

Advancing human rights in Australia - Australia's Fourth Universal Periodic Review

July 2025

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**Australian
Human Rights
Commission**

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July 2025

Australian Human Rights Commission 2025

About the Commission

The Australian Human Rights Commission is established and operates under the *Australian Human Rights Commission Act 1986* (Cth). The Commission exercises functions under the following legislation: *Racial Discrimination Act 1975* (Cth); *Sex Discrimination Act 1984* (Cth); *Disability Discrimination Act 1992* (Cth); *Age Discrimination Act 2004* (Cth); *Fair Work Act 2009* (Cth) and *Native Title Act 1993* (Cth).

The Commission is an 'A status' national human rights institution, operating in conformity with the 'Principles Relating to the Status and Functions of National Institutions for the Promotion and Protection of Human Rights' in General Assembly Resolution 48/134, 1993.

Information about the Commission's activities can be found on our website:
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1 A new National Human Rights Framework

1. This report is by the Australian Human Rights Commission with input from the Australian Council of Human Rights Authorities.¹ Recommendations are in text boxes.
2. The Commission acknowledges throughout this report, the positive steps taken by the Australian Government since its 3rd UPR.²
3. The Commission's 2023 *Free and Equal report* identifies actions Australia should take to better protect human rights. It³ recommends a National Human Rights Framework that will significantly improve the protection of rights for all people in Australia.

Every Nation State should recommend the introduction of a National Human Rights Framework, including:

- **National Human Rights Act**
- **modernised federal discrimination laws**
- **rights measurement framework**
- **national human rights education plan.**

2 Background and framework

2.1 Implementation of UPR recommendations

4. Of the 177 supported recommendations made to Australia in UPR3:
 - 6% of those supported have been fully implemented,
 - 86% have been partly implemented, and
 - 7% not implemented.⁴
5. Australia does not publicly track UPR recommendations and lacks accountability for actions agreed through the UPR process.

Establish and maintain a publicly accessible tracking tool for accepted UPR recommendations, including measurable targets.

2.2 International obligations

6. The Commission commends Australia's ratification of OPCAT. Some Australian jurisdictions still do not have national preventive mechanisms (NPMs) operating.

Ensure all Australian jurisdictions have NPMs fully operating and funded without delay.

7. Reservations continue under ICERD, ICCPR, CEDAW and CRC, and interpretative declarations under the CRPD, despite calls for their removal.⁵ The Migrant Workers Convention⁶ and the communications optional protocols under ICESCR and the CRC have not been ratified.

Ratify the Optional Protocols to ICESCR and CRC and remove reservations and interpretive declarations to human rights treaties.

2.3 Constitutional, legislative and policy framework

8. Australia has an incomplete legal framework for protecting human rights. The Commission and the Australian Parliament's human rights committee have both recommended introducing a Human Rights Act which requires government to comply with human rights standards.

Introduce a national Human Rights Act.

9. Statements of Human Rights Compatibility that accompany bills in Parliament are often of poor quality and there is limited consideration of the views of the

Parliament's human rights committee prior to legislation passing.⁷

Ensure the Parliament considers its human rights committee's views before passing legislation.

10. Australia's discrimination laws are complex, do not provide comprehensive protection and lack adequate preventative and regulatory mechanisms.⁸ The Commission welcomes reforms to the Sex Discrimination Act 1984 (Cth)⁹ to create a positive duty to prevent sexual harassment and sex discrimination. A similar duty should be introduced to address age, disability and race discrimination.^{10 11}

Reform discrimination laws to ensure comprehensive protection and improved effectiveness.¹²

11. Australia has a Standing National Mechanism on Human Rights (SNMHR) that has improved government coordination in treaty body engagement.¹³ There remain inadequate responses to treaty body recommendations and implementation.

Reform the SNMHR so it publicly tracks progress in implementing treaty body concluding observations.

12. Human rights education is piecemeal and under-resourced with limited references to human rights in the school curriculum, civics education and in training public servants across all levels of government.

Develop a National Human Rights Education Action Plan for public servants, schools, workplaces, law enforcement and the general community.

13. The GANHRI¹⁴ accreditation committee, to improve compliance with the Paris Principles, has recommended that the Commission's mandate should cover all relevant human rights instruments and the Commission should be appropriately resourced to fulfil all its functions.

Implement the GANHRI recommendations to strengthen the Commission.

3 Cross-cutting issues

3.1 Climate change

14. Changes to Australia’s physical environment and increasing natural disasters due to climate change will severely impact people’s rights.

Take action to limit global warming to 1.5 degrees including by urgently phasing out fossil fuels and fossil fuel subsidies.

3.2 National Emergencies

15. Human rights are not always considered in national emergencies, including the COVID-19 pandemic.¹⁵

Embed human rights in decision-making during emergencies.

3.3 Counter-terrorism and national security laws

16. Australia’s counter-terrorism laws disproportionately and unnecessarily limit rights.¹⁶ National security laws on metadata retention and encryption¹⁷ unjustifiably limit freedom of expression and privacy, especially for journalists and whistleblowers.¹⁸

Amend counter-terrorism and national security laws that unduly limit human rights, restrict freedom of expression and the right to privacy.

4 Rights of Specific Groups

4.1 First Nations Peoples

17. First Nations Peoples experience unacceptable disadvantage, with limited progress to realise their rights.
18. In 2017, First Nations leaders agreed the *Uluru Statement from the Heart*¹⁹ calling for an advisory body to parliament, treaties with First Nations and truth telling.
19. A 2023 referendum to constitutionally enshrine a Voice to Parliament failed. The Constitution permits racial discrimination²⁰ and First Nations Peoples are still not recognised.^{21 22}
20. There has been some progress on representation, truth telling and treaty negotiations at the state level and some regression.

Establish national truth-telling and treaty processes and ensure the participation of First Nations Peoples in decisions that affect them.

21. The Commission's *Wiyi Yani U Thangani* project identified actions to improve the human rights of First Nations women and girls.²³

Develop a national action plan to ensure equality for First Nations women and girls.

22. Australia has no program to implement the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).²⁴

Develop a national program to implement UNDRIP and include it in the definition of human rights in the *Human Rights (Parliamentary Scrutiny) Act 2011 (Cth)* and the AHRC Act.

23. Australian governments have committed to 19 Closing the Gap targets to reduce inequality for First Nations Peoples. 4 targets are on track, 7 are improving and 4 are worsening. Progress on other priority reforms is minimal.²⁵ Independent accountability mechanisms to monitor progress are not operating in most jurisdictions.

Ensure that robust and independent accountability mechanisms are in place to meet Closing the Gap targets for all governments.

24. A new National Commission has been co-designed with First Nations Peoples to promote better outcomes for First Nations Children.²⁶

Legislate the new National Commission for Aboriginal and Torres Strait Islander Children and Young People to ensure its operational and functional Independence and it can operate sustainably.²⁷

25. The *Native Title Act 1993* does not comply with Australia's human rights obligations,²⁸ particularly regarding evidentiary requirements for connection to country and support for prescribed bodies corporate to maintain native title. Legislative protections for First Nations cultural heritage are inadequate.

Reform the Native Title Act and heritage legislation to protect sacred sites, traditional lands and the cultural estate of First Nation's Peoples.

4.2 Gender equality

26. Gendered violence remains endemic in Australia,²⁹ especially for First Nations, culturally and racially marginalised women and girls, those with disability and LGBTIQ+ people.³⁰

Adequately fund evidence-based, community-led efforts to prevent gendered violence for all communities and identify the role of men in prevention. Efforts must promote cultural safety, adopt place-based approaches and respect First Nations women's self-determination.

27. Workplace sexual harassment occurs at unacceptably high levels. Women, people with disability, young people, First Nations Peoples, and LGBTIQ+ people face higher risks.³¹

Undertake awareness raising and education measures to address sexual harassment that are accessible for people from marginalised backgrounds.

28. Barriers to gender equality include lack of intersectional data, inadequate access to reproductive and consent education and the perpetuation of harmful gender attitudes, stereotypes and norms.³²

Collect intersectional data on gender inequality for people from marginalised backgrounds. Ensure inclusive and accessible consent and reproductive health education in schools, as well as education on harmful gender attitudes, stereotypes and norms.

29. Australia's national gender pay gap is 21.8%.³³ Women still undertake most unpaid work in homes and families, while paid care, often performed in feminised sectors and by migrant and refugee workers, is undervalued.³⁴ Rates of insecure

work are higher for women, young people, First Nations Peoples, culturally and racially marginalised people, and people with disability.³⁵

Address the undervaluing of work in feminised industries, such as care, particularly for racially marginalised women.

4.3 Older persons

30. Ageism and age discrimination remain significant barriers to older people's employment and to achieving quality outcomes in aged care, health and other contexts.³⁶

Address barriers to employment for older persons;³⁷ invest in updated national prevalence data on age discrimination in employment; and adopt a national strategy to promote age diverse workforces.

31. There is no binding international instrument on the human rights of older persons providing clear guidance to Australian law and policy.

Support the creation of a UN Convention on the Rights of Older Persons.

32. With an ageing population, the risk and incidence of elder abuse is increasing.³⁸ Inconsistencies in enduring power of attorney laws across jurisdictions, lack of community awareness and critical gaps in the adult safeguarding and reporting frameworks contribute to this.³⁹

Introduce adult safeguarding laws and independent statutory bodies to administer safeguarding functions in all states and territories.⁴⁰

4.4 People with disability

33. The Australia's Disability Strategy⁴¹ does not align with the CRPD⁴² or take a rights-based approach⁴³ and has been ineffective.⁴⁴

Introduce stronger accountability and governance mechanisms into Australia's Disability Strategy, including a designated Independent Monitoring Mechanism under the CRPD.⁴⁵

34. There are high rates of violence, abuse, neglect and exploitation against people with disability, in particular women and girls.⁴⁶

Implement the recommendations of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.

35. People with disability continue to be segregated from mainstream education,⁴⁷ housing⁴⁸ and employment.⁴⁹ Below-minimum wages on the basis of impairment and productivity is permitted.⁵⁰

Eliminate segregation of people with disability in education, housing and employment. Abolish below-minimum disability wages and redirect resources to removing barriers that perpetuate segregation.

36. There is no nationally consistent approach to eliminating the use of restrictive practices across all settings.⁵¹

Introduce a national framework on the use of restrictive practices on people with disability across all service systems.

37. People with cognitive disability continue to face restrictions on their right to equal recognition before the law.

Implement a nationally consistent supported decision-making framework.

38. People with disability, particularly First Nations, deemed unfit to stand trial / not guilty by way of mental impairment continue to face arbitrary and indefinite detention.⁵² Compulsory treatment, administration of forced interventions and involuntary hospitalisation are permitted on the basis of impairment.

Repeal laws and cease practices that enable the deprivation of liberty on the basis of impairment, including indefinite detention and compulsory mental health treatment. Implement uniform legislation to prohibit involuntary sterilisation and forced medical interventions of people with disability.

4.5 People with diverse sexual orientation, gender identity and expression and sex characteristics

39. Legislation prohibiting discrimination and vilification based on sexual orientation, gender identity, gender expression and sex characteristics remains inconsistent nationally.⁵³ Children with sex characteristic variations lack protection from unnecessary medical intervention in most jurisdictions.⁵⁴

40. Anti-LGBTIQ+ rhetoric and violence is increasing. Education and public awareness in this area are insufficient.

Ensure comprehensive legislative protection for LGBTIQ+ individuals from discrimination, violence and vilification in all settings, including access to appropriate, affirming healthcare; protection from conversion and suppression

practises; and increase education and awareness raising activities to counter discrimination.

41. The federal Sex Discrimination Act allows religious bodies including schools to discriminate against LGBTIQ+ people despite Government's reform commitments.⁵⁵

Revise exemptions for religious bodies in the Sex Discrimination Act.

4.6 Children's Rights

42. Legal protections for children's rights in Australia are inadequate, with significant gaps across data collection, policy and programs.⁵⁶

Fully incorporate the CRC into Australian law; develop a National Plan for Child Wellbeing; national children's data framework; and Minister for Children.

43. Most jurisdictions hold 10 year old children criminally responsible, with limited progress to raise the age.⁵⁷

Raise the age of criminal responsibility to 14 years in all Australian jurisdictions.

44. In two states, detention is no longer a 'last resort' for children. Many Australian states and territories have reduced access to bail, likely to significantly increase child incarceration, and no jurisdiction prohibits solitary confinement of children. Only South Australia and NSW ban the use of spit hoods.⁵⁸

Set national standards for treatment in child justice and detention systems. Legislate that children shall be detained only as a last resort.⁵⁹

45. A 2023 study revealed high rates of maltreatment in childhood including physical, sexual and emotional abuse, neglect and family violence.⁶⁰

Urgently prioritise prevention and early intervention programs to stop child maltreatment.

46. Rates of children in out-of-home care have steadily increased.⁶¹ First Nations children are significantly over-represented.⁶²

Prioritise early intervention to prevent children entering child protection systems and fully implement the Aboriginal and Torres Strait Islander Child Placement Principle.⁶³

4.7 Refugees, asylum seekers and migrants

47. While Australia granted permanent protection to approximately 19,000 people from the 'Legacy Caseload', around 2,000 people are still waiting for decisions.⁶⁴
48. Immigration detention remains mandatory for people without a valid visa, including children, regardless of individual risk.⁶⁵ People have been detained for prolonged, indefinite periods,⁶⁶ with the average time in detention remaining high at 457 days.⁶⁷
49. The High Court in 2023 ruled that indefinite immigration detention is unlawful if the person cannot be removed to another country.⁶⁸ In response, the Government introduced new laws that:
- allow Australia to pay other countries to accept non-citizens, including refugees whose protection status has been reversed under new powers;⁶⁹
 - criminalise non-cooperation with removal with up to 5 years in prison.⁷⁰
50. Migration laws do not fully meet Australia's non-refoulement obligations.⁷¹ They also allow visas to be cancelled or refused leading to possible *refoulement*, prolonged detention and family separation.
51. Legislative changes allow Australia to deport people whose refugee claims were rejected under the flawed former 'fast track' process. This raises risks of *refoulement* and family separation.⁷²
52. Asylum seekers who arrive by boat without a visa, or by plane with their visa cancelled before clearing immigration, can only apply for temporary protection.⁷³ A statutory bar blocks boat arrivals from applying unless the Minister for Home Affairs personally agrees.⁷⁴
53. Many asylum seekers and migrants do not have sufficient support to maintain a basic standard of living.⁷⁵
54. Since December 2013, Australia has intercepted boats carrying asylum seekers and turned them back.⁷⁶ Asylum claims are assessed in a flawed onboard screening process without safeguards or access to legal advice.⁷⁷
55. Australia no longer sends asylum seekers intercepted at sea to PNG, but continues to send people to an Australian-funded centre on Nauru.⁷⁸ Serious concerns over their treatment remain.⁷⁹

- **Ensure immigration detention is strictly limited, time-bound and prohibited for children**
- **Provide pathways for the assessment of protection claims for all asylum seekers and refugees, including those previously rejected under the fast-track process**
- **Abolish temporary protection visas and ensure pathways to permanent protection and family reunification**

- **Ensure refugee status determination and assessment of refoulement risk, including during interceptions at sea, meets Australia’s international obligations**
- **Provide viable, long-term protection for all asylum seekers and refugees subject to offshore processing.**

4.8 People from culturally and linguistically diverse backgrounds

56. Systemic racism in Australia requires an urgent, national response, particularly for First Nations Peoples.⁸⁰ Antisemitism⁸¹ and Islamophobia and other racism has increased since the Israel- Gaza war.⁸² Extremist racism is a grave concern.⁸³ Racism is experienced by people of African and Asian background.⁸⁴

57. In 2024, the Commission released a proposed National Anti-Racism Strategy, providing a roadmap for governments and civil society to take action to eliminate racism.⁸⁵

Implement the Commission’s National Anti-Racism Framework.

4.9 Religious discrimination

58. There are inadequate prohibitions of discrimination on the grounds of religious belief or activity.⁸⁶

Introduce laws prohibiting religious discrimination

5 Economic, social and cultural rights

5.1 Social security

59. The main income support payments for unemployed people⁸⁷ are inadequate.⁸⁸ Punitive welfare programs,⁸⁹ disproportionately affect First Nations Peoples.⁹⁰

Ensure welfare payments provide an adequate standard of living. Welfare support programs be reformed so they are not punitive.

5.2 Housing and Homelessness

60. Australia is facing a national housing crisis,⁹¹ with increased homelessness,⁹² inadequate public and affordable housing and rising cost of living. Older women,⁹³ women and children who have experienced domestic violence, First Nations Peoples and people with disability are disproportionately affected.⁹⁴

Adopt a human rights based National Housing Strategy.

6 Civil and political rights

6.1 Freedom of assembly and expression

61. Australian governments have enacted laws that limit the right to peaceful assembly and freedom of expression with overly broad offences and disproportionately harsh penalties.⁹⁵ Environmental activists are particularly impacted by these measures.

Ensure that all laws that regulate protests are consistent with the right of peaceful assembly.

6.2 Business and Human Rights

62. Businesses should be required to conduct mandatory human rights due diligence to comply with the *United Nations Guiding Principles on Businesses and Human Rights*.⁹⁶

Legislate due diligence requirements for business and human rights.

6.3 Slavery and Trafficking

63. While reforms like the Anti-Slavery Commissioner and *National Action Plan to Combat Modern Slavery 2020 – 25*⁹⁷ are welcome, the McMillan review highlights the need for further reforms.

Fully implement the recommendations of the McMillan modern slavery review.⁹⁸ Including a national compensation scheme for victim survivors.

6.4 Technology

64. The Commission welcomes measures to ensure Artificial Intelligence (AI) is adopted in responsible and ethical ways. There is a similar need for regulatory measures regarding neurotechnology.

Implement the recommendations of the Commission's reports on Human Rights and Technology⁹⁹ and neurotechnology.¹⁰⁰

6.5 Criminal justice

65. First Nations Peoples and people with disability¹⁰¹ continue to be significantly overrepresented in prisons¹⁰² and youth justice.¹⁰³ First Nations women are the

fastest growing prisoner population.¹⁰⁴

66. Mandatory sentencing laws¹⁰⁵ continue in most Australian jurisdictions.¹⁰⁶

67. Racism remains prevalent in police services, with a lack of cultural diversity.

Mechanisms for investigating police misconduct are not independent.¹⁰⁷

Abolish mandatory sentencing laws and expand the use of appropriate non-custodial measures. Expand justice reinvestment trials. Adequately fund Indigenous legal assistance programs. Introduce independent monitoring and complaint mechanisms for police.

¹ACHRA is comprised of human rights commissions and anti-discrimination commissions from every state and territory in Australia.

²The Commission acknowledges:

- The Establishment of The National Anti-Corruption commission
- The Establishment of the National Administrative review tribunal
- The introduction of Gender Equality reporting and budgeting processes
- The amendment of the Sex Discrimination act to implement the Respect@Work and Set the Standard reports
- Progress on some Closing the Gap closing targets
- Providing seed funding for the development of the National Anti-Racism Framework
- For commissioning and commencing to implement the findings of The Royal Commissions into: Violence, Abuse, Neglect and Exploitation of People with Disability, Aged Care Quality and Safety, Robodebt Scheme, Defence and Veteran Suicide, and the Institutional Responses to Child Sexual Abuse

- National Plan to End Violence against Women and Children 2022 -2032 (National Plan)

- The establishment of: National Commissioner for Aboriginal and Torres Strait Islander Children and Young People, Australian Domestic, Family and Sexual Violence Commissioner, Anti-Slavery Commissioner.

- Among others.

³ Australian Human Rights Commission, *Free & Equal Revitalising Australia's Commitment to Human Rights* (Final Report, November 2023)

<https://humanrights.gov.au/sites/default/files/2311_freeequal_finalreport_1_1.pdf>.

⁴ The Implementation Matrix, listing the implementation status of the 344 recommendations made to Australia in the Third UPR is attached to this submission. The table indicates which recommendations have been implemented, partly implemented, or not implemented. Of the 344 recommendations made to Australia in 2021, approximately 4% of all recommendations (including those supported and noted) have been fully implemented over the past four years, approximately 61% have been partly implemented and approximately 35% have not been implemented.

⁵ See for example: United Nations Committee on the Elimination of Discrimination Against Women, *Concluding observations on the eighth periodic report of Australia*, UN Doc CEDAW/C/AUS/CO/8 (25 July 2018)

<https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fAUS%2fCO%2f8&Lang=en>; Australian Human Rights Commission, *Report to the UN Committee on the Rights of the Child* (Report, 2018) <<https://www.humanrights.gov.au/our-work/childrens-rights/publications/report-un-committee-rights-child-2018>>; Australian NGO Coalition, *Australia's Compliance with the International Covenant on Civil and Political Rights: Australian NGO Coalition Submission to the Human Rights Committee* (September 2017) <<https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/59c364bb64b05fb1d2438e2f/1505977580713/18623-PUB+ICCP+Report+for+HRLC+2017+%28WEB%29.pdf>>.

⁶ Recommendations 136.36–136.49.

⁷ The *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth) establishes the Parliamentary Joint Committee on Human Rights and requires the preparation of Statements of Compatibility with Human Rights with all bills and most legislative instruments introduced to Parliament for consideration. The Act defines human rights as the rights and freedoms recognised or declared by the International Convention on the Elimination of all Forms of Racial Discrimination; International

Covenant on Civil and Political Rights; Convention on the Elimination of All Forms of Discrimination Against Women; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities. See also: Parliament of Australia, *Parliamentary Joint Committee on Human Rights* (Web Page) <http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights>.

⁸ Australian Human Rights Commission, *Free & Equal: a reform agenda for federal discrimination laws* (Position Paper, December 2021) <<https://humanrights.gov.au/our-work/rights-and-freedoms/publications/free-and-equal-reform-agenda-federal-discrimination-laws>>.

⁹ Australian Human Rights Commission, *Factsheet Series: Positive Duty under the Sex Discrimination Act 1984* (Cth) (September 2023) <https://humanrights.gov.au/sites/default/files/what_is_the_positive_duty_0.pdf>.

¹⁰ Rosemary Kayess, 'It's time disability reform became an election priority', *The Mandarin* (5 December 2024) <<https://www.themandarin.com.au/282994-its-time-disability-reform-became-an-election-priority/>>.

¹¹ Australian Human Rights Commission, *National Anti-Racism Framework: A road map to elimination racism in Australia* (2024) 16-17 <https://humanrights.gov.au/sites/default/files/2024-11/NARF_Full_Report_FINAL_DIGITAL_ACCESSIBLE.pdf>.

¹² Australian Human Rights Commission, *Free & Equal: a reform agenda for federal discrimination laws* (Position Paper, December 2021) <<https://humanrights.gov.au/our-work/rights-and-freedoms/publications/free-and-equal-reform-agenda-federal-discrimination-laws>>. The Commission has identified reforms for discrimination laws focused on building a preventative culture; modernising the regulatory framework; enhancing access to justice; and improving the practical operation of these laws. While the Commission is primarily concerned about the effectiveness of discrimination laws at the national level, it notes that there is a need for complementary reforms to be made to state and territory discrimination laws.

¹³ This was established following Australia's 2nd UPR.

¹⁴ Global Alliance of National Human Rights Institutions.

¹⁵ The Commission's report *Collateral Damage: What the untold stories from the COVID-19 pandemic reveal about human rights in Australia* found that human rights were not always considered or protected during the pandemic response. 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 human impact, and it was often already marginalised and disadvantaged communities who bore a disproportionate burden. See Australian Human Rights Commission, *Collateral Damage: What the untold stories from the COVID-19 pandemic reveal about human rights in Australia*, (Final Report, March 2025) <<https://humanrights.gov.au/our-work/rights-and-freedoms/publications/collateral-damage-report-australias-covid-19-pandemic>>.

¹⁶ Especially relating to:

- 'declared areas' offences: See Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Review of the Counter-Terrorism Legislation Amendment (Declared Areas) Bill 2024* including: Attachment 1 (Submission to PJCIS in 2020); Attachment 2 (Submission to PJCIS in 2017), Attachment 3 (Submission to INSLM in 2017); supplementary submission 2024;
- presumptions against bail and parole: See Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Review of the Counter-Terrorism Legislation Amendment (2019 Measures No. 1) Bill 2019* (22 August 2019);
- control orders and preventive detention orders: See Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Review of Australian Federal Police Powers* (10 September 2020);
- continuing detention and other post-sentence orders: See Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security,

Australian Human Rights Commission, *Review into Division 105A of the Criminal Code (post sentence orders)* (23 June 2023); Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Counter-Terrorism Legislation Amendment (High Risk Terrorist Offenders) Bill 2020* (29 October 2020);

- 'stop, search and seize' powers: See Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Review of Australian Federal Police Powers* (10 September 2020);
- revocation of citizenship: See Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Review of the citizenship repudiation provisions of the Australian Citizenship Act 2007 (Cth)* (7 February 2024), Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Review of the Australian Citizenship Amendment (Citizenship Cessation) Bill 2019* (14 October 2019) and supplementary submission;
- temporary exclusion orders: See Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Review of the Counter-Terrorism (Temporary Exclusion Orders) Act 2019* (3 December 2021);
- restrictions on fair trial rights: See Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Inquiry into the Counter-Terrorism Legislation Amendment Bill (No. 1) 2015* (9 December 2015); Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Review of the Counter-Terrorism Legislation Amendment (2019 Measures No. 1) Bill 2019* (22 August 2019); and
- measures limiting children's rights such as in the prosecution and sentencing of children for terrorism offences: See Australian Human Rights Commission, Submission to the Independent National Security Legislation Monitor, *Review of Prosecution and Sentencing of Children for Commonwealth Terrorist Offences* (15 June 2018); Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Review of the Counter Terrorism Legislation Amendment (2019 Measures No. 1) Bill 2019* (22 August 2019). See also: Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Review of the Counter-Terrorism (Temporary Exclusion Orders) Act 2019* (3 December 2021); Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Review of the Australian Citizenship Amendment (Citizenship Cessation) Bill 2019* (14 October 2019); Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Review of ASIO's Questioning and Detention Powers* (22 January 2018).

¹⁷ Including new powers to law enforcement agencies under the *Surveillance Legislation Amendment (Identify and Disrupt) Act 2021*: See Australian Human Rights Commission, Submission No 21 to the Independent National Security Legislation Monitor, *Review of Surveillance Legislation Amendment (Identify and Disrupt) Act 2021* (17 January 2025) <<https://www.inslm.gov.au/system/files/2025-01/submission-21-australian-human-rights-commission.pdf>>.

¹⁸ Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Telecommunications and Other Legislation Amendment (Assistance and Access) Bill 2018* (12 October 2018) <<https://www.aph.gov.au/DocumentStore.ashx?id=a7b9ff25-7c09-41e9-b97a-56dae1ac0e94&subId=661055>>; Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Review of the mandatory data retention regime* (1 July 2019) <<https://www.aph.gov.au/DocumentStore.ashx?id=b0f852cb-7ce3-4b96-a26e-e6a3ac099836&subId=668050>>.

¹⁹ *The Uluru Statement*, (Web Page) <<https://ulurustatement.org/>>.

²⁰ This occurs through the operation of s51(xxvi) and s25.

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- ²¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Australia*, 47th sess, UN Doc A/HRC/47/8 (24 March 2021).
- ²² United Nations Committee on Economic, Social and Cultural Rights, *Concluding observations on fifth periodic report on Australia*, 61st sess, UN Doc E/C.12/Aus/CO/5 (11 July 2017), [15-16].
- ²³ Australian Human Rights Commission, *Wiyi Yani U Thangani: Women's Voices Securing our rights, securing our future* (Final report, October 2020) 44
<https://wiyiyaniuthangani.humanrights.gov.au/sites/default/files/2023-03/ahrc_wiyi_yani_u_thangani_report_2020.pdf>.
- ²⁴ United Nations General Assembly, *Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples*, GA Res 69/2, UN Doc No A/69/L.1, [7]-[8] <https://www.un.org/en/ga/search/view_doc.asp?symbol=A/69/L.1>. Recommendations 136.75, 136.77, 136.84, 136.85.
- ²⁵ The four targets that are worsening are children thriving, criminal justice, child protection and social and emotional wellbeing: Australian Productivity Commission, *Review of The National Agreement on Closing the Gap*, (Final Report, 24 January 2024)
<<https://www.pc.gov.au/inquiries/completed/closing-the-gap-review/report>>.
- ²⁶ SNAICC and Family Matters, *Establishment of a national commissioner for Aboriginal and Torres Strait Islander children and young people* (Position Paper, 2019) <https://www.snaicc.org.au/wp-content/uploads/2019/10/SNAICC_Family-Matters_Position-Paper_national-commissioner_FINAL.pdf>.
- ²⁷ The Paris Principles set out the minimum standards for the independence, mandate, pluralism, and functioning of national human rights institutions. While GANHRI accreditation applies only to one institution per country, the Principles are a global benchmark for any independent rights-based accountability body. Alignment includes entrenchment in law, a broad human rights mandate and powers, cooperation with other human rights bodies, pluralism, a transparent appointment process, independence from government, adequate funding and public reporting with follow up powers.
- ²⁸ Australian Law Reform Commission, *Connection to Country: Review of the Native Title Act 1993* (ALRC Report 126, June 2015) <<https://www.alrc.gov.au/publication/connection-to-country-review-of-the-native-title-act-1993-cth-alrc-report-126/>>.
- ²⁹ 1 in 5 women have experienced violence since the age of 15, 1 in 3 women have experienced sexual violence, 1 in 3 women have experienced physical violence, 1 in 4 women have experienced intimate partner violence: Australian Bureau of Statistics, *Personal Safety, Australia* (2021-2022)
<<https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release>>. This is despite long term government commitments: Australian Government Department of Social Services, *National Plan to End Violence Against Women and Children 2022-2032* (Final report, October 2022) <<https://www.dss.gov.au/national-plan-end-gender-based-violence/resource/national-plan-end-violence-against-women-and-children-2022-2032>>; Department of the Prime Minister and Cabinet, *Working for Women: A Strategy for Gender Equality* (2024) <<https://genderequality.gov.au/>>; Australian Government Department of Social Services, *Aboriginal and Torres Strait Islander Action Plan 2023-2035* (Final report, August 2023)
<<https://www.dss.gov.au/national-plan-end-gender-based-violence/resource/aboriginal-and-torres-strait-islander-action-plan-2023-2025>>; Australian Government Department of the Prime Minister and Cabinet, *Unlocking the Prevention Potential: accelerating action to end domestic, family and sexual violence* (Final report, 2024) <<https://www.pmc.gov.au/resources/unlocking-the-prevention-potential>>.
- ³⁰ See Australian Human Rights Commission, *Wiyi Yani U Thangani: Women's Voices Securing our rights, securing our future* (Final report, October 2020) 44
<https://wiyiyaniuthangani.humanrights.gov.au/sites/default/files/2023-03/ahrc_wiyi_yani_u_thangani_report_2020.pdf>; Centre of Research Excellence in Disability and Health, 2021, *Nature and extent of violence, abuse, neglect and exploitation against people with disability in Australia: Research report*.

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<<https://www.abs.gov.au/statistics/people/crime-and-justice/sexual-violence/latest-release>>.

³¹ Australian Government Department of the Prime Minister and Cabinet, *Working for Women: A Strategy for Gender Equality* (2024) <<https://genderequality.gov.au/>>.

³² Ibid.

³³ Ibid.

³⁴ Victorian Equal Opportunity and Human Rights Commission, *Equal Pay Matters: Achieving gender pay equity in small-to-medium enterprises (SMEs)* (Report, July 2021); Victorian Equal Opportunity and Human Rights Commission, 'Equal Pay Matters', (Web page, 2021)

<<https://www.humanrights.vic.gov.au/education/equal-pay-matters/about/>>; Australian Government

Department of the Prime Minister and Cabinet, Women's Economic Equality Taskforce, *A 10-Year Plan to unleash the full capacity and contribution of women to the Australian Economy* (Report, 2023)

<<https://www.pmc.gov.au/resources/10-year-plan>>; Australian Government Department of the Prime Minister and Cabinet, *Care and Support Economy Taskforce, Draft National Care and Support Economy Strategy 2023* (Report, 2023) <<https://www.pmc.gov.au/resources/draft-national-strategy-care-and-support-economy>>.

³⁵ Women's Economic Equality Taskforce, *A 10-Year Plan to unleash the full capacity and contribution of women to the Australian Economy* (Report, October 2023) <<https://www.pmc.gov.au/resources/10-year-plan>>.

³⁶ Australian Human Rights Commission, *What's Age Got To Do With It?* (Final report, September 2021) <<https://humanrights.gov.au/our-work/age-discrimination/publications/whats-age-got-do-it-2021>>.

³⁷ Australian Human Rights Commission, *Willing to Work: National Inquiry into Employment Discrimination against Older Australians and Australians with Disability* (Final report, 2016) <<https://humanrights.gov.au/our-work/disability-rights/publications/willing-work-national-inquiry-employment-discrimination>>.

³⁸ Australian Institute of Family Studies, *National Elder Abuse Prevalence Study* (Final Report, 2021) <https://aifs.gov.au/sites/default/files/publication-documents/2021_national_elder_abuse_prevalence_study_summary_report_0.pdf>.

³⁹ Australian Law Reform Commission, *Equality, Capacity and Disability in Commonwealth Laws* (Final Report 124, August 2014) <<https://disability.royalcommission.gov.au/publications/final-report>> and Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Enabling Access and Autonomy* (Final Report September 2023) rec 6.6.

⁴⁰ Australian Human Rights Commission, *Empowering futures: A national survey on the understanding and use of financial enduring powers of attorney* (2024) <<https://humanrights.gov.au/our-work/age-discrimination/publications/empowering-futures-report-enduring-powers-attorney-2024>>.

⁴¹ *Australia's Disability Strategy 2021-2031* (ADS) is Australia's policy framework for implementing the *Convention on the Rights of Persons with Disabilities* (CRPD).

⁴² Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Final Report, September 2023), vol 5, 83.

⁴³ At present only a small minority of *Australia's Disability Strategy 2021-2031* policy priorities are framed using a rights-based approach. As it stands the ADS is maintaining the status quo rather than acting as the vehicle for formal, substantive, and transformative equality envisioned by the CRPD.

⁴⁴ Majority of outcome measures under *Australia's Disability Strategy 2021-2031* (ADS) have not progressed or have regressed (29 out of 43) since the Strategy was launched in 2021. Additionally, the ADS does not include human rights indicators: See Australian Institute of Health and Welfare, 'Australia's Disability Strategy 2021-2031 Outcomes Framework: 3rd Annual Report' (Web Report, 2025) <<https://pp.aihw.gov.au/reports/australias-disability-strategy/australias-disability-strategy-outcomes-framework/contents/summary>>.

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- ⁴⁵ Convention on the Rights of Persons with Disabilities, opened for signature 30 March 2007, 2515 UNTS 3 (entered into force 3 May 2008) art 33(2).
- ⁴⁶ *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), vol 3.
- ⁴⁷ The number of 'special'/segregated schools across Australia has increased by 26% (106 schools) between 2010 and 2022: *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), vol 7 105-7; See also *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), vol 7 (summary and recommendations) 11; *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), vol 7(a); Children and Young People with Disability Australia, *Disappointment and discrimination: CYDA's surveys of the learning experiences of children and young people with disability in 2022 and 2023* (Report, 17 August 2023) <<https://cyda.org.au/disappointment-and-discrimination-cydas-surveys-of-the-learning-experiences-of-children-and-young-people-with-disability-in-2022-and-2023/>>.
- ⁴⁸ NDIS Quality and Safeguards Commission, *Inquiry Report Own Motion Inquiry into Aspects of Supported Accommodation*, (January 2023); *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), vol 7(c).
- ⁴⁹ See *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), vol 7(b) 461-519.
- ⁵⁰ People with disability in Australia can be paid as little as \$3.01 per hour of work under the Supported Wage System: See *Fair Work Act 2009* (Cth) ss 294(1)(b)(iii), 294(4)(c); *Supported Employment Services Award 2020* (Cth) (MA000103) sch D <https://awards.fairwork.gov.au/MA000103.html#_Toc175834423>; 'Employees with disability pay rates' (Web Page) <<https://www.fairwork.gov.au/pay-and-wages/minimum-wages/employees-with-disability-pay-rates>>.
- ⁵¹ *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), vol 11; Australian Human Rights Commission, *Information concerning Australia's compliance with the Convention on the Rights of Persons with Disabilities* (25 July 2019) [67]-[71].
- ⁵² *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), vol 8.
- ⁵³ The benchmark in Australia is the introduction in April 2025 by the Victorian Government of the *Justice Legislation Amendment (Anti-vilification and Social Cohesion) Act 2025*. The law extended vilification protections relating to religious and racial vilification to cover disability, gender identity, sex, sex characteristics, sexual orientation, and personal association with a person who has a protected attribute. The law also strengthens civil protections by providing a new harm-based test for hate conduct from the perspective of a reasonable person with the protected attribute, making it easier to take action against unlawful vilification.
- ⁵⁴ Australian Law Reform Commission, *Maximising the Realisation of Human Rights: Religious Educational Institutions and Anti-Discrimination Laws*, (Final Report, 2024) <<https://www.alrc.gov.au/publication/adl-report-142/>>.
- ⁵⁵ Australian Law Reform Commission, *Maximising the Realisation of Human Rights: Religious Educational Institutions and Anti-Discrimination Laws*, (Final Report, 2024) <<https://www.alrc.gov.au/publication/adl-report-142/>>.
- ⁵⁶ Australian Human Rights Commission, *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing* (Report, 2024) <<https://humanrights.gov.au/our-work/childrens-rights/publications/help-way-earlier>>; Australian Human Rights Commission, *Scoping project for National Child and Family Investment Strategy* (Report, 2023) <<https://humanrights.gov.au/our-work/childrens-rights/publications/scoping-project-national-child-and-family-investment>>; Australian Human Rights Commission, *Keeping Kids Safe and Well – Your Voices* (Report, December

2021) <<https://humanrights.gov.au/safeandwell>>.

⁵⁷ The ACT passed legislation in 2023 raising the minimum age of criminal responsibility to 12 without exception. After 1 July 2025 this will rise to 14 years with exceptions for listed 'serious offences' including murder: See Senate of Australia Standing Committee on Legal and Constitutional Affairs (2025); Australia's youth justice and incarceration system, 103 [Table 4.1] <https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000499/toc_pdf/Australia%e2%80%99syouthjusticeandincarcerationsystem.pdf>;

The Victorian Government passed legislation in 2024 that will raise the minimum age of criminal responsibility to 12 by 30 September 2025, see Youth Justice Act 2024 (Vic), s 10 (however, while certain sections of the Act are in force, s 10 has not yet commenced), but this was accompanied by new police powers to detain children aged 10 and 11. These include powers to transport children in a police vehicle; detain them, including at police stations, without any express time limits; use force on them and subject them to searches: See Youth Justice Act 2024 (Vic), ss 66-79;

The previous Victorian commitment to raise age to 14 years by 2027 has been dropped. See Senate of Australia Standing Committee on Legal and Constitutional Affairs. (2025): See Australia's youth justice and incarceration system, 103 [Table 4.1];

In October 2024, the newly elected Northern Territory government lowered the age of criminal responsibility from 12 to 10, reversing the previous government's move to raise the age to 12: Senate of Australia Standing Committee on Legal and Constitutional Affairs (2025); Australia's youth justice and incarceration system, 103 [Table 4.1];

There have been no legislative changes in other Australian jurisdictions: Senate of Australia Standing Committee on Legal and Constitutional Affairs. (2025). Australia's youth justice and incarceration system, 103 [Table 4.1].

⁵⁸ Australian Human Rights Commission 'National Children's Commissioner condemns new Victorian bail laws as backward step' (Media release, 21 March 2025)

<<https://humanrights.gov.au/about/news/media-releases/national-childrens-commissioner-condemns-new-victorian-bail-laws-backward>>; Victorian Equal Opportunity & Human Rights Commission, 'Victorian Government must invest in prevention and target second round of reforms after new bail law limits human rights' (Web page, 26 March 2025)

<<https://www.humanrights.vic.gov.au/news/victorian-government-must-invest-in-prevention-and-be-targeted-in-the-second-round-of-reforms-after-new-bail-law-limits-human-rights>>.

⁵⁹ Australia's international treaty obligations in youth justice would extend to issues including prohibit the use of isolation, spit hoods, mechanical restraints, and the use of adult facilities for children; raise the minimum age of criminal responsibility to 14 and the minimum age for deprivation of liberty to 16; require that treatment promote the child's reintegration into society and that detention be a last resort and for the shortest appropriate time.

⁶⁰ Until recently, there has been no national information on the prevalence of child maltreatment in Australia. The initial results of the Australian Child Maltreatment Study (ACMS) were published in April 2023: Ben Mathews, 'The Australian Child Maltreatment Study: National prevalence and associated health outcomes of child abuse and neglect' (2023) 218(6) *The Medical Journal of Australia* 52 <<https://www.mja.com.au/journal/2023/218/6/australian-child-maltreatment-study-national-prevalence-and-associated-health>>.

⁶¹ Australian Institute of Health and Welfare, *Child protection Australia 2022-23* (Cat. no: CWS 95 27 February 2025) <<https://www.aihw.gov.au/getmedia/04055637-d163-4c7e-8923-ab5107d6b0cf/child-protection-australia-2022-23.pdf?v=20250227100609&inline=true>>.

⁶² Australian Institute of Health and Welfare, *Child protection Australia 2022-2023* (Cat. no: CWS 95 27 February 2025) <<https://www.aihw.gov.au/getmedia/04055637-d163-4c7e-8923-ab5107d6b0cf/child-protection-australia-2022-23.pdf?v=20250227100609&inline=true>>.

⁶³ SNAICC, *Understanding and Applying the Aboriginal and Torres Strait Islander Child Placement Principle: A Resource for Legislation, Policy, and Program Development* (June 2017)

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- <https://www.snaicc.org.au/wpcontent/uploads/2017/07/Understanding_applying_ATSICCP.pdf>.
- ⁶⁴ Paul Karp, 'Labor to allow 19,000 refugees to stay permanently in Australia from early 2023', *The Guardian*, (20 December 2022) <<https://www.theguardian.com/australia-news/2022/dec/20/labor-to-allow-19000-refugees-to-stay-permanently-in-australia-from-early-2023>>.
- ⁶⁵ *Migration Act 1958* (Cth) ss 189, 196.
- ⁶⁶ See Commonwealth Ombudsman, Submission No 105 to Standing Committee on Legal and Constitutional Affairs, *Migration Amendment (Removal and Other Measures) Bill 2024* (2024) 3 <<https://www.aph.gov.au/DocumentStore.ashx?id=1eb2d07f-52ed-4c27-b1ab-94a81695514e&subId=754873>>; Australian Human Rights Commission, *Follow Up Procedures to Australia's Sixth Periodic Review Submission to the Committee Against Torture* (2023) 4 <<https://humanrights.gov.au/our-work/legal/submission/australias-sixth-periodic-review>>.
- ⁶⁷ Department of Home Affairs, *Immigration Detention and Community Statistics Summary February 2025* (26 March 2025) <<https://www.homeaffairs.gov.au/research-and-stats/files/immigration-detention-community-statistics-28-feb-2025.pdf>>.
- ⁶⁸ *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs* [2023] HCA 37.
- ⁶⁹ Australian Human Rights Commission, Submission No 25 to Senate Legal and Constitutional Affairs Committee, *Migration Amendment Bill 2024* (22 November 2024) <https://humanrights.gov.au/sites/default/files/submission_25_-_migration_amendment_bill_2024_ahrc_submission_2_0.pdf>; Australian Human Rights Commission, Submission No 68 to Senate Legal and Constitutional Affairs Committee, *Migration Amendment (Removals and Other Measures) Bill 2024* (12 April 2024) <https://humanrights.gov.au/sites/default/files/ahrc_submission_on_migration_amendment_removals_and_other_measures_bill_2024_0.pdf>.
- ⁷⁰ *Ibid.*
- ⁷¹ Australia's obligation not to return people to countries where they may face serious harm (*refoulement*) is considered 'irrelevant' when removing someone: under section 197C and s198 of the *Migration Act 1958*. In 2021, the Act was amended to provide that Australia will not remove someone to a country where they face a real risk of persecution or other serious harm (s 197C(3)). The Commission welcomed this development but continues to recommend repealing section 197C entirely: Australian Human Rights Commission, Submission to the Parliamentary Joint Committee on Intelligence and Security, *Review of the Migration Amendment (Clarifying International Obligations for Removal) Act 2021* (20 June 2023) <https://humanrights.gov.au/sites/default/files/review_of_the_migration_amendment_clarifying_australias_obligations_for_removal_act_2021_0.pdf>.
- ⁷² Australian Human Rights Commission, *Lives on hold: Refugees and asylum seekers in the 'Legacy Caseload'* (2019).
- ⁷³ See Department of Home Affairs, *Refugee and humanitarian program: About the program* <<https://immi.homeaffairs.gov.au/what-we-do/refugee-and-humanitarian-program/about-the-program/seek-protection-in-australia>>.
- ⁷⁴ *Migration Act 1958* (Cth), s 46A.
- ⁷⁵ Refugee Council of Australia, *2025-26 Federal Budget: What it means for Refugees and People seeking Humanitarian Protection* <<https://www.refugeecouncil.org.au/wp-content/uploads/2025/03/2025-26-Budget-Summary-RCOA-FINAL3.pdf>>. People on temporary visas do not have access to the same services as permanent visa holders: they cannot apply for family reunion, access many settlement services, and face barriers to higher education.
- ⁷⁶ In some cases, people have been returned directly to their home countries after undergoing a quick and inadequate screening process at sea.
- ⁷⁷ Australian Human Rights Commission, *Asylum Seekers, Refugees and Human Rights: Snapshot Report* (2nd ed) (2017).

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- ⁷⁸ As of 31 August 2024, there were 94 people in Nauru: Department of Home Affairs, *Statistics of Transitory Persons* (31 August 2024) <<https://www.homeaffairs.gov.au/about-us-subsite/files/population-number-resettled-31-august-2024.pdf>>.
- ⁷⁹ In 2024, medical staff, caseworkers, and asylum seekers reported that healthcare on Nauru is inadequate and extremely limited, with no specialist care or dedicated counselling for trauma and torture survivors: Ben Doherty, 'What is our future?: the Nauru detention centre was empty. Now 100 asylum seekers are held there', *The Guardian* (online, 13 June 2024) <<https://www.theguardian.com/australia-news/article/2024/jun/13/what-is-our-future-the-nauru-detention-centre-was-empty-now-100-asylum-seekers-are-held-there>>. Detainees also report having their phones confiscated and replaced with basic phones that cannot take photos, making it hard to contact family or support groups or document their situation.
- ⁸⁰ Jumbunna Institute of Education and Research, University of Technology Sydney, *If you don't think racism exists come take a walk with us, Call It Out Racism Register 2023-24* (Final report, 2025) <<https://callitout.com.au/wp-content/uploads/2025/02/Jumbunna-Call-It-Out-Annual-Report-2023-2024-Final.pdf>>
- ⁸¹ Australian Human Rights Commission, 'Inquiry into Antisemitism at Australian Universities' (Opening statement, Joint Parliamentary Committee on Human Rights, 22 January 2025) <<https://humanrights.gov.au/about/news/speeches/statement-inquiry-antisemitism-australian-universities>>.
- ⁸² S Carland, N Alziyadat, M Vergani, & K O'Brien, *Islamophobia Register Australia, Islamophobia in Australia 2023 – 2024* (Report V, 2025) <<https://islamophobia.com.au/wp-content/uploads/2025/03/Islamophobia-in-Australia-Report-5.pdf>>.
- ⁸³ See: ASIO Director General, Mike Burgess, 'Annual Threat Assessment' (Statement, 19 February 2025) <<https://www.oni.gov.au/news/asio-annual-threat-assessment-2025>>
- ⁸⁴ James O'Donnell & Qing Guan with Trish Prentice, *Mapping Social Cohesion* (Final report, 2024) 50 <<https://scanloninstitute.org.au/wp-content/uploads/Mapping-Social-Cohesion-2024-Report.pdf>>.
- ⁸⁵ Australian Human Rights Commission, *National Anti-Racism Framework* (Web Page) <<https://humanrights.gov.au/anti-racism-framework>>.
- ⁸⁶ There have been several attempts to legislate religious discrimination protections by successive Australian governments in the past decade. The Commission has expressed concerns about successive draft bills that they did not achieve an appropriate balancing of rights and sought to provide protection to religious belief or activity at the expense of other rights. The Commission continues to advocate for religious discrimination protections that do not limit other human rights in a way that is unnecessary and disproportionate, or in a manner that is otherwise inconsistent with international human rights law.
- ⁸⁷ The JobSeeker Allowance and the Disability Support Pension.
- ⁸⁸ Australian Human Rights Commission, *Submission to the Senate Community Affairs References Committee, Adequacy of Newstart and related payments and alternative mechanisms to determine the level of income support payments in Australia* (25 September 2019) <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Newstartrelatedpayments/Submissions>.
- ⁸⁹ Including 'pre-employment' programs and compulsory income management schemes.
- ⁹⁰ See: Australian Human Rights Commission, *Submission to the Senate Community Affairs Legislation Committee, Inquiry into the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019* (2 October 2019) <<https://www.humanrights.gov.au/our-work/legal/submission/senate-inquiry-social-security-administration-amendment-income-management>>; Australian Human Rights Commission, *Submission to the Senate Community Affairs Legislation Committee, Inquiry into Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2018* (28 July 2018)

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- <<https://www.aph.gov.au/DocumentStore.ashx?id=eae013e-2e82-40ab-a581-72dc5336166b&subId=657916>>; Australian Human Rights Commission, Submission to the Senate Community Affairs Legislation Committee, *Inquiry into the Social Services Legislation Amendment (Cashless Debit Card) Bill 2017* (29 September 2017)
- <<https://www.aph.gov.au/DocumentStore.ashx?id=1fbc7ab-effb-4092-bb42-9c743dadf7a5&subId=560832>>; Australian Human Rights Commission, *Social Justice and Native Title Report 2015* (Final report, 2015) 48-61
- <<https://www.humanrights.gov.au/sites/default/files/document/publication/SJRNTR2015.pdf>>.
- ⁹¹ The most recent Australian census (2021) estimated 122,494 were experiencing homeless, a 5.2% increase since 2016: Australian Bureau of Statistics, *Estimating Homelessness: Census 2021* (22 March 2023) <<https://www.abs.gov.au/Estimating-Homelessness-Census-2021>>.
- ⁹² Human Rights Law Centre, *The Right to Housing in Australia* (Report, 17 February 2025) <<https://www.hrlc.org.au/reports/the-right-to-housing-in-australia/>>.
- ⁹³ Australian Human Rights Commission, *Older Women's Risk of Homelessness* (Background Paper, 2019) <<https://www.humanrights.gov.au/our-work/age-discrimination/publications/older-womens-risk-homelessness-background-paper-2019>>.
- ⁹⁴ The Salvation Army, *Homelessness Statistics* (Web Page) <<https://www.salvationarmy.org.au/need-help/homelessness-support-services/homelessness-week/homelessness-statistics/>>.
- ⁹⁵ Human Rights Law Centre, *Protest in Peril: Our Shrinking Democracy* (Final Report, June 2024) <<https://www.hrlc.org.au/reports-news-commentary/protest-peril>>.
- ⁹⁶ See Australian Human Rights Commission and University of New South Wales, *At the Crossroads: 10 years of implementing the UN Guiding Principles on Business and Human Rights in Australia* (Final report, September 2021) <<https://humanrights.gov.au/our-work/business-and-human-rights/publications/crossroads-10-years-implementing-un-guiding>>.
- ⁹⁷ Australian Government, *National Action Plan to Combat Modern Slavery 2020-25*, (2020) <<https://www.homeaffairs.gov.au/criminal-justice/files/nap-combat-modern-slavery-2020-25.pdf>>.
- ⁹⁸ Professor John McMillan AO, *Report of the statutory review of the Modern Slavery Act 2018 (Cth): The first three years* (2023).
- ⁹⁹ Australian Human Rights Commission, *Human Rights and Technology* (Final Report, 2021).
- ¹⁰⁰ Australian Human Rights Commission, *Protecting Cognition: Background Paper on Human Rights and Neurotechnology*, (Background Paper, March 2024) <<https://humanrights.gov.au/our-work/technology-and-human-rights/publications/protecting-cognition-background-paper>>.
- ¹⁰¹ Kids Research Institute Australia 'Nine out of ten young people in detention found to have severe neuro-disability' (Webpage, 2018) <<https://www.thekids.org.au/news--events/news-and-events-nav/2018/february/young-people-in-detention-neuro-disability/>>.
- ¹⁰² Australian Bureau of Statistics, *Prisoners in Australia, Aboriginal and Torres Strait Islander Prisoner Characteristics, 4517.0* (8 December 2016) <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4517.0~2016~Main%20Features~Aboriginal%20and%20Torres%20Strait%20Islander%20prisoner%20characteristics~5>>.
- ¹⁰³ The rate for First Nations young people aged 10–17 in detention increased from 23 to 27 per 10,000 over the 5-year period (2019-20 to 2023-24), while the non-Indigenous rates declined, from 1.4 to 1.0 per 10,000: Australian Institute of Health and Welfare, 'Youth Justice in Australia 2023-2024' (Webpage, 2025) <<https://www.aihw.gov.au/reports/youth-justice/youth-justice-in-australia-2023-24/contents/summary>>.
- ¹⁰⁴ Australian Human Rights Commission, *Imprisonment rates of Indigenous women a national shame* (Media Release, 2 May 2018).
- ¹⁰⁵ See, for example: *Criminal Law (Two Strike Child Sex Offenders) Amendment Act 2012* (Qld); *Criminal Law (Criminal Organisations Disruption) Amendment Act 2013* (Qld); *Criminal Code Act Compilation Act 1913* (WA) s 297, 318; *Crimes Amendment (Murder of Police Officers) Act 2011* (NSW); *Sentencing Amendment (Violent Offences) Act 2008* (NT); *Sentencing Amendment (Mandatory Minimum Sentence)*

Act 2013 (NT); Criminal Code Amendment Act (No 2) 1996 (WA); Criminal Code Amendment Act 2009 (WA); Sentencing Legislation Amendment Act 2014 No. 6 (WA); Criminal Organisations Control Act 2012 (WA); Crimes Amendment (Gross Violence Offences) Act 2013 (VIC).

¹⁰⁶ These laws undermine rule of law principles, may lead to arbitrary detention, and disproportionality affect Aboriginal and Torres Strait Islander people: Australian Human Rights Commission, submission to Court as Intervener and Amicus Curiae, *Amicus Curiae: Magaming v The Queen [2013] HCA 40* (11 October 2013) <<https://www.humanrights.gov.au/our-work/legal/submissions/submission-court-intervener-and-amicus-curiae>>; Law Council of Australia, *The Justice Project Final Report – Part 1 – People with Disability* (Final report, August 2018) <<https://www.lawcouncil.asn.au/justice-project/final-report>>; Australian Law Reform Commission, *Pathways to Justice—An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Report 133, March 2018) <<https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/>>. See: *Sentencing Act* (NT) s 78DH; *Criminal Code 1913* (WA) ss 297, 318, 401 (4). See also: recommendations 136.174 and 136.176.

¹⁰⁷ See Queensland Human Rights Commission Strengthening the Service, Independent review of workplace equality in the Queensland Police Service (Report, December 2024) <https://www.qhrc.qld.gov.au/_data/assets/pdf_file/0014/51431/QHRC-Strengthening-the-Service-report-full.pdf>; Inquest into the death of Kumanjayi Walker (Coroners Court of the Northern Territory, Coroner Armitage, 7 July 2025); Australian Human Rights Commission, *The National Anti-Racism Framework: A roadmap to eliminating racism in Australia* (Final report, November 2024) 29 <https://humanrights.gov.au/sites/default/files/2024-11/NARF_Full_Report_FINAL_DIGITAL_ACCESSIBLE.pdf>.