



**7 ways to improve
people's human
rights in Australia:**
A national
reform agenda



Australian
Human Rights
Commission

Introduction

No matter who we are or where we are, we should all be treated with dignity and respect and be able to live well.

Human rights provide the roadmap to achieving this and creating the kind of society we all want to live in.

Human rights reflect values like equality, freedom, respect, dignity, kindness, thinking of others and looking out for each other.

When human rights are respected, our lives are better and our communities are stronger, healthier, safer and more prosperous.

The Australian Human Rights Commission led a major project *Free and Equal: An Australian Conversation on Human Rights* between 2019 and 2024.

We examined Australia's existing human rights and anti-discrimination laws and undertook extensive research and consultation with civil society, government and others to identify how Australia can better protect and fulfil people's human rights.

The outcome of *Free and Equal* is a proposal for a Human Rights Framework to better protect the rights of all people in Australia. This booklet overviews each of the key elements proposed in the Human Rights Framework.

7 ways to improve people's human rights in Australia

1. Establish a Human Rights Act
2. Modernise Australia's anti-discrimination laws
3. Develop a National Human Rights Education Action Plan
4. Create a national human rights tracker to measure progress and regress on human rights
5. Deliver an annual national human rights statement to Parliament
6. Strengthen the role of Parliament in protecting human rights
7. Ensure an effective and sustainable Australian Human Rights Commission and a vibrant civil society to protect human rights.

Australia can, and should, do better in protecting and promoting human rights. The Australian Human Rights Commission stands ready to work in partnership with government and the community to realise these changes.

Learn more about each of our recommendations in the following pages.

1. Establish a Human Rights Act

There are many gaps in the protection of human rights in Australian law. While Australia has agreed to protect human rights set out in United Nations treaties, we have not properly translated those international commitments into our own national laws.

A Human Rights Act will help to address this. A Human Rights Act will **protect the rights of all Australians**, promote better understanding of those rights and give people the power to take action if their rights are breached.

There are **Human Rights Acts** in **Victoria, Queensland** and the **Australian Capital Territory** and in similar nations like New Zealand, Canada and the United Kingdom. They have all had proven positive impacts.

But Australia has no national Human Rights Act.

The Australian Human Rights Commission has proposed a model for a Human Rights Act. The Australian Parliament's human rights committee drew heavily on this model when it recommended a Human Rights Act in its Inquiry into Australia's Human Rights Framework in 2024.

Under our model, a Human Rights Act will **apply to Australian Government bodies** like Government Departments, Ministers, public servants and agencies like the Australian Federal Police, Centrelink, Medicare, the National Disability Insurance Agency and more. It won't apply to State and Territory government bodies.

A Human Rights Act will **require governments and public servants to properly consider and act compatibly with human rights** when making decisions, delivering services and developing laws and policies.

Requiring **governments to think about people's rights before they act** fosters a better understanding of rights and builds a culture that **prevents human rights breaches**.

To make sure governments take human rights seriously, it is important to **give people the power to take action if their rights are breached**. Under our model, this will happen efficiently by the person raising the issue directly with government body or with the Australian Human Rights Commission for conciliation. But if it cannot be resolved at that level, people will have the power to take action in court.

Under our model, the **Human Rights Act will be normal legislation** passed by the Australian Parliament. The Parliament will be able to change the Human Rights Act in the future if it decides to.



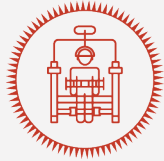
Which rights should be included in a Human Rights Act?



Recognition and equality before the law; and freedom from discrimination.



Right to life.



Protection from torture and cruel, inhuman or degrading treatment.



Protection of children.



Fair hearing.



Rights in criminal proceedings.



Compensation for wrongful conviction.



Right not to be tried or punished more than once.



Protection of families.



Privacy and reputation.



Freedom of movement.



Freedom of thought, conscience, religion and belief.



Retrospective criminal laws.



Freedom from forced work.



Cultural rights.



Cultural rights - First Nations peoples.



Peaceful assembly and freedom of association.



Freedom of expression.



Taking part in public life.



Right to liberty and security of person.



Right to education.



Right to health.



Right to an adequate standard of living.



Right to a healthy environment.



Humane treatment when deprived of liberty.



Children in the criminal process.



Right to work and other work-related rights.



Right to social security.

What difference will a Human Rights Act make?

There are many examples of how Human Rights Acts have made a difference in Victoria, Queensland and the Australian Capital Territory. The Human Rights Law Centre has compiled 101 case studies showing the benefit of Human Rights Acts:

<https://www.humanrightsact.org.au/101-cases>

Five examples are below.

Public housing residents use the Victorian Human Rights Charter to overturn a ban on protests on public housing estates

In 2013, the Victorian Government introduced new rules that banned political rallies on public housing estates and banned residents from putting political information on noticeboards. The rules also banned door knocking by political representatives and candidates on public housing estates and barred them from booking community facilities. Two men living in public housing used the Victorian Charter to advocate with government to change the new rules, arguing that the rules breached public housing residents' rights to freedom of assembly and expression in the Charter. In response, the government revised the new rules to remove the bans.

Source: Human Rights Law Centre, Protecting protesters' rights using Victoria's Human Rights Charter: Your advocacy guide, 2018.

A woman uses the Victorian Human Rights Charter to negotiate culturally appropriate crisis accommodation

A woman seeking assistance from a crisis accommodation service advised that, as a practising Muslim, she could not reside in premises with men. However, the service referred her to a backpackers' hostel where most residents were men. The woman felt intimidated and harassed having to share bathrooms and kitchen facilities with men. An advocacy service contacted the crisis accommodation service on her behalf, raising her cultural and religious rights under the Charter. As a result, the accommodation service agreed to find appropriate crisis accommodation and ultimately found her a long-term place in a women's rooming house.

Source: Victorian Equal Opportunity and Human Rights Commission, 2014 Report on the operation of the Charter of Human Rights and Responsibilities, p. 31.



A family uses the Queensland Human Rights Act to obtain an exemption from detention in hotel quarantine for their child with a disability

During the COVID-19 pandemic, a family detained in hotel quarantine complained to the Queensland Human Rights Commission about the impact of the detention on their child who has autism spectrum disorder. The child experienced serious food aversions which were not accommodated by the quarantine operator. The family was also separated in quarantine so that the child's mother was not able to be supported by the other family members. The hotel quarantine conditions caused the child to experience serious distress. Using the Queensland Human Rights Act, the Commission engaged with Queensland Health and secured the family a fast-tracked exemption to hotel quarantine allowing the family to quarantine at home.

Source: Queensland Human Rights Commission, Putting people first: The first annual report on the operation of Queensland's Human Rights Act 2019-20, p. 136

A man with a disability uses the Victorian Human Rights Charter to privately access his own mail

A man with a physical disability living in a shared supported accommodation unit objected to his mail being opened by the workers at the unit. The man was capable of opening his own mail. The rationale behind the unit's policy was to ensure that any accounts needing payment could be taken care of. The man's advocate invoked his right to privacy under the Charter. Consequently, the unit's policy was changed and the man was allowed to privately access his own mail.

Source: Disability Justice Advocacy, Submission for Review of the Victorian Charter of Human Rights and Responsibilities Act 2006.

A woman who moved to escape family violence uses the Queensland Human Rights Act to keep her home address private in a homeschooling application for her child

A woman's application to home school her child with a learning disability was refused by the Department of Education because she didn't provide a residential address. The woman provided a town name, mobile phone number and postal address. She wanted to keep her home address private as she and her children had moved to escape domestic violence. She wanted to keep her family safe from her former partner who had successfully located her in the past.

The woman asked the Queensland Civil and Administrative Tribunal to review the Department's refusal decision. The Tribunal granted her home schooling application, relying heavily on the Queensland Human Rights Act. The Tribunal referred to relevant rights including the child's right to protection in their best interests, to access education appropriate to their needs, and the family's right to privacy. The Tribunal interpreted the education legislation in a way that was compatible with these rights as required by the Human Rights Act and allowed her to keep her street address private.

Source: SF v Department of Education [2021] QCAT 10
<https://archive.sclqld.org.au/qjudgment/2021/QCAT21-010.pdf>

To learn more about the proposed Human Rights Act, visit:

<https://humanrights.gov.au/human-rights-act-for-australia>.

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/HumanRightsFramework/Report

2. Modernise Australia's discrimination laws

Australia's federal discrimination laws are outdated and difficult to use. These laws were introduced 20 to 50 years ago and have barely been updated since. The Australian Human Rights Commission proposes reforms to these laws to:

(a) Build a preventative culture.

We need to shift the focus from a reactive model that responds to discrimination after it happens to a **proactive** model that prevents discrimination from happening in the first place. This should be achieved by creating a **positive duty** which requires organisations and businesses to take reasonable and proportionate measures to eliminate unlawful discrimination, harassment and victimisation.

Shifts towards building a preventative culture are already happening. A positive duty was introduced into the Sex Discrimination Act in 2022 to prevent sexual harassment, sex discrimination and other unlawful conduct. The Disability Royal Commission in 2024 also recommended that a positive duty be introduced into the Disability Discrimination Act. However, introducing these changes in a piecemeal fashion across different Acts causes discrepancies, creates confusion and makes it harder to address intersecting discrimination issues such as race and sex discrimination. We need consistent, harmonised anti-discrimination laws.

(b) Enhance access to justice.

Discrimination laws are often difficult to use and rely on individuals who have been discriminated against taking action

to achieve justice. The Australian Human Rights Commission provides free access to justice through conciliation services. However, there are significant barriers for achieving access to justice when matters are not resolved at this stage and people have to take action in court. We recommend reforms to make the process of going to court fairer.

(c) Address the gaps in discrimination law protections.

Our national discrimination laws have gaps. For example, they do not protect people against discrimination on the grounds of religion or on the basis of an old, irrelevant criminal record. In the workplace, volunteers and interns are not protected across all discrimination laws. There are also exemptions to some discrimination laws that are too broad and allow, for example, religious schools to discriminate against students and teachers on the grounds of sexual orientation and gender identity. The Australian Human Rights Commission has recommended reforms to address these gaps in protection.

(d) Provide better regulatory tools for the Australian Human Rights Commission to prevent discrimination.

The Australian Human Rights Commission currently has limited regulatory functions to promote compliance with legal requirements to prevent discrimination. Far broader regulatory functions exist in many other areas of law such as privacy, consumer rights and company law. However, these broader functions have by-passed federal discrimination laws rendering them out of date and less effective. New regulatory tools could include codes of practice, voluntary audits, special measures certificates, enforceable standards and stronger inquiry functions. These regulatory tools would mean that the Commission can better assist businesses to comply with discrimination laws, improving business confidence and certainty when they act to prevent discrimination.

3. Develop a national Human Rights Education Action Plan

Human rights education ensures people understand their own rights and the rights of others. It promotes a culture of respecting everyone's rights and treating each other with respect and dignity.

Within government, human rights education promotes a culture of thinking about the human impacts of government decisions, services, laws and policies. It helps to prevent human rights breaches and helps governments to balance intersecting rights and to make good people-focused decisions.

The Australian Government should develop a National Human Rights Education Action Plan covering the Australian Public Service, primary and secondary schools, workplaces and the general community.

4. Track how well we protect everyone's human rights

How well does Australia protect people's human rights? Are we moving forward in addressing human rights challenges, or are we going backwards?

To answer these questions and to guide the decisions of government we need better national measurement and tracking of human rights progress and regress.

Tracking promotes transparency on human rights and accountability for government on its responsibilities to protect community wellbeing.

The Australian Government should develop a national mechanism to track and periodically report to the nation on how well Australia protects everyone's human rights.

The Closing the Gap reporting mechanism provides an example of tracking progress and regress against agreed targets on First Nations human rights issues.

The Equality and Human Rights Commission of Great Britain periodically reports human rights data on six areas of life: education, work, living standards, health, justice and security and participation, using a small selection of highly relevant indicators. The report fulfils a statutory duty to report to the UK Parliament on how far everyone in Britain is able to live free from discrimination and abuses of their human rights.



5. Deliver an annual a national human rights statement to Parliament

One way to achieve greater focus, transparency and accountability around human rights is for the Australian Government to deliver an annual national human rights statement to Parliament.

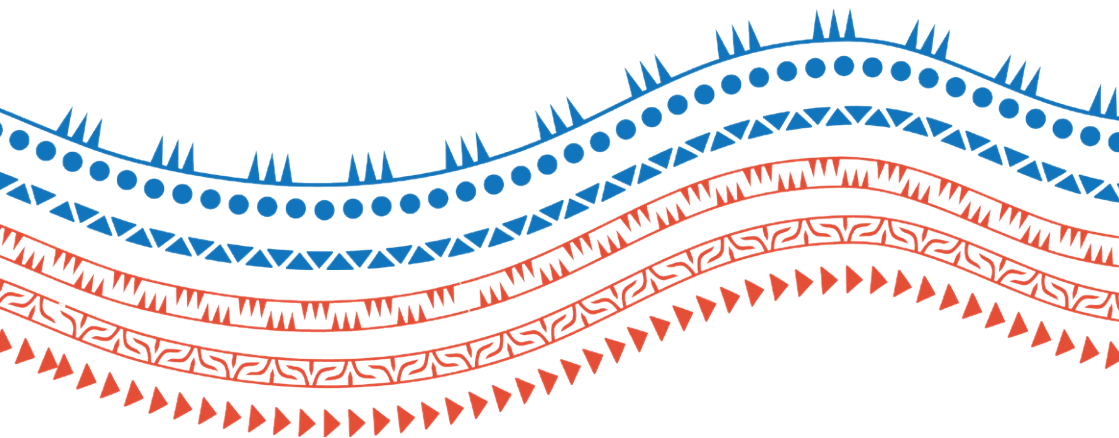
This statement would be a mechanism for the Government to:

- show leadership on human rights
- identify its priorities for the protection of human rights both within Australia and internationally
- report on and celebrate the progress that it has made over the course of each year, as well as reflect on key human rights challenges
- connect to the national human rights tracker which measures progress and regress on human rights.

6. Strengthen the role of Parliament in protecting human rights

The role of the Australian Parliament in protecting human rights should be strengthened in a number of ways.

- a) The Parliament's human rights committee performs an important role reviewing the human rights compatibility of proposed legislation. Its role needs to be strengthened by limiting Parliament's ability to pass draft legislation before the committee has had time to review and comment on it.
- b) Compatibility with human rights is currently assessed against key UN human rights treaties but not the UN Declaration on the Rights of Indigenous Peoples. This should change.
- c) Australia participates in periodic UN reviews of our human rights record. The outcomes of these reviews should be regularly presented to the Parliament. There should also be greater oversight by Parliament of how Australia is addressing concerns and recommendations that are raised at UN human rights reviews.



7. Ensure an effective and sustainable Australian Human Rights Commission and a vibrant civil society to protect human rights

A properly resourced and independent Australian Human Rights Commission is critical to the protection of human rights in Australia.

The Commission should be funded adequately to carry out the full breadth of its mandate and independently determine its priorities and activities.

Equally important to protecting human rights is a **vibrant and robust civil society** including non-government organisations and community groups.

The Australian Government should:

- invest in civil society organisations to advance human rights
- build capacity for civil society organisations to participate independently in UN human rights processes
- establish regular forums for dialogue between government and civil society organisations.

For more information on the Australian Human Rights Commission's proposal for a Human Rights Framework visit: *Free and Equal: An Australian Conversation on Human Rights*

<https://humanrights.gov.au/free-and-equal>

© Australian Human Rights Commission 2025.

The Australian Human Rights Commission encourages the dissemination and exchange of information presented in this publication. All material presented in this publication is licensed under the Creative Commons Attribution 4.0 International Licence, with the exception of photographs and images; logos, any branding or trademarks; content or material provided by third parties; and where otherwise indicated. To view a copy of this licence, visit creativecommons.org/licenses/by/4.0/legalcode



In essence, you are free to copy, communicate and adapt the publication, as long as you attribute the Australian Human Rights Commission and abide by the other licence terms.

Acknowledgement of Country

The Australian Human Rights Commission acknowledges the Traditional Custodians of Country throughout Australia, and recognise their continuing connection to land, waters and culture. We pay our respects to their Elders – past, present and future.

Further information

This publication can be found in electronic format on the Australian Human Rights Commission's website: humanrights.gov.au/our-work/publications

For more information about the Australian Human Rights Commission or copyright in this publication:

Australian Human Rights Commission
GPO Box 5218, SYDNEY NSW 2001

Telephone: (02) 9284 9600
Email: communications@humanrights.gov.au
Website: humanrights.gov.au

FREE + EQUAL

AN AUSTRALIAN CONVERSATION ON HUMAN RIGHTS



Australian
Human Rights
Commission

