRUARY 2026**

# **AUSTRALIA'S EXTRATERRITORIAL OBLIGATIONS UNDER THE ICESCR**



DEVELOPMENT ALTERNATIVES  
WITH WOMEN FOR A NEW ERA

# Introduction

This Shadow Report is submitted to the Committee of the International Covenant on Economic Social and Cultural Rights in the context of the review of Australia's compliance as a state party with its ICESCR obligations.

The report is submitted by **Development Alternatives with Women for a New Era (DAWN)**, a network of feminist researchers and activists from the Global South, dedicated to promoting economic, environmental, gender and development justice, sustainable livelihoods and democratic governance. Since its formation in 1984, DAWN has produced critical feminist research and analysis, helped lead advocacy to secure global agreements on women's rights at UN Conferences, lobbied in other global policymaking fora, and mobilized and trained young feminists on global issues affecting women's lives, livelihoods, human rights and development prospects. DAWN challenges inequitable and repressive social, economic, and political systems including authoritarianism and militarism, and offers alternative feminist visions.

Our submission primarily focuses on the trilateral security pact signed by Australia, the UK and the US known as AUKUS and subsequent bilateral security treaties that Australia has signed with Pacific Island Governments. We do not seek to assess the legality of these security arrangements but rather focus on their implications for Australia's compliance with its obligations under the Covenant, specifically its extraterritorial obligations (ETOs), and the **foreseeable** and preventable **impacts** on the **economic, social** and **cultural rights** of peoples in the Pacific.

We also raise attention to the implications of AUKUS for Australia's compliance with other international laws to which it is a state party, namely the Nuclear Non-Proliferation Treaty (NPT) - which Australia proclaims to be 'a cornerstone of its foreign and defence policy' - and the South Pacific Nuclear Free Zone Treaty (SPNFZT) which obliges state parties to actively prohibit nuclear weapons entering the SPNF Zone.

## **II. Unpacking Aukus and Major Concerns**

### ***Consolidation of a colonial matrix of power***

Announced in 2021, AUKUS is a consolidation of a colonial matrix of power between Australia, the UK and the US into an enhanced trilateral security and defence treaty that covers a re-configured geographical area – the ‘Indo-Pacific’ - extending across the Indian Ocean, South East Asia, the South China Sea and the Pacific Ocean. The proclaimed goals of AUKUS are to “strengthen the ability of each government to support their security and defence interests” and “develop and provide joint advanced military capabilities” in order to promote “security and stability in the Indo-Pacific region”.

### ***Reconstituting US Hegemony: State, military and market forces***

However, AUKUS is not just a security pact but a crucial part of America’s force posture as global hegemon. It connects and binds allied states, secures the interoperability of their defence forces, capabilities and assets, and serves the intertwined interests of financial/state capital, the military-industrial complex, private security contractors, as well as defence and strategic studies within academia, and mainstream media. In this submission we draw on DAWN’s recent work interrogating the nexus of geopolitical tensions and political economy through the lens of ‘strategic critical minerals’ which highlights the role of venture capitalist companies like The Metals Company in directly driving national security and defence imperatives for deep seabed mining.<sup>1</sup>

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1- See also DAWN at CEDAW 89th Canada’s Extraterritorial Obligations: Canadian Companies and Deep Seabed Mining, September 2024 <https://www.dawnfeminist.org/event/dawn-at-cedaw-89-canada>, DAWN Shadow Report.

## ***Undermining Democratic Liberal Democracy:***

The AUKUS partnership was signed and sealed in secret by Australia's Liberal Prime Minister, Scott Morrison, on the eve of his resounding defeat in national elections, without the knowledge, much less debate or consent, of the Australian Parliament and Australian citizens. The Labor leadership was only given 24 hours' notice of the announcement of the agreement. AUKUS has therefore been the subject of intense national scrutiny, discussion and opposition by parliamentarians, former political leaders, political analysts, concerned citizens' groups and NGOs, and especially peace and anti-nuclear campaigners.

On 16 November 2023, the Labour government introduced to the Parliament the Australian Naval Nuclear Power Safety Bill which the government explained as 'continu[ing] the Australian Government's considered, phased approach to building an enduring legislative and regulatory framework for responsible nuclear stewardship'. According to critics, the bill was rammed through both houses of parliament without any debate, undermining a healthy liberal democracy.

## ***A threat to the health of the environment***

Aside from laying down the framework to promote and regulate the nuclear safety aspects and certain activities relating to building the three warships - Virginia-class nuclear-powered submarines - which, from the early 2030s the US will deliver to Australia, the Bill allowed for 'the dumping of US and UK intermediate-level waste and other high-level nuclear waste from their nuclear submarines', according to Green Party Senator, David Shoebridge, creating 'nuclear dump zones' off the coast of Perth and Port Adelaide without any community consultation or local support. According to WILPF Australia, it opened 'a back door to Australia becoming the dumping ground for tonnes of high-level nuclear waste from the US and UK nuclear submarine fleets'.<sup>2</sup>

The dumping of nuclear waste from nuclear-powered submarines is a seriously concerning threat to the health of the Pacific Ocean which is already at huge risk of major nuclear contamination both from the leakage of nuclear waste from the cracking dome on Runit Island in Enewetak Atoll, Marshall Islands covering buried waste from 67 unconsented US nuclear tests on the Atoll as well as waste from US nuclear tests in Nevada;<sup>3</sup> and from the commencement in 2023 of Japan's controversial phased ocean dumping of 1.4 million tons of nuclide-contaminated waste water used to cool damaged nuclear reactors at the Fukushima Daiichi nuclear power plant.<sup>4</sup>

## ***Undermining the Treaty on Non-Proliferation of Nuclear Weapons***

In February 1970 Australia signed the [Treaty on the Non-Proliferation of Nuclear Weapons \(NPT\)](#), committing not to acquire nuclear weapons, and to adhere to strong non-proliferation obligations. Since then, Australia has been one of the Treaty's strongest supporters. In 1995, Australia and other signatories collectively succeeded in ensuring the Treaty was extended indefinitely. The NPT has three main pillars: non-proliferation, disarmament and peaceful uses of nuclear energy. The Treaty commits Nuclear Weapon States to work towards disarmament through Article VI obligations. The proposed delivery of up to 8 nuclear-powered but conventionally-armed submarines (SSNs) to Australia – the acquisition of which is supposedly the main benefit for Australia – effectively breaches Australia's non-proliferation obligations, as briefly explained below.

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2- Women's International League for Peace and Freedom-Australia, Letter to Australian Foreign Affairs, Defence and Trade Committee, 19 January 2024. <https://www.wilpf.org.au/wp-content/uploads/2024/02/WILPF-Submission-Australian-Naval-Nuclear-Power-Safety-Bill-2023.pdf>

3- In 2012, US President Obama signed legislation directing the DoE to monitor the ground water beneath the dome and to submit reports on determining health risks <https://npl.ly.gov.tw/pdf/7936.pdf>

4- See DAWN at CEDAW 89<sup>th</sup>: Japan's Ocean Dumping of Radioactive Waste Water: Threats to Women's Human Rights in Pacific Island Countries, October 2024. [https://www.dawnfeminist.org/?s=Shadow+report+on+Fukushima&ct\\_post\\_type=page%3Alibrary%3Aslide](https://www.dawnfeminist.org/?s=Shadow+report+on+Fukushima&ct_post_type=page%3Alibrary%3Aslide)

- **Undermining the NPT:** While not strictly forbidden, the transfer of this technology from nuclear-weapon states to a non-nuclear state is considered unprecedented. It is argued that it weakens the [NPT regime](#) by establishing a new norm for non-nuclear states to possess nuclear-powered vessels. These concerns have been raised by experts on the NPT.
- **IAEA Safeguards Loophole:** Critics argue the deal also exploits a loophole in the NPT that allows non-nuclear weapon states (NNWS) to withdraw nuclear material for “non-proscribed military activities” such as naval propulsion from [IAEA safeguards](#). This sets a precedent where nuclear materials may go unmonitored.
- **HEU Proliferation Risk:** These nuclear-powered submarines will require significant quantities of highly enriched uranium (HEU) – which is ‘weapons grade material’ – meaning it can be used to manufacture nuclear weapons. Even low enriched uranium (LEU) with further enrichment can be used to make bombs. Historically, the US has only ever shared its highly-guarded strategic submarine technology with the UK which, like the US, is a nuclear-weapons state. The use of Highly Enriched Uranium (HEU) in the reactors is particularly concerning because it is weapons-grade material, raising fears that other countries might mimic this approach to acquire dangerous materials.

## *Undermining the Objective of a Nuclear Free Pacific*

While the delivery of the first nuclear-powered submarine to Australia is not expected until 2032,<sup>5</sup> the AUKUS Treaty binds Australia to immediately opening all of its ports to visits by US nuclear-powered submarines, which may or may

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5- It may not be received by that date, or ever, despite Australia paying USD500m upfront for its manufacture (out of a total pledge of USD3Billion). This was revealed by US Secretary of Defense, Pete Hegseth, in an announced review of AUKUS to ensure it aligned with the Trump Administration’s ‘America First’ policy. See <https://news.usni.org/2025/06/11/defense-department-conducting-review-of-aukus-security-pact> This is discussed in Maureen Penjueli and Mereoni Chung (2025) *Peace Under-Sea Siege: Hyper-militarisation of the Pacific Ocean, abandonment of Naval Disarmament and undermining of ‘peaceful use and purposes’*, DAWN/PANG Policy Brief (Awaiting publication)

not be nuclear-armed; and to the stationing and rotation of both submarines and US servicemen. At the time of writing this submission there have been at least 8 nuclear submarine visits since the AUKUS announcement.

Strategic basing and port access are indeed one of the most worrying aspects of AUKUS. It reflects a fundamental shift in Australia-US defence arrangements as Australia has agreed to establish ‘a combined logistics, sustainment, and maintenance enterprise to support high-end warfighting and combined military operations in the region.’<sup>6</sup> This exposes Australia to the risk of being targeted in the event of any outbreak of hostilities. It also poses a threat to the nuclear-free Pacific objective of the South Pacific Nuclear Free Zone Treaty which entered into force on 11 December 1986, and to which Australia is a state party. The stationing of US submarines and bombers in support of high-end warfighting suggests they will be nuclear-armed. The longstanding US policy of ‘neither confirming nor denying’ the presence of nuclear weapons on its naval vessels including submarines underscores this probability. The official response by the Australian government follows the US policy of ‘neither confirming nor denying’ the presence of nuclear weapons. It has been argued that the Australian ports that will be used are located outside the perimeter of the South Pacific Nuclear Free Zone Treaty (the Rarotonga Treaty) and therefore the Article 5 prohibition in the Treaty which requires each Party to prevent the stationing of any nuclear explosive devices in its territory is not breached, but this is a moot point<sup>7</sup>. The transit (if not actual stationing) of nuclear armed naval vessels within the zone potentially breaches the Rarotonga Treaty.

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6- The Australia-U.S. Ministerial Consultations Joint Statement: An Unbreakable Alliance for Peace and Prosperity, 17 September 2021 <https://www.minister.defence.gov.au/statements/2021-09-17/australia-us-ministerial-consultations-joint-statement-unbreakable-alliance-peace-prosperity>

7- See *Treaty of Rarotonga*, <https://www.un.org/nwzf/content/treaty-rarotonga#>

The remarks by Australian lawyer and human rights activist, Kellie Tanter, capture best the risks of AUKUS for Australia:

“The combined effect of the Force Posture Agreement and other defence agreements with the United States is to nullify Australia’s capacity to make independent decisions about war avoidance and war fighting. Together they lock us into providing the United States first with secured areas under its control from which it may conduct a war, and second, with comprehensive logistical support for any such folly.”<sup>8</sup>

### **III. PACIFIC ISLAND STATES’ RESPONSES TO AUKUS**

The AUKUS announcement caught many Pacific Island leaders and communities by surprise. With the exception of the Federated States of Micronesia, Pacific Island States mainly expressed reservations or outright criticism. Citizens and civil society groups raised concerns about the increased militarization of the Pacific and geopolitical polarization of the region and called for the need to prioritize climate action, the most urgent security issue for the region. AUKUS triggered new worries over the intrusion of nuclear weapons, nuclear accidents and nuclear war, based on the lived experiences of Pacific peoples whose islands were used as the proving grounds for nuclear weapons tests by the US, Britain and France from the 1940s to the 1990s<sup>9</sup> and as the launch site for America’s bombing of Hiroshima and Nagasaki. The unconsented testing of hundreds of nuclear devices inflicted intergenerational health problems including cancers,

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8- Kellie Tranter, May 30, 2023, <https://johnmenadue.com/post/2023/05/what-is-the-us-australia-force-posture-agreement-fpa/>

9- See McDougal, D (2023) ‘AUKUS: a Commonwealth Perspective, *The Round Table*, 112(6), 567–581; and Middleby, S., Powles, A., & Wallis, J. (2021, November 4). AUKUS and Australia’s relations in the Pacific. *East Asia Forum*.

and ongoing trauma, as well as permanent displacement of communities from islands rendered uninhabitable due to radiation contamination, and ongoing impacts on livelihoods.<sup>10</sup>

Kiribati President, Taneti Maamau, captured Pacific states' and peoples' responses to AUKUS when he stated that the AUKUS proposal for the development of nuclear submarines puts the Pacific region at risk and raises some troubling memories. "Our people were victims of nuclear testing... we still have trauma... with that in mind, with anything to do with nuclear, we thought it would be a courtesy to raise it, to discuss it with your neighbours."

## **IV. AUSTRALIA'S POLITICAL AND ECONOMIC LEVERAGE IN THE SOUTH PACIFIC AS THE MAJOR DONOR**

Australia is one of two developed states in the South Pacific region and exercises significant influence in Pacific Island countries and regional institutions. It is the larger of two multicultural settler-states in the region, with significant indigenous and long-settled Pacific Island populations. Australia is the leading aid donor and major trading partner in the South Pacific and wields significant influence over both Pacific Island states and regional intergovernmental institutions. Australian Prime Ministers tend to play 'big brother' to Pacific Island leaders and the last Prime Minister who was also responsible for committing Australia to the AUKUS pact, used the Fijian word for 'Family' (*vuvale*) to describe Australia's relationship with its Pacific Island neighbours.

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10- The horrific legacy of French nuclear tests in the Pacific are the same. In 2023, DAWN co-sponsored with *Moruroa e Tātou* of French Polynesia a Shadow Report to the CEDAW Committee on ongoing intergenerational impacts and harms to women's health, especially reproductive health, as a consequence of more than 26 years of atomic and nuclear testing. See *The consequences of nuclear testing on women's rights in French Polynesia – Mā'Ohī Nui*, Shadow Report to the 86th Session of CEDAW, Submitted for the Review of France, 9-27 October, 2023 <https://www.dawnfeminist.org/event/cedaw-86-the-consequences-of-nuclear-testing-on-womens-rights-in-french-polynesia-maohi-nui>

Despite this claimed affinity with Pacific Island states and peoples, Australia has often disappointed Pacific Island leaders and peoples. Australia infamously used its influence to weaken the Rarotonga Treaty during negotiations on the text; and, in the early 2000s, acted with New Zealand to try to ensure that they benefitted from any free trade deals squeezed from Pacific Island states by the EU in negotiations on a Pacific Partnership Agreement that was slanted to benefit the EU (Ref. Kelsey *Big Brothers Behaving Badly*, 2004). In the more recent context of the climate crisis, Australia had disappointed the Pacific by failing to reduce its GHG emissions, opening new coal mines while being the largest exporter of coal and gas and one of the world's largest greenhouse gas emitters. Despite this, and indicative of its political and economic leverage, Australia secured the support of several Pacific Island states for its bid to co-host COP 31 in Australia with Pacific Island States, before eventually withdrawing its bid.

Australia's recently-concluded migration agreement with Tuvalu, the Falepili Union Agreement, might be claimed as the most meaningful form of support to frontline victims of climate change in the Pacific. Offering 280 Tuvaluans a year 'a unique migration pathway' to live, work, and study permanently in Australia and a fast track to citizenship if they choose, the Falepili Agreement began to be implemented in late 2025. Described as a 'planned, dignified alternative to traditional asylum or refugee status', and a 'world first climate refugee visa,' it enables Tuvaluans to retain their nationality while gaining residency and access to services like Medicare. The Falepili Union Agreement is however one of several Defence Cooperation Agreements, which are more critically appraised below.

As the major donor in the South Pacific, Australia's AUKUS commitments may have significant development impacts. The estimated cost of the submarines - up to AUD368 billion - which will be met by Australian taxpayers is certainly controversial for Australians given that this will involve a significant increase in Australia's defence budget. The Australian government pledged \$55.7 billion

for its war chest in the 2024 – 2025 Budget, a sum that is projected to grow to \$100 billion in 10 years' time.<sup>11</sup> This will almost certainly come at the cost of national social spending in Australia, in areas such as social security, health, and education. It will likely have impacts on the amounts and prioritizations of Australian development aid spending in Pacific Island States.

## V. SECURITY TREATIES TO ADVANCE AUSTRALIA'S STRATEGIC INTEREST

Australia is aggressively pursuing bilateral security treaties and agreements with Pacific Island countries<sup>12</sup> that are being treated as treaty-level arrangements. These treaty arrangements are the highest and most formal of agreements – and are required to be ratified by parliament and registered with the UN to ensure it carries weight under international law. At the time of writing this report, Australia had signed such treaties with Tuvalu, Nauru, PNG and is currently negotiating the Nakamal Treaty with Vanuatu, while in Fiji both governments have announced commitment to deepening the 'Vuvale Agreement'. All these treaties have elements of commitment to defending each other in the event of an attack; enmeshing both Fiji's and PNG's militaries and interoperability into the US-Australia industrial military and defence infrastructure, and providing open access to third parties to deliver security.

Criticisms have been expressed about rushed timeframes, lack of public consultation, transparency and parliamentary oversight over these Australian encroachments on the sovereignty of Pacific Island states and the heightened

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11- Karren Vergera (2024) 'Making a splash: The economic impact of AUKUS', 23 October 2024 <https://www.financialstandard.com.au/news/making-a-splash-the-economic-impact-of-aukus-179806253>

12- The Falepili Union Treaty with Tuvalu on 9 of October 2023 which entered into force on the 28th August 2024; the **Nauru-Australia** Treaty which was signed on the 9th of December 2024, worth AUD100 million in direct budgetary support ; the **PNG-Australia Mutual Defence Treaty – Pukpuk Treaty** - which was signed on the 17th of September 2025 following cabinet approval, is currently awaiting parliamentary approval.

insecurity they bring. There are also criticisms that Australia is turning a blind eye to/or complicit in human rights violations in, for instance, the deal it recently brokered with Nauru to move unwanted asylum seekers to the highly-controversial offshore detention center established many years ago by Australia in Nauru, with accompanying accusations of corruption and fraud in the recent resettlement deal, as well as concerns about censorship and a media ban.<sup>13</sup>

## ***Regional Security Implications***

AUKUS and the subsequent bilateral security treaties contain provisions that reinforce US's hegemonic military power projection deep into the Pacific Ocean, extending all the way from mainland US, Hawaii, through Guam and the compact-states (Marshall Islands, Palau and the Federated States of Micronesia) and further down south to Australia. Australia's implicit role as a proxy-base for the US is being further assured through a network of criss-crossing defence and security agreements confirming it is the partner of choice with island neighbours to consolidate the US 'tip of the spear.'<sup>14</sup> The move has drawn criticism, notably from China and some non-aligned nations, for potentially accelerating regional arms races and increasing regional tensions. It holds particularly worrying implications for Pacific Island States which will be impacted by escalating regional hostilities and possible military skirmishes and, in the worst-case scenario, by the possibility of their ocean becoming once more the theatre of a World War.

The shift in Australia's defence policy associated with AUKUS has been described by a leading Australian scholar and Pacific specialist as 'undermining Australia's Pacific family,' specifically its shared views that regional security

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13- Corruption allegations levelled at Nauru in Senate. <https://aapnews.aap.com.au/news/corruption-allegations-levelled-at-nauru-in-senate>

14- The agreement has direct security benefits for the United States as it allows for unilateral U.S. defence access across the north Pacific. Prianka Srinivasan and Virginia Harrison, "Mapped: the Vast Network of Security Deals Spanning the Pacific, and What It Means," *The Guardian*, July 9, 2024, <https://www.theguardian.com/world/article/2024/jul/09/pacific-islands-security-deals-australia-usa-china>

is best promoted through a “friends to all” approach, and that great power rivalry should be excluded from the region’ (Ref. Greg Fry 2021).<sup>15</sup> He records that several commentators view the policy shift as indicative of a ‘revision’ of Australia’s role vis a vis the US “from deputy sheriff to 51<sup>st</sup> state”, and of Australia “becoming a major US military base for possible military action against China”(Fry 2021).

## **VI. FORESEEABLE IMPACTS OF AUKUS ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

The ICESCR obliges States Parties to progressively realize and protect economic, social and cultural rights of citizens and others resident within their territorial jurisdiction. As a state party to the ICESCR, Australia also has an obligation under Article 2(1) to take steps, individually and through international cooperation, to progressively realize ESCRs extraterritorially where it exercises power, control, or decisive influence. For Australia, these extraterritorial obligations apply to independent Pacific Island States over which Australia exercises considerable power, control and decisive influence. Australia’s extraterritorial obligations under the ICESCR include ensuring that no human rights violations or harms affecting the enjoyment of ESC rights are caused by Australia to Pacific Island peoples.

In this section of the report we highlight specific ESC rights of Pacific peoples that we consider are at risk of being violated both by AUKUS obligations or ‘enemy’ provocations by AUKUS partners; and by Australia’s recently concluded, bilateral security treaties with a number of Pacific Island states, which effectively oblige those with national armies (namely Fiji and Papua New Guinea) to support AUKUS partners in the event of an attack by an ‘enemy’ power.

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15- Greg Fry (2021) ‘AUKUS undermines Australia’s “Pacific family”, DEVPOLICY Blog, 4 November 2021 <https://devpolicy.org/aucus-undermines-australias-pacific-family-20211104/>

## ***Right to Health and to the Highest Standard of Health Care (Article 12)***

There are significant public health risks associated with AUKUS. The most serious is the very real possibility of **radioactive contamination of marine food sources** resulting from a submarine nuclear accident, or fuel spill, or worse, a nuclear attack. Any of these events would cause serious, ongoing and **foreseeable transboundary health harms**, which Australia has an obligation under ICESCR to **prevent**. Through the AUKUS agreement, Australia is at risk of majorly breaching its extraterritorial human rights responsibilities to ensure that no harm comes to the citizens of Pacific Island states as a consequence of its direct actions, or the actions of other states that may be linked to the AUKUS security/defence agreement.

In CESCR General Comment N° 14 on the right to the highest attainable standard of health, under a discussion of violations of the obligation to respect, examples cited include ‘the failure of the State to take into account its legal obligations regarding the right to health when entering into bilateral or multilateral agreements with other States, international organisations and other entities such as multinational corporations’. We argue that in entering the AUKUS Security/Defence Pact, Australia has not taken into account the harm that might result as a consequence of its direct actions or the actions of either of its AUKUS partners.

The risks to both the physical safety and security, as well as physical and mental health of Australia’s own citizens concerned about the implications of port visits and stationing of Ballistic Missiles Submarines SSBNs on their shores are shared by Pacific NGOs with understanding and anxieties about what we are being drawn into by our own States signing binding bilateral treaties as these may see them being targeted in open hostilities, being called upon to engage in warfare, or facing major environmental harm resulting from accidents with nuclear fuel leakage, or a deliberate military attack by an ‘enemy’ state provoked by a war-mongering superpower.

## ***General Comment N° 14 (2000) (on the highest attainable standard of health)***

The high risk of an outbreak of hostilities resulting in the use of a nuclear weapon is a **foreseeable harm** that could result from AUKUS. It may impact Australians, in the first instance, but also Pacific peoples who will suffer collateral damage. The catastrophic effects of radiation exposure including serious casualties, loss of lives, severe trauma, ongoing intergenerational health effects including cancers, infertility, still-births and other known radiation-related illnesses and reproductive defects, and not least, radioactive contamination of the marine environment and marine life, making all seafood unsafe to consume, will seriously deprive affected populations of the right to the highest attainable standard of health.

## ***Environmental Determinants of Health***

The dumping of nuclear waste in Australian waters from nuclear-powered submarines is a seriously concerning threat to the health of the Pacific Ocean, which is already at huge risk of major nuclear contamination, as already mentioned from both the cracking dome on Runit Island in Enewetak Atoll, Marshall Islands, and from Japan's controversial ocean dumping of nuclide-contaminated waste water from Fukushima.

## ***Rights to Water, Food, and Livelihood (Article 11)***

General Comment N° 12 (1999) by the Committee on ESCR on right to adequate food (art. 11) raises attention to the adequacy and sustainability of food availability and access, and underlines that 'the notion of 'sustainability' is intrinsically linked to the notion of adequate food or *food security*, implying food being accessible *for both present and future generations*.' It also incorporates the notion of long-term availability and accessibility. This is especially relevant in relation to the **foreseeability** of the worst impacts of AUKUS, such as a nuclear

accident involving leakage of radioactive HEU into the ocean. This would enter the food chain and render unsafe marine food sources vital to the subsistence livelihoods of Pacific people who depend on fishing and gleaning of reef products for protein. This would deprive present and future generations of food safety and food security.

### ***General Comment 12 (1999, food), the obligation to apply the precautionary principle***

General Comment N° 12 on the right to adequate food emphasises that food security requires not only availability and accessibility, but also sustainability, understood as the long-term ability of present and future generations to enjoy the right to food. The Committee has stressed that States must refrain from actions that result in the loss of productive resources, including marine and coastal ecosystems on which subsistence livelihoods depend, and must take steps to prevent foreseeable threats to food safety and food security.

In this context, the obligation to protect the right to food requires States parties to apply the **precautionary principle** where activities pose a risk of **serious or irreversible harm**, even in the absence of full scientific certainty. The foreseeable risks associated with AUKUS—including nuclear accidents, radioactive leakage, or military hostilities affecting the marine environment—pose a direct threat to the safety of marine food sources that are central to the subsistence, cultural practices, and livelihoods of Pacific Island peoples. Radioactive contamination of oceans and reef ecosystems would render fish and other marine resources unsafe for consumption, thereby undermining both present and future food security.

### ***Right to Self-Determination and Development (Article 1)***

The Pacific region's historical and ongoing opposition to nuclearisation and militarization and the ongoing struggle for nuclear justice is widely known

and documented. The 2012 report, by the UN Special Rapporteur on Toxics, Hazardous Substances and Wastes reported on how military activities create toxic legacies, linking them to violations of the right to a healthy environment. He specifically documented the severe, ongoing environmental and intergenerational health impacts on the people of the Republic of the Marshall Islands from 12 years of unconsented nuclear testing while under the UN-mandated Strategic Trusteeship of the USA, including widespread cancers, permanent displacement from uninhabitable contaminated environments and profound intergenerational trauma. Recent UN resolutions have called for justice, addressing these long-term toxic threats and demanding state accountability for remediation and remedy for the Marshallese people. Relevant to the right to self-determination and sustainable development is *General Comment N° 27 (2025) (environmental dimension/sustainable development)*. The imposition of security arrangements carrying high risks of further exposure without consent completely undermines Pacific peoples' right of self-determination over their development priorities and security frameworks.

## ***Failures of Due Diligence and Accountability***

Australia has failed on a number of Due Diligence obligations including failing to conduct or publish a comprehensive extraterritorial human rights impact assessment of AUKUS activities, contrary to General Comment 24. The absence of assessment prevents identification, prevention, and mitigation of ESCR harms. Australia has also failed to ensure free, prior and informed consent (FPIC) and meaningful consultation with the Indigenous and local communities in Pacific Islands States whose ocean-based cultural practices, and kinship with the ocean (Art 15) are put at risk.

## ***CESCR standards requiring access to effective remedies for rights violations***

Consistent with the Committee's jurisprudence and its Concluding Observations, States parties must ensure **access to effective remedies** for violations of

economic, social and cultural rights, including where harms arise domestically *or extraterritorially* from State conduct and policies. In its 2025 *Concluding Observations on the United Kingdom*, the Committee emphasized the need for States to put in place **accessible, independent and effective mechanisms** to remedy violations of Covenant rights in law and in practice, noting concerns where rights are not enforceable through domestic legal and administrative systems and where remedies are unavailable or ineffective.

In line with these established standards, the Committee has repeatedly urged States parties to ensure that Covenant obligations are **justiciable and enforceable**, including through judicial and non-judicial remedies, and that victims of rights violations have access to appropriate forms of redress, such as restitution, compensation, rehabilitation, and guarantees of non-repetition. It has expressed concern where States fail to provide **effective legal frameworks, procedures and remedies** that give real effect to economic, social and cultural rights.

Under **article 2(1) of the ICESCR**, read alongside the Committee's General Comments (notably General Comment N° 24 on State duties regarding business activities and human rights), States must adopt legislative, judicial and administrative measures to ensure that violations — including those arising from **extraterritorial conduct or agreements** over which they exercise decisive influence — can be effectively remedied. The Committee has clarified that failure to ensure access to effective remedies constitutes a separate breach of Covenant obligations.

Australia's conduct in entering into AUKUS and related agreements without comprehensive extraterritorial human rights impact assessments, without mechanisms for accountability, and without procedures for redress for affected Pacific Island peoples thus stands in contrast with CESCR practice. In the UK Concluding Observations, for example, the Committee requested the

establishment of legal and policy frameworks that ensure enforceability of rights and **effective remedy mechanisms** where rights are denied in law or in practice — a standard that necessarily extends to extraterritorial harms caused or foreseeably linked to State action. Accordingly, the Committee should urge Australia to **establish independent, accessible and effective remedies**, including judicial and non-judicial avenues, for those whose economic, social and cultural rights are or may be impacted by AUKUS-related activities. Such remedies should include **investigation, redress, compensation, environmental restoration, and guarantees of non-repetition** as part of Australia’s obligations under the Covenant, in law and in practice.

## VII. Evidence of Pacific Concern and Lack of Consent

Former PM of the Solomon Islands, Manasseh Sogavare, expressed deep concern about the Australian government’s lack of consultation on the AUKUS deal, saying Pacific states should have been ‘consulted’. “The AUKUS Treaty will see nuclear nuclear submarines in Pacific waters.....I learnt of the AUKUS treaty in the media.”<sup>16</sup>

Four former Pacific Island Prime Ministers – members of *Pacific Elders Voice* (Marshall Islands Hilda Heine (now President), Palau’s Tommy Remegesau, Tuvalu’s Enele Sopoaga and Kiribati’s Anote Tong issued a Communique pointing out that with AUKUS, the Pacific’s climate security priority had been overtaken by Defence. They called the “staggering \$368 billion” put aside for the AUKUS deal by Australia an affront to the region and called on Australia to do more to combat the climate crises as an urgent priority for the region.

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16- Declan Brennan (2023) “Pacific Responses to AUKUS a Mix of Unease and Understanding”. *The Diplomat* <https://thediplomat.com/2023/04/pacific-responses-to-aucus-a-mix-of-unease-and-understanding/>

Simon Kofe, (former minister for justice, communication, and foreign affairs in the government of Tuvalu, tweeted that nuclear power carried risks, especially after the 2011 Fukushima disaster. He added: “As we discuss nuclear-powered submarines in the Pacific, we must also address concerns about increased militarization of the region.”

Cook Islands Prime Minister Mark Brown said the AUKUS agreement will destabilize the Pacific. “We’ve already seen it will lead to an escalation of tension, and we’re not happy with that as a region,” he [told](#) the Cook Island News.

## VIII. Conclusions Recommendations to the Committee

We reiterate that Australia’s participation in AUKUS engages its extraterritorial obligations under the Covenant, and that current practices **fail to meet CESCR standards of prevention, due diligence, accountability, and remedy.**

We therefore request that CESCR make the following recommendations to Australia:

1. Conduct and publish an **extraterritorial human rights impact assessment** of AUKUS and associated bilateral treaties with Pacific Island States
2. Commit to **meaningful consultations in future** with Pacific governments and peoples on regional defence and security treaties which carry risks of harm to Pacific peoples’ health, food security, livelihoods and environment.
3. Ensure **access to information** in a timely and transparent manner.
4. Seek recommitment from the Australian Government to faithfully meet its non-proliferation obligations under the Nuclear Non-Proliferation Treaty.
5. Establish **accessible remedies** for Pacific peoples – including environmental remediation and compensation in the event of a nuclear accident.
6. Integrate ESCR safeguards into defence and security agreements.



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