

Parallel Report: Australia's 6th periodic review

Submission to the Committee of
Economic, Social and Cultural Rights

13 January 2026

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Australian
Human Rights
Commission

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About the Australian Human Rights Commission

Our vision is an Australian society where human rights are respected, promoted and protected and where every person is equal in dignity and rights.

The Commission's key functions include:

- **Access to justice:** We help people to resolve complaints of discrimination and human rights breaches through our investigation and conciliation services.
- **Fairer laws, policies and practices:** We review existing and proposed laws, policies and practices and provide expert advice on how they can better protect people's human rights. We help organisations to protect human rights in their work. We publish reports on human rights problems and how to fix them.
- **Education and understanding:** We promote understanding, acceptance and public discussion of human rights. We deliver workplace and community human rights education and training.
- **Compliance:** We are the regulator for positive duty laws requiring employers and others to address sexual harassment, sex discrimination and other unlawful conduct.

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1 Overview

1. This submission is made by the Australian Human Rights Commission (Commission). The Commission is an 'A status' national human rights institution, operating in conformity with the Paris Principles.¹
2. The Commission welcomes the opportunity to make this submission identifying the key issues of compliance with the ICESCR. The submission is based on work that has been undertaken by the Commission in accordance with our legislated mandate and functions.²
3. The Commission notes that since Australia last appeared before the Committee on Economic, Social and Cultural Rights in 2017 there have been a number of significant national inquiries that set out, in concrete terms, what needs to be done to improve human rights outcomes across the country. In particular, the Commission notes the national human rights reform agenda launched with the UN High Commissioner that it has set out in the Free and Equal project (see further below). This project informed the recommendations of the Australian Parliamentary Joint Committee on Human Rights (PJCHR) calling for a new national human rights framework. The most comprehensive Royal Commissions in Australia's history have also been conducted between 2013 – 2023 on disability issues and institutional responses to child sexual abuse, as well as inquiries in relation to aged care, social security and veterans.
4. The Commission recommends that the UN Committee make the following recommendations to Australia.

2 Framework

Ratification of the Optional Protocol to the ICESCR

5. Australia has not ratified the Optional Protocol to the ICESCR (OP-ICESCR) which leaves a significant gap in protection and accountability for economic, social and cultural (ESC) rights.³

Recommendation 1: Australia ratify the OP-ICESCR.

Constitutional and legislative framework

6. Australia has a limited legal framework for implementing its human rights obligations and providing remedies. In its 2017 Concluding Observations the Committee recommended that Australia incorporate ICESCR into its domestic law.⁴
7. The Australian PJCHR is mandated to analyse bills and legislative instruments before the federal Parliament for compliance with human rights. The PJCHR has been in place for approximately 12 years and has made an important contribution to the consideration of human rights at the parliamentary level. However, the Commission remains concerned about the quality and consistency of ‘Statements of Compatibility with Human Rights’ that accompany bills. The Commission is also concerned that there is limited consideration of the views of the PJCHR prior to the passage of legislation.⁵ There is also limited human rights education and training for public officials to assist in the preparation of these Statements of Compatibility.
8. Between 2019 – 2023, the Commission conducted the Free and Equal project, a major research and national consultation project to identify what actions Australia should take to better protect human rights at the national level. As part of the project, we released three reports setting out a national reform agenda for human rights:
 - Position paper: [A national reform agenda for federal discrimination law](#)⁶ setting out 38 reforms to ensure that Australia’s federal discrimination laws are comprehensive and effective. This includes by modernising discrimination laws (which were introduced between 20 and 50 years ago) so that they include co-regulatory approaches to better enforce discrimination protections and to build more preventative approaches to discrimination.
 - Position paper: [A national Human Rights Act for Australia](#)⁷ setting out a model national Human Rights Act covering all rights included in the ICCPR and ICESCR, as well as other reforms to parliamentary scrutiny of human rights to improve the effectiveness of legal protections in Australia.
 - Final report: [Revitalising Australia’s commitment to human rights](#)⁸ setting out 12 recommendations for a new national human rights framework for Australia,

to ensure full and effective protection of human rights and improved consideration of treaty body outcomes.

9. These reports set out a comprehensive national law reform agenda that would significantly improve Australia's legislative and policy framework on human rights. The final report recommends the introduction of a national human rights framework with the following eight key actions:
 - Comprehensive and effective protection of human rights in legislation through the introduction of a national Human Rights Act.
 - Modernised federal discrimination laws that shift the focus from a reactive model that responds to discriminatory treatment to a proactive model that prevents discriminatory treatment in the first place.
 - An enhanced role for Parliament in protecting human rights, through reform to the processes for parliamentary scrutiny and the introduction of new oversight mechanisms for Australia's human rights obligations (including in relation to responding to concluding observations and individual communications of treaty bodies and regularly reviewing the status of reservations and new ratifications).
 - A national human rights indicator index to independently measure progress on human rights.
 - An annual statement to Parliament on human rights priorities being made by the Government.
 - A national human rights education program.
 - A sustainable National Human Rights Institution, the Australian Human Rights Commission, to support the Framework.
 - Support for vibrant and robust civil society organisations to protect human rights.
10. The Commission welcomes the introduction in December 2022 of the positive duty under the Sex Discrimination Act 1984 (Cth).⁹ The positive duty imposes a legal obligation on organisations and businesses to take proactive and meaningful action to prevent relevant unlawful conduct from occurring in the workplace or in connection to work, and will help to create safe, respectful and inclusive workplaces. The Commission has recommended that the positive duty be extended to all federal discrimination laws, particularly to address disability discrimination¹⁰ and racism in the workplace.¹¹
11. In 2023, the federal Attorney-General referred an inquiry to the PJCHR to consider a new Australian Human Rights Framework. The PJCHR reported in May 2024, making 17 recommendations to improve human rights in Australia.¹²
12. Recommendation 1 of the PJCHR substantially endorsed the recommendations of the Commission for a new national human rights framework and recommended the adoption of a Human Rights Act based on the Commission's model.

13. The Australian Government has not yet responded to the recommendations of the Commission's Free and Equal project reports and the report of the PJCHR.

Recommendation 2: The Australian Government modernise Australia's discrimination laws to ensure comprehensive protection and improve effectiveness.¹³ Government extend the positive duty to all federal discrimination laws, particularly to address disability discrimination¹⁴ and racism in the workplace.¹⁵

Recommendation 3: Australia introduce a national Human Rights Act.

Recommendation 4: The Australian Government introduce human rights education for Australian Parliamentarians and public officials.

Recommendation 5: The Australian Government ensure that Statements of Compatibility are of a consistently high standard; and ensure that the views of the PJCHR are actively considered prior to enacting legislation.

National Human Rights Institution

14. The Commission has a statutory power to promote and protect human rights under the Australian Human Rights Commission Act 1986 (Cth) (AHRC Act). Human rights are defined by referencing certain international instruments such as the ICCPR. The definition of human rights does not include the Convention Against Torture, the ICESCR or the United Nations Declaration on the Rights of Indigenous Peoples.¹⁶
15. The Commission can consider rights contained in the ICESCR and CAT due to the referencing of other international treaties in the AHRC Act, and through the coverage and operation of federal discrimination laws.¹⁷ However, the Commission should have an unambiguous legislative mandate on all human rights instruments to which Australia is a party.
16. This would be consistent with the definition of human rights in the mandate of the PJCHR, which by contrast includes all 7 human rights treaties to which Australia is a party.¹⁸ The Committee previously recommended that Australia include ICESCR in the Commission's mandate and ensure that the Commission has sufficient resources to discharge its role effectively.
17. The Commission had its A status as an NHRI deferred in March 2022 due to concerns about the independence of appointment processes for Commissioners, the terms of office, the Commission's mandate, and its level of funding. The Parliament introduced legislative amendments to address the appointment process in 2023, resulting in the Commission's ongoing A status being confirmed in November 2023.
18. In 2023 the Global Alliance of National Human Rights Institutions sub-committee on accreditation made 2 recommendations for Australia to strengthen the

Commission, in accordance with the Paris Principles. These recommendations are: ensuring the Commission's mandate covers all relevant human rights instruments (as set out above); and ensuring the Commission is appropriately resourced to fulfil all its functions.

Recommendation 6: The Australian Government ensure that the AHRC Act includes a comprehensive definition on human rights by scheduling ICESCR to the Act.

Human Rights Education

19. Human rights education has been piecemeal and under-resourced in Australia. There are limited and inconsistent references to human rights in the school curriculum and in civics education. There is also limited training of public servants on human rights, despite requirements for all legislation and legislative instruments to include an analysis of human rights (a Statement of Compatibility with Human Rights). The Commission's Free and Equal project identified the need for a substantial improvement and commitment to human rights education across all domains.

Recommendation 7: The Australian Government develop a National Human Rights Education Action Plan, targeted to the Australian Parliament, Public Service, primary and secondary schools, workplaces, law enforcement and the general community particularly focusing on economic, social and cultural rights.

3 Human rights on the ground

Right to Social Security

20. The Australian social security system is inadequate and overly punitive. In 2025, the Economic Inclusion Advisory Committee ranked Australia near the bottom of OECD advanced economic nations in terms of short-term out of work payments.¹⁹
21. Punitive systems in Australia disproportionately affect First Peoples. There are programs like the cashless debit card for welfare recipients that restrict cash withdrawals purchases from specific stores. These schemes are justified by the government as tools that reduce social harms like gambling and alcohol, but they undermine autonomy and financial independence. First Peoples represent 82.2% of all participants in compulsory income management systems.²⁰
22. The main income support payment for unemployed Australians is the 'JobSeeker Allowance'. Despite recent increases, JobSeeker payments are below the poverty line at only 43.5% of the Australian net full time minimum wage and not high enough for recipients to afford the basic essentials of everyday life. People receiving JobSeeker payments are 14 times more likely to go without at least one substantial meal per day.²¹
23. While the Australian Government increased several social security payments in 2023, the gaps between payments and the poverty line remain substantial. For example, the maximum Youth Allowance payments for a young person living away from the parental home were still \$279 per week below the poverty line, and the payment for a sole parent family with two children (8-12 years) was still \$163 below the poverty line.²²
24. Based on a 50% of median household income measure, it is estimated that 1 in 6 children (15.9%, or 757,000 children) in Australia live below the poverty line.²³ Many vulnerable households with children are experiencing rising costs of living in recent years.²⁴ A survey by Foodbank in 2025 found that 33% of Australian households (an estimated 3.5 million) experienced food insecurity in the past 12 months. Among two-parent households with children, food insecurity rose from 35% in 2024 to 39% in 2025. Single-parent households remain under acute pressure, with 68% experiencing food insecurity in the past 12 months.²⁵
25. People with disability disproportionately experience poverty and are among the most at risk and exposed groups to 'deep and persistent poverty and disadvantage' in Australia.²⁶ The Disability Support Pension (DSP) has strict eligibility criteria, narrow understanding of disability, disincentivising employment, and complex and inaccessible processes.²⁷

Recommendation 8: The Australian Government introduce a national poverty reduction plan. That includes explicit definitions, targets and measures relating to child poverty and that recognises people with disability as a priority cohort, identifies the structural and systemic causes of poverty for people with disability, and adopts a human rights approach, including reform of the Disability Support Pension.

Recommendation 9: The Australian Government ensure welfare payments provide an adequate standard of living. Welfare support programs be reformed so they are not punitive.

Recommendation 10: The Australian Government increase the level of income support payments for children, young people and families.

Right to adequate housing

26. Australia is facing a national housing crisis. The combined impact of lack of public and affordable housing, reduction in social security and income supports, and rising cost of living have caused increasing homelessness.²⁸
27. The 2021 Australian census estimated 122,494 people were experiencing homeless, a 5.2% increase since 2016. An additional 273,600 people sought help from homeless agencies between 2022 and 2023. Those disproportionately affected by homelessness include people who have experienced domestic violence, First Peoples, young people, and children on care and protection orders.²⁹
28. Of the 122,494 people experiencing homelessness in 2021, 24,900 were First Peoples. First Peoples experience homelessness 8.8 times the rate of non-indigenous Australians.³⁰ 17,646 (14.4%) were aged under 12 years.³¹ While for most age groups there was a decrease in the rates of homelessness between 2016 and 2021, the rates of homelessness for children of all ages increased over this period.³² This includes children who experience homelessness without an accompanying parent or guardian.
29. The 2021 Census estimated that almost 35 000 people were homeless, with 6000 of these people being over the age of 55 years.³³ Older women are disproportionately affected by the housing crisis and financial insecurity, with older women being the fastest growing group of people experiencing homelessness and or at risk of homelessness, increasing by 31% since 2011.³⁴
30. Women and children are also at heightened risk of homelessness and housing insecurity, particularly if they separate from a violent partner, with 2 in 3 women for example, relying on friends or relatives for accommodation.³⁵ Lack of appropriate housing means that some victim-survivors stay in or return to violent relationships.³⁶ The provision of safe and appropriate housing for victim-survivors is essential for them to be safe and leave a violent relationship.³⁷

31. 20.5% of households in the rental market are classified as low-income households in financial stress. Housing insecurity is also increasing across middle income groups; driven by high mortgages that are pushing Australian household debt to be some of the highest in the world.
32. Existing housing protections are piecemeal. The National Housing and Homelessness Plan does not define or protect the human right to adequate standard of living which incorporates the right to adequate housing.

Recommendation 11: The Australian Government adopt a human-rights based National Housing Strategy.

Recommendation 12: The Australian Government urgently prioritise access to safe and affordable housing for children and families, including those in the child protection and justice systems.

Decision making during emergencies

33. There were many things that Australia did well in the response to the COVID-19 pandemic. Australia's overall COVID-19 mortality rate was relatively low from a global perspective, and our economic performance during the pandemic was comparatively strong. But in the 2025 report, *Collateral Damage: What the untold stories from the COVID-19 pandemic reveal about human rights in Australia*, the Commission found that human rights were not always adequately considered or protected during the country's 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.
34. Australia must learn the necessary lessons from the COVID-19 pandemic so that future emergency responses can be improved. There are currently limited processes to ensure the human rights impacts of decisions made during public emergencies are properly considered. The Commission has recommended that a human rights emergency response framework should be developed to ensure that human rights are properly considered in public decision-making during future emergencies.

Recommendation 13: The Australian Government develop a human rights emergency response framework to guide public decision-making during future emergencies.

Aboriginal and Torres Strait Islander Peoples

35. Across Australia there is an unacceptable level of disadvantage experienced by Aboriginal and Torres Strait Islander Peoples. This corresponds with limited

progress, to improve the recognition of the rights of Aboriginal and Torres Strait Islander Peoples, particularly participation in decision making. This has critically undermined the efficacy of key government initiatives such as Closing the Gap.³⁸

36. The Australian Constitution continues to permit racial discrimination.³⁹ A referendum held on 14 October 2023 to enshrine an Indigenous Voice to Parliament in the Australian Constitution failed. The lack of Constitutional recognition of Indigenous Peoples is ongoing.
37. Representation, truth-telling and agreement-making remain critical to addressing the concerns experienced by Aboriginal and Torres Strait Islander Peoples. The 2017 Uluru Statement from the Heart sets out a process to address these concerns.⁴⁰
38. There is still no national representative mechanism for Indigenous peoples in Australia, as freely determined by them.⁴¹ Consideration of a legislated Voice to Parliament appears to have been taken off the table by both major political parties for the foreseeable future. Similarly, progress has stalled on establishing a nationwide network of regional and local representative structures for Indigenous people (which could potentially elect and inform a national representative body).⁴²
39. While there has been some progress at the state level, no plans are in place to advance truth telling and agreement making at the national level. Although the Australian Government stated its commitment in 2022 to take steps to establish a Makarrata/Truth Telling Commission to oversee these processes and had set aside funds in the federal budget for this purpose⁴³, this policy ceased following the 2023 Referendum outcome.

Recommendation 14: The Australian Government ensure the full and effective participation of Aboriginal and Torres Strait Islander Peoples in decisions that affect them and establish mechanisms for national Aboriginal and Torres Strait Islander representation, truth-telling and agreement-making.

Recommendation 15: The Australian Government set a timetable for achieving reform of the Constitution to recognise Aboriginal and Torres Strait Islander Peoples and remove capacity for racial discrimination.

40. There is currently no program to implement the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in Australia. In November 2023 the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs reported on its Inquiry into the application of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in Australia. Among the Committee's recommendations is the 'development of a National Action Plan, in consultation with Aboriginal and Torres Strait Islander Peoples, that outlines the approach to

implementing the United Nations Declaration on the Rights of Indigenous Peoples in Australia'.⁴⁴

41. The Commission has long advocated for a national implementation plan for the Declaration, and its inclusion within the definition of human rights for the purposes of the role of the PJCHR and the Commission. This would improve the systemic focus on human rights for Aboriginal and Torres Strait Islander Peoples in relation to the issues raised across this submission.

Recommendation 16: The Australian Government develop a national program to implement UNDRIP and schedule it to the definition of human rights in the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth) and AHRC Act.

42. The National Partnership Agreement on Closing the Gap aims to ‘close the gap’ between Indigenous and non-Indigenous Australians across a range of life outcomes.⁴⁵ The Agreement includes 4 Priority Reforms to change the way governments work with First Peoples, new government accountability measures, shared monitoring and implementation arrangements and 19 socio-economic targets across health, education, justice and employment. In 2025, the Productivity Commission reported that there had been very limited progress by Australian governments in implementing the Closing the Gap Priority Reforms. The Priority Reforms relate to; Formal Partnerships and Shared Decision Making; Building the Community-Controlled Sector; Transforming Government Organisations, Shared Access to Data and Information at a Regional Level.⁴⁶
43. Independent accountability mechanisms due to be in place by November 2023 under the National Partnership Agreement on Closing the Gap are yet to be established in any Australian jurisdiction.⁴⁷
44. There is currently no enforcement or penalty system in place to discourage jurisdictions from adopting policies which breach Australia’s human rights obligations and undermine jurisdictions’ Closing the Gap commitments.
45. This lack of progress in shifting systems and ways of working is undermining outcomes. As shown in the table below, across 19 socio-economic outcome areas, only 4 Closing the Gap targets are on track to be met (green), 6 targets are improving but not on track (blue), 1 target has not changed from the baseline (orange) and 4 targets are worsening (red). Due to a lack of reported data, the Productivity Commission is still unable to assess progress against 4 of the targets.⁴⁸

| | | | |
|--|---|---|---|
| 1 - Aboriginal and Torres Strait Islander people enjoy long and healthy lives. | 2 - Aboriginal and Torres Strait Islander children are born healthy and strong. | 3 - Aboriginal and Torres Strait Islander children are engaged in high quality, | 4 - Aboriginal and Torres Strait Islander children thrive in their early years. |
|--|---|---|---|

| | | | |
|--|--|---|---|
| | | culturally appropriate early childhood education in their early years. | |
| 5 - Aboriginal and Torres Strait Islander students achieve their full learning potential. | 6 - Aboriginal and Torres Strait Islander students reach their full potential through further education pathways. | 7 - Aboriginal and Torres Strait Islander youth are engaged in employment or education. | 8 - Strong economic participation and development of Aboriginal and Torres Strait Islander people and communities. |
| 9 - Aboriginal and Torres Strait Islander people secure appropriate, affordable housing that is aligned with their priorities and need. (NB: contains 2 targets) | 10 - Aboriginal and Torres Strait Islander people are not overrepresented in the criminal justice system. | 11 - Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system. | 12 - Aboriginal and Torres Strait Islander children are not overrepresented in the child protection system. |
| 13 - Aboriginal and Torres Strait Islander families and households are safe. | 14 - Aboriginal and Torres Strait Islander people enjoy high levels of social and emotional wellbeing. | 15 - Aboriginal and Torres Strait Islander people maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters. (NB: contains 2 targets) | 16 - Aboriginal and Torres Strait Islander cultures and languages are strong, supported and flourishing. |
| 17 - Aboriginal and Torres Strait Islander people have access to information and services enabling participation in informed decision-making regarding their own lives. | | | |

Recommendation 17: The Australian Government increase efforts to achieve the Closing the Gap targets and ensure that robust and independent accountability mechanisms are in place for all governments under the National Agreement on Closing the Gap.

63. The Commission's Wiyi Yani U Thangani project (2017-2024) identified actions to improve the human rights of Aboriginal and Torres Strait Islander women and girls. This included an urgent focus on reducing over-representation of Indigenous people in care and protection systems,⁴⁹ criminal justice,⁵⁰ and as victims of family violence,⁵¹ with a focus on trauma recovery.
64. Two of 7 of the Wiyi Yani U Thangani Report's recommendations (a National Summit and National Anti-Racism Framework) were implemented. A key recommendation – the development of a comprehensive National Action Plan for Aboriginal and Torres Strait Islander Women and Girls⁵², has not been implemented.
65. The Australian Government has part-funded the establishment of the Wiyi Yani U Thangani First Nations Gender Justice Institute at the Australian National University (ANU) and is also in the process of developing a standalone First Nations National Plan on addressing domestic and family violence.⁵³

Recommendation 18: The Australian Government implement a national action plan to ensure that Aboriginal and Torres Strait Islander women and girls' human rights are upheld.

66. Significant concerns remain about the incompatibility of the *Native Title Act 1993* (Cth) with Australia's human rights obligations, including the Act's evidentiary requirements for proving Indigenous Peoples' connection to country.⁵⁴ The Commission's *Women in Native Title: Native Title Report 2024*⁵⁵ lays out 29 recommendations to better uphold Indigenous rights across a number of key areas. This includes Aboriginal and Torres Strait Islander cultural heritage protection which has been the subject of stalled and failed attempts at legislative reform in jurisdictions across the country.
67. The Australian Government has engaged the Australian Law Reform Commission to review the future acts regime, the legal framework that regulates activities affecting native title rights and interests since the commencement of the *Native Title Act 1993*.⁵⁶ The proposals put forward in the Discussion Paper show promise.⁵⁷ The Commission looks forward to the publication of the final report in March 2026 and to a timely response from the Australian Government.

Recommendation 19: The Australian Government reform the Native Title Act and heritage legislation to protect sacred sites, traditional lands and the cultural estate of Indigenous Peoples, especially in relation to the

evidentiary requirements for connection to country and support for prescribed bodies corporate to maintain native title.

Racism and people from culturally and linguistically diverse backgrounds

68. Systemic and structural racism is deeply embedded throughout Australia and requires an urgent, national response, particularly for Aboriginal and Torres Strait Islander Peoples.⁵⁸ Racism is experienced in the physical and online world. Extremism that targets community members because of their race and/or ethno-religion is a matter of grave concern recognised by the Australian Security Intelligence Organisation.⁵⁹ There is serious racism experienced by people of African and Asian background.⁶⁰ The Commission released a series of resources in 2023 identifying the incidence of anti-Asian racism in Australia, including its rise since the COVID-19 pandemic. The research looked at the history of and changes in anti-Asian racism in Australia, and highlighted community-led research, advocacy, and education efforts to overcome it.⁶¹
69. Over the past 2 years since the escalation of violence in Israel and Gaza there has been an increase in severe antisemitic⁶² and Islamophobic attacks.⁶³
70. The Australian Government has established special envoys to combat antisemitism, and Islamophobia, and funded supports for affected communities. The Commission has undertaken community consultations with affected communities. Additional legal protections against race hate and vilification have been introduced nationally and, in some states, and territories.
71. In 2025, the Commission conducted a national study into the prevalence and impact of racism in Australian universities including in relation to antisemitism, anti-Palestinian racism, Islamophobia and racism against Aboriginal and Torres Strait Islander people. We delivered our report to the Australian Government in December 2025. The Report including its recommendations will be released early in 2026.
72. In December 2025, there was an antisemitic terrorist attack on a Jewish community event celebrating Hanukkah in Sydney in which 15 people were killed by the terrorists. Amongst other responses, the Australian Government has announced a Royal Commission which will inquire into the prevalence and nature of antisemitism and how to address it, the circumstances behind the terrorist attack, strengthening social cohesion and countering ideologically and religiously motivated extremism.⁶⁴
73. In November 2024, following an extensive process of community and sector consultations over recent years, the Commission delivered a [National Anti-Racism Framework \('the Framework'\)](#) to serve as a central reference point for a whole of society approach to eliminating racism. The Framework would provide

a roadmap for governments, non-government organisations, businesses, and civil society organisations to take anti-racist action across sectors.⁶⁵

74. The Framework contains 63 recommendations for a whole of society approach to eliminating racism, with proposed reforms across Australia's legal, justice, health, education, media and arts sectors as well as workplaces and data collection.⁶⁶
75. As a priority, the Commission along with many others has called on the Australian Government to endorse the Framework and establish a National Anti-Racism Taskforce to oversee and advise on the implementation of the Framework. This includes the development of two 5-year Implementation Plans for the Framework, one of which is specific to First Peoples and their unique experiences of racism.⁶⁷
76. The Framework includes recommendations calling for the domestic adoption of the United Nations Declaration on the Rights of Indigenous Peoples and legislative reform of the Racial Discrimination Act 1975 (Cth) including the adoption of a positive duty to eliminate racism in Australian workplaces.⁶⁸

Recommendation 20: The Australian Government implement a National Anti-Racism Framework and establish a National Anti-Racism Taskforce to oversee and advise on the implementation of two 5-year Implementation Plans for the Framework, one specific to First Peoples.

Religious Discrimination

77. The Commission supports the introduction of enforceable protections against religious discrimination for all people in Australia. While there are some protections against religious discrimination in Commonwealth, State and Territory law, these protections are incomplete.
78. Just as Australians are provided with statutory protection against discrimination on the grounds of race, sex, disability, age, sexual orientation, gender identity and sex characteristics so too they should be provided with equivalent protection against discrimination on the ground of religious belief or practice.
79. 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.⁶⁹

80. The Commission also supports reform to the Sex Discrimination Act 1984 to ensure that exemptions for religious bodies and educational institutions established for religious purposes to discriminate in certain areas are appropriately balanced (see para 110 below).

Recommendation 21: The Australian Government introduce protections against discrimination on the basis of religious belief or activity.

People with disability

81. There has been insufficient implementation of the 222 recommendations made by the 2023 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability,⁷⁰ and no comprehensive implementation plan.⁷¹

Recommendation 22: The Australian Government implement the recommendations of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, with a comprehensive implementation plan engaging all aspects of the recommendations.

82. *Australia's Disability Strategy 2021-2031*⁷² lacks alignment with the CRPD, does not take a human rights approach, and has been largely ineffective at improving the rights of people with disability in Australia.⁷³

Recommendation 23: The Australian Government ensure that Australia's Disability Strategy is aligned with CRPD principles and standards and strengthen accountability and governance mechanisms.

83. There is a lack of effective mechanisms to ensure the full and effective participation of people with disability through their representative organisations in government decision-making, including the implementation and monitoring of the CRPD.

Recommendation 24: The Australian Government implement mechanisms for full and effective participation of people with disability through their representative organisations in decision-making and implementation and monitoring of the CRPD, including designating the Australian Human Rights Commission as Independent Monitoring Mechanism under the CRPD.

84. People with disability continue to be segregated from mainstream education⁷⁴ and experience social isolation.
85. Sub-minimum wages are permitted under the 'Supported Wage System' which allows employers to pay people with disability productivity-based wages, in both closed and open employment settings.⁷⁵ Closed employment settings continue to operate and are permitted to pay people with disability as little as \$3.12 per hour (significantly below minimum wages).⁷⁶

86. The number of 'special'/segregated schools across Australia increased by 26% (106 schools) between 2010 and 2022.⁷⁷ The Queensland Government recently announced the establishment of 6 new segregated schools.⁷⁸ The Victorian Government is building one new segregated school to open in 2027.⁷⁹ Despite committing to inclusive education in response to the Royal Commission,⁸⁰ there is continued investment in segregated schooling

87. Institutional and congregate care arrangements, such as group homes, continue to exist and people with disability are often required to live in these arrangements to access supports. Over 7,000 people participating in the NDIS receiving specialist disability accommodation payments⁸¹ live in group homes, often sharing supports and accommodation as a condition of funding.⁸²

Recommendation 25: The Australian Government eliminate segregation of people with disability by redirecting resources to dismantle segregated systems, including by developing national policy roadmaps that uphold human rights standards and principles:

- **A National Roadmap to Inclusive Education.** ⁸³
- **A National Inclusive Employment Roadmap, that includes actions to abolish sub-minimum wages and the Supported Wage System.** ⁸⁴
- **A National Roadmap to phase out congregate care arrangements, including group homes.** ⁸⁵

88. People with disability in Australia continue to face systemic health inequalities that result in poorer health outcomes, unmet health needs, premature death and significantly higher levels of psychological distress than people without disability.⁸⁶ They are also more likely to experience co-morbidities⁸⁷ and are 4 times more likely to die from a range of causes than people without disability.⁸⁸ The life expectancy of people with intellectual disability is 27 years lower than the general population (54 years compared to 81 years for males and 85 years females),⁸⁹ with 38-53% of deaths of people with intellectual disability found to be preventable.⁹⁰ Preventable deaths were also reported to be 3.6 times higher in people with disability using disability support services compared to the general population.⁹¹ Despite these disparities being preventable, barriers to accessible, timely, affordable, and inclusive healthcare across all levels persist.⁹²

Recommendation 26: The Australian Government implement a national policy framework to improve the health and wellbeing of people with disability, including investment in universal design and disability training for health professionals.

89. Australia lacks national uniform legislation prohibiting the involuntary sterilisation of people with disability without their full, free and informed consent.⁹³

Recommendation 27: All Australian Governments implement uniform legislation to prohibit involuntary sterilisation of people with disability.

90. Reforms to the National Disability Insurance Scheme (NDIS)⁹⁴ have seen a regression in the NDIS meeting obligations under the CRPD and to support the independence and social and economic participation of people with disability.⁹⁵ This risks further entrenching segregation and undermining self-determination.⁹⁶ Previous treaty reviews have urged aligning the NDIS with the human rights model of disability,⁹⁷ which was reinforced in the 2023 independent review of the NDIS (NDIS Review).⁹⁸

Recommendation 28: The Australian Government formally respond to the NDIS Review and ensure that reforms to the NDIS are aligned with the CRPD and are independently monitored against human rights standards.

91. Service gaps are widening in access to community based mental health services, increasing unmet needs, contributing to criminalisation of mental health, and causing people to become more unwell before they can access support. Mental health systems are under pressure and crisis driven, which correlates to higher rates of compulsory treatment and restraints.
92. Disability supports and services outside of the NDIS are sparse, underfunded and often inaccessible.⁹⁹ Many universal government services and infrastructure, such as health, transport, and education, remain inaccessible to people with disability impeding inclusion and equal access.¹⁰⁰ Greater investment in universal design and non-discrimination obligations across all service systems is required.

Recommendation 29: All Australian Governments invest in universal design and reform of government services to ensure people with disability can access services on an equal basis with others.

Gender equality and gender-based violence

93. Gendered violence, in all its forms, remains endemic in Australia.¹⁰¹ In Australia in 2025, 52 women were killed as a result of gendered violence.¹⁰² The intersection of gender with other forms of inequality results in women and girls with disability, who are Aboriginal and/or Torres Strait Islander, from culturally and racially marginalised backgrounds, and LGBTIQ+ people experiencing higher rates of violence, as well as additional barriers to support.¹⁰³

Recommendation 30: The Australian Government fund evidenced-based, community-led prevention efforts to gendered violence. This includes specific support for children, identifying the role of men in preventive measures and specific measures to support First Peoples in a way that embeds and promotes cultural safety, place-based approaches and self-determination.

94. Workplace sexual harassment continues to occur at unacceptably high levels, with one in 3 workers experiencing workplace sexual harassment in the last 5 years.¹⁰⁴ We also know that this number is almost 1 in 2 for First Peoples, culturally and racially marginalised people, people with disability, young people and LGBTIQ+ people.¹⁰⁵ In 2024-2025, 34% of complaints made under the Sex Discrimination Act related to sexual or sex based harassment.¹⁰⁶ While the implementation of the Positive Duty provision to the Sex Discrimination Act is a significant step to addressing workplace sexual harassment, more needs to be done. This includes conducting another prevalence survey of workplace sexual harassment in Australia, so we are able to better understand the problem and create effective solutions.
95. Family responsibilities and pregnancy discrimination in the workplace can have significant impacts on women and their connection to employment. In 2024-2025, 9% of complaints made under Sex Discrimination Act related to pregnancy and family responsibilities.¹⁰⁷ When a child arrives, this can be the time of significant shift when more traditional gender roles occur, with women often taking a pause or step back in their career to take on most of the care work. Working towards more balanced sharing of care in families will benefit families and also address a significant barrier to gender equality and women's economic participation by supporting economic independence and career progression. Over time this will also contribute to reducing the gender pay gap.
96. Women continue to undertake a disproportionate amount of paid and unpaid care work.¹⁰⁸ Uptake of parental leave remains highly gendered, with men accounting for only 20% of primary carer leave for any period of time.¹⁰⁹ Policies and workplace cultures still privilege uninterrupted full-time work, penalising those with care responsibilities. This impacts women's economic independence, career progression, and contributes to the gender pay gap, as well as stress, time poverty, and declining quality of life for families. It is likely that these barriers are more pronounced in different communities including people of all genders from culturally and racially marginalised backgrounds, who are Aboriginal and/or Torres Strait Islander, who have a disability or who are from rainbow families. More work needs to be done to better understand the problem and create effective solutions across the full diversity of our community.

Recommendation 31: The Australian Government implement the recommendations of the Australian Human Rights Commission's Speaking from Experience report, including funding the Commission to conduct the sixth National Survey on Sexual Harassment in Australian Workplaces in 2026 with specific funding for intersectional data collection, reporting and analysis.

Recommendation 32: The Australian Government fund intersectional research and through its agencies, collect intersectional data to better understand and address barriers in the workplace including discrimination on the basis of pregnancy and family responsibilities.

Recommendation 33: The Australian Government through law and policy, recognise women's unpaid labour, and address the systemic undervaluing of work in feminised industries, such as care, particularly for culturally and racially marginalised women.

97. Barriers to the achievement of gender equality remain. For example, a lack of intersectional data limits understandings of the lived experience of people with disability and from LGBTIQ+, First Peoples and culturally and racially marginalised backgrounds. Additionally, access to reproductive and consent education is limited, and the perpetuation of harmful gender attitudes, stereotypes and norms continue to limit opportunities for all people.¹¹⁰

Recommendation 34: The Australian Government provide ongoing funding for evidence-based, inclusive education covering relationships, consent and sexual and reproductive health, as well as education on harmful gender attitudes, stereotypes and norms.

98. There are a range of gender equality gaps in Australia that impact on women's right to work, right to just and favourable conditions of work and right to adequate standard of living for themselves and their family. Australia's total remuneration average gender pay gap is 21.1%.¹¹¹ This means that for every \$1 a man makes, a woman on average makes 79 cents.¹¹² This gap is even higher for Aboriginal and/or Torres Strait Islander women, who earn 65 cents to every dollar earned by men.¹¹³

Recommendation 35: The Australian Government amend the Workplace Gender Equality Act 2012 (Cth) to create safer, more inclusive workplaces by requiring data collection on the experiences of workers with disability, who are LGBTIQ+, First Peoples, and culturally and racially marginalised backgrounds. The Government should introduce numeric targets under each Gender Equality Indicator to improve visibility of systemic inequities, support evidence-based action and strengthen employer accountability for the safety and wellbeing of all workers

Older persons

99. Ageism is rife in Australia. A 2021 national survey by the Commission found that 90% of adults agreed ageism exists in Australian society, 63% had personally experienced it, and 60% admitted to stereotyping or making assumptions about others based on age.¹¹⁴

100. Ageism, age stereotyping and age discrimination remain significant barriers to the participation of older people in the workforce and to achieving quality outcomes in aged care, health and other contexts.
101. Commission research has found persistent negative portrayals of ageing in Australian media.¹¹⁵ Ageism is also experienced across multiple levels of the healthcare system, from interpersonal interactions with health professionals to broader health system and policy contexts, with older adults reporting experiences of being dismissed, excluded from decision-making, and stereotyped in healthcare settings.¹¹⁶
102. A 2016 national inquiry conducted by the Commission found that many people are excluded from work because of assumptions, stereotypes and myths associated with their age. These beliefs can lead to discrimination during recruitment, in the workplace, and in decisions about training, promotion, and retirement.¹¹⁷ Almost a decade on from the Inquiry, age discrimination remains a significant challenge. In 2024-2025, 53% of complaints made under the Age Discrimination Act related to employment.¹¹⁸ A 2025 survey conducted by the Commission and Australian Human Resources Institute found nearly 18% of HR professionals refuse to hire anyone aged 65 or over, and 24% now classify workers aged 51–55 as “older,” up from 10% in 2023.¹¹⁹ In the context of Australia’s ageing population and workforce, a national strategy to promote age inclusive workforce participation and prevent age-based discrimination will be critical.
103. With an ageing population, the risk and incidence of elder abuse is also likely to increase.¹²⁰ The Australian Government’s *National Plan to End the Abuse and Mistreatment of Older People 2024-2034* is due for release and will take a national approach to prevent, respond and ultimately end elder abuse. There remains an urgent need for the Australian Government to take national leadership to address inconsistencies in enduring power of attorney laws across Australia and to coordinate the establishment of national adult safeguarding laws and independent bodies in all states and territories.^{121, 122}

Recommendation 36: The Australian Government improve responses to workplace discrimination, elder abuse and ageism against older Australians; and efforts to ensure that human rights are fully applied to older persons.

Recommendation 37: The Australian Government address barriers to participation in the workforce for older persons; invest in updated national prevalence data on age discrimination in employment; and adopt a national strategy to promote age diverse workforces.

104. There is currently no binding international instrument on the human rights of older persons to provide specific and comprehensive guidance for protecting the rights of older persons in Australian law and policy.
105. For example, while Australia's new Aged Care Act 2024 introduced a Statement of Rights that aged care providers are obligated to uphold, the rights are not grounded in any comprehensive binding international treaty dedicated to older persons and older people have limited avenue for personal redress as the rights are not directly enforceable by proceedings in a court or tribunal.¹²³ According to the *Inspector-General of Aged Care 2025 Progress Report*, Australia has yet to fully embed a rights-based approach in aged care, despite recommendation by the 2021 Royal Commission into Quality and Safety in Aged Care.¹²⁴

Recommendation 38: The Australian Government support the creation of a UN Convention on the Rights of Older Persons.

Lesbian, gay, bisexual, trans, gender diverse and intersex people

106. Around 4.5% of Australians 16 years and over are LGBTI+.¹²⁵ LGBTI+ people come from all walks of life and backgrounds. Their intersecting identities and marginalisations should be considered when addressing other human rights issues (i.e. those facing First Peoples, people with disability, culturally and racially marginalised, children).
107. Legislation to protect people on the basis of sexual orientation, gender identity, gender expression, and sex characteristics remains inconsistent nationally. LGBTIQ+ individuals continue to experience discrimination, vilification and violence.¹²⁶ The federal Sex Discrimination Act 1984 continues to provide exemptions for religious institutions, including schools, shelters and health services, to discriminate against LGBTIQ+ people.¹²⁷
108. Children with innate variations in sex characteristics are not adequately protected from unnecessary medical interventions.^{128,129} Legal protections exist in one Australian jurisdiction, the Australian Capital Territory, and are progressing in Victoria.
109. State and territory anti-discrimination laws currently provide similar protections to federal laws against discrimination on the grounds of sex, sexual orientation, gender identity and intersex status. However, as noted in the *Federal Government's Sixth periodic report* (para. 87–88), the scope and application of religious exemptions vary significantly across jurisdictions.¹³⁰ This inconsistency has become increasingly problematic. Over the past year, representatives of religious schools in Tasmania and Victoria have argued that federal exemptions override state-based protections.¹³¹ This has created confusion, undermined

legal certainty and risked undermining protections for staff and students to their right to an education and to freely chosen employment (Article 6).

110. In March 2024 the Australian Law Reform Commission released their report, *Maximising the Realisation of Human Rights: Educational Institutions and Anti-Discrimination Laws*. This report made recommendations about amendments to the *Sex Discrimination Act 1984* that would balance the rights of staff, students and service users with the ability of religious institutions to uphold their values.¹³² The Australian Government has not acted on these recommendations.

Recommendation 39: The Australian Government amend the *Sex Discrimination Act 1984* (Cth) to revise exemptions for religious institutions.

Recommendation 40: The Australian Government, and through the State and Territory governments ensure comprehensive legislative protection for LGBTIQ+ individuals from discrimination and vilification in all settings.

111. Gender-affirming healthcare, especially for children and young people, has come under sustained attack from various organisations, politicians and media. Some actors draw on disinformation and misinformation and propose alternative practices to treat gender dysphoria, including non-affirming psychosocial interventions such as the “watchful waiting” approach. The effectiveness of such approaches in relieving the impacts of gender dysphoria is not supported by evidence,¹³³ and may fit definitions of conversion or suppression practices if underpinned by “the belief that any sexuality and gender identity than heterosexual and cisgender is defective” and abnormal.¹³⁴ Evidence shows that gender-affirming healthcare is safe, effective and supports the mental health and wellbeing of trans and gender diverse people, including children and young people.
112. The Queensland and Northern Territory Governments have implemented a pause on the prescription of puberty suppressants and hormone replacement therapies for trans and gender diverse children in the public health system until at least 2031. The Commission has raised concerns with the impact this decision may have on the human rights of children living in these jurisdictions, including their right to the highest attainable standard of physical and mental health.¹³⁵
113. After the Queensland Government’s initial action, the Federal Minister for Health and Aged Care announced that the National Health and Medical Research Council would conduct a review and develop guidelines around trans and gender diverse children’s healthcare. The inclusion of lived experience and relevant expertise in this review process is welcomed by the Commission. It is expected to publish interim guidelines in 2026.

Recommendation 41: The Australian Government, and through the State and Territory governments ensure access to evidence-based gender-affirming healthcare, without exception.

114. Education and public awareness of diverse sexual orientations, gender identities and variations of sex characteristics are insufficient. Curricula across all levels of education, including in fields like law, medicine and public health, do not adequately cover LGBTIQ+ experiences, civil rights and the contribution of LGBTIQ+ people in Australia's history. When educational settings fail to accommodate or protect the experiences of LGBTIQ+ people, this has cascading effects on workplace culture, social participation, non-discriminatory service delivery and access to redress when discrimination occurs. It also contributes to an environment in which misinformation, disinformation, sensationalist media coverage and politicisation of LGBTIQ+ issues for short-term gain can occur with few impediments.
115. Anti-LGBTIQ+ rhetoric and violence are increasing in Australia.¹³⁶ Homophobic, biphobic and transphobic attitudes have risen in the past few years.¹³⁷ A lack of positive Australian Government leadership to counter this rhetoric, the lack of a dedicated minister, ministerial portfolio or federal advisory body, and the absence of LGBTIQ+ populations from any national data sets further enforce the invisibility of LGBTIQ+ populations in policy, planning and decision making.

Recommendation 42: The Australian Government establish measures to ensure that LGBTIQ+ communities are self-represented in policy, curriculum development and planning and are safely represented in data collection.

116. The Australian Government's Sixth periodic report noted the disproportionate mental illness and suicide rates in the LGBTIQ+ community (para. 304). The context of these high rates of mental ill health is important. It is not because LGBTIQ+ people are disordered, but rather because of the societal stigma, discrimination, violence, homophobic/biphobic/transphobic attitudes, misinformation, disinformation and politicisation of LGBTIQ+ lives noted above. Addressing the challenges of mental ill health in the LGBTIQ+ community to ensure the highest attainable standard of health (article 12) requires the consideration and response to the social determinants of these health outcomes.
117. Underfunded LGBTIQ+ civil society and services are under increasing pressure to simultaneously educate governments and address the impacts of rising hostility on LGBTIQ+ populations. Homophobia, biphobia and transphobia is often compounded for people with intersecting experiences of poverty,¹³⁸ homelessness, racism, sexism, ableism and ageism. The confluence of funding

insecurity, increased scrutiny and rising demand is creating unsafe environments.¹³⁹

118. The Commission welcomes the inclusion of questions in the 2026 Australian Census to capture population data on sexual orientation and gender identity for people 16 years and over and the development of an LGBTIQ violence prevention framework as positive developments. Sufficient funding must be made available to ensure the successful implementation of this framework and the *National Action Plan for the Health and Wellbeing of LGBTIQ+ People 2025-2035* to ensure LGBTIQ+ populations have access to the highest attainable standard of health (Article 12).

Recommendation 43: The Australian Government conduct evidence-based education and public awareness measures to improve understanding and inclusion of LGBTIQ+ communities in all their diversity, and to address and prevent discriminatory attitudes.

Recommendation 44: The Australian Government provide ongoing and sustainable funding for the implementation of the National Action Plan for the Health and Wellbeing of LGBTIQ+ People 2025-2035

Children

119. There are inadequate legal protections for children's rights in Australia, including limited access to remedies. Significant gaps in the implementation of children's rights, including economic, social and cultural rights, exist across all areas of data collection, policy, programs and service delivery.¹⁴⁰ The Commission has recommended that the Australian Government fully incorporate the *Convention on the Rights of the Child* (CRC) into Australian law; develop a National Plan for Child Wellbeing and a national children's data framework; and create a Cabinet-level Minister for children's rights.¹⁴¹ The Commission's model Human Rights Act, discussed earlier, as well as a national Children's Rights Act, would more comprehensively protect children's rights in legislation.¹⁴²

Recommendation 45: The Australian Government fully incorporate the CRC into Australian law; develop a National Plan for Child Wellbeing and a national children's data framework; and create a Cabinet-level Minister for children's rights.

120. In 2023, the Australian Child Maltreatment Study (ACMS), the first Australian prevalence of child maltreatment study, revealed high rates of maltreatment in childhood including physical, sexual and emotional abuse, neglect and exposure to domestic violence. The ACMS reported that 40.2% of young people aged 16-24 years experienced one or more types of child maltreatment.¹⁴³

121. Higher rates of maltreatment substantiations are reported among Aboriginal and Torres Strait Islander children, children living in very remote areas, and children living in the lowest socioeconomic areas¹⁴⁴.
122. Aboriginal and Torres Strait Islander children are overrepresented in out-of-home care. The rate of Aboriginal and Torres Strait Islander children in out-of-home care has increased from 47.3 per 1,000 children in 2019 to 50.3 in 2024.¹⁴⁵
123. There is an urgent need for investment in prevention and early intervention approaches that address the underlying causes of child protection intervention, including poverty, intergenerational trauma, violence and abuse, racism, homelessness, and inadequate healthcare.
124. Most of the expenditure in child protection is spent in out-of-home care, rather than in primary prevention and early intervention. Total recurrent expenditure on family support, intensive family support, protective intervention, and out-of-home care was approximately \$10.2 billion nationally in 2023-2024, with out-of-home care services accounting for \$6.6 billion (64.9%) of that total.¹⁴⁶

Recommendation 46: The Australian Government urgently prioritise and invest in prevention and early intervention programs to stop child maltreatment and prevent children entering child protection systems.

125. Children and young people consistently report mental health as a critical issue in their lives. Many report challenges relating to anxiety, depression, stress and worry.¹⁴⁷ Suicide is the leading cause of death among young people aged 15–24 years¹⁴⁸ and thoughts and acts of self-injury are common amongst adolescents aged 14–17.¹⁴⁹
126. While some professional services are available to support children and adolescents with mental health concerns, there are gaps in access, particularly for children under 12.¹⁵⁰ Half of all adult mental health challenges emerge before the age of 14, yet more than 50% of children experiencing mental health challenges are not receiving professional help.¹⁵¹ Barriers to accessing services include costs, wait times, not enough services to meet demands and lack of culturally safe services.¹⁵²
127. The National Children’s Mental Health and Wellbeing Strategy was released in 2021 with a focus on children from birth through to 12 years of age, as well as the families and communities that nurture them.¹⁵³

Recommendation 47: The Australian Government fully implement the National Children’s Mental Health and Wellbeing Strategy and expand wraparound, holistic mental health services targeted to children, young people and their families.

128. In 2024, the Commission released the *Help way earlier!* report, proposing reforms to address the key human rights challenges in child justice systems

nationally.¹⁵⁴ The Commission found that many children who become involved in the child justice system in Australia have experiences of poverty, family, domestic and sexual violence, child abuse and neglect, out-of-home care, homelessness, drug and alcohol use, mental health issues and disability.¹⁵⁵ Australia's systems are failing to address these social determinants of offending by children, and are instead pursuing more punitive responses that are not based on evidence or human rights. The 24 recommendations of the report have yet to be formally responded to or implemented by the government.

129. The minimum age of criminal responsibility is 10 years in 6 of 8 Australian states and territories and under federal criminal law. The ACT increased the age to 14 years, with exceptions for serious offences, in 2025.¹⁵⁶ Victoria raised the age to 12 years in 2024.¹⁵⁷ The Northern Territory lowered the age to 10 in 2024.¹⁵⁸
130. Aboriginal and Torres Strait Islander children are disproportionately overrepresented in every aspect of the child justice system. Nationally in 2023-24, the rate of Aboriginal and Torres Strait Islander young people aged 10–17 years in detention on an average day was 26 times the rate of non-Indigenous young people.¹⁵⁹ About 3 in 4 Aboriginal and Torres Strait Islander young people under youth justice supervision had an interaction with child protection services in the last 10 years.¹⁶⁰
131. Children with disability are also significantly overrepresented in the criminal justice system,¹⁶¹ particularly Aboriginal and Torres Strait Islander children.¹⁶² The Disability Royal Commission found that detention settings lack access to therapeutic support, trauma-informed care, and timely screening and assessment.
132. Some states and territories in Australia are increasingly adopting harsher responses to child crime. Queensland, Victoria and the Northern Territory have passed legislation which means detention is no longer a 'last resort' for children.¹⁶³ Mandatory minimum sentences for children apply in Western Australia, Northern Territory and Queensland for certain offences.¹⁶⁴ Many Australian states and territories have passed legislation which makes it more difficult for children to get bail.¹⁶⁵ This is likely to increase child incarceration and disproportionately impact Aboriginal and Torres Strait Islander children.
133. In Australia, the power to isolate a child within a detention facility is subject to statutory limitations. However, these protections vary by jurisdiction¹⁶⁶ and only Victoria has passed legislation to prohibit solitary confinement.¹⁶⁷ There have also been reported incidents of children being held with adults in police watch houses. Only South Australia and NSW ban the use of spit hoods.¹⁶⁸

Recommendation 48: The Australian Government implement the recommendations of the *Help way earlier!* report, including by:

- **prioritising early intervention and prevention programs to prevent children entering the child justice system**
- **raising the minimum age of criminal responsibility in all jurisdictions to 14 years**
- **setting national standards on the treatment of children in the criminal justice system based on Australia's human rights obligations**
- **legislating that children shall only be detained as a last resort**
- **ensuring that children are not held in adult facilities such as watch houses**
- **legislating to prohibit solitary confinement of children in detention.**

134. The quality of early childhood education in Australia has been called into question recently, with allegations of physical and sexual abuse and inappropriate discipline used against children, as well as inconsistent regulation and a shortage of suitably qualified staff.¹⁶⁹ This has exposed gaps in the regulatory systems that are supposed to ensure child safety. Governments have agreed to a range of legislative reforms to the sector but more needs to be done to ensure that child safety is the paramount consideration, including implementing fully the recommendations of the 2017 Royal Commission into Institutional Responses to Child Sexual Abuse on making institutions child safe.¹⁷⁰

Recommendation 49: The Australian Government fully implement the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse on child safety, including nationally consistent systems of working with children checks, information sharing, reportable conduct, and child safe standards.

135. Over the last 9 years, school student attendance rates across all year levels have fallen. In 2024, student attendance rates for Years 1-10 (ages 6 – 16) were 88% for all schools, down from 93% in 2015.¹⁷¹ Attendance rates are lower for Aboriginal and Torres Strait Islander children and children in remote areas.¹⁷² Children facing multiple disadvantage have told the Commission that they would like to go to school but feel disengaged, as if they do not belong, and that the schools do not address their needs, including their need for mental health support, especially culturally appropriate mental health support.¹⁷³ The Commission has recommended that schools integrate with health and family support services and provide culturally safe and flexible learning options.¹⁷⁴

Recommendation 50: The Australian Government resource schools to integrate with health and family support services and provide culturally safe and flexible learning options.

136. Aboriginal and Torres Strait Islander children consistently raise the importance of maintaining connections to culture and language.¹⁷⁵ While the National

Curriculum for schools includes a framework for Aboriginal and Torres Strait Islander languages,¹⁷⁶ the programs implemented in schools vary greatly across jurisdictions. Progress in implementing the actions in the 5 inter-connected themes outlined in Australia's Action Plan for the International Decade of Indigenous Languages 2022–2032 is unknown.¹⁷⁷

Recommendation 51 The Australian Government implement the actions in the five inter-connected themes outlined in Australia's Action Plan for the International Decade of Indigenous Languages 2022–2032.

Refugees, asylum seekers and migrants

137. In late 2025, Australia reached a significant milestone by welcoming its one millionth refugee fleeing persecution and violence since World War 2. However, important aspects of Australia's approach to asylum seekers and refugees remain among the harshest in the world. Australia has a long-standing policy of mandatory detention for all non-citizens arriving or remaining in Australia without a valid visa, including children, regardless of risk.¹⁷⁸
138. Australian legislation does not impose a time limit on immigration detention or prohibit detaining children. Australia's immigration detention system has led to serious human rights harms including arbitrary and prolonged detention, inadequate living conditions and facilities, physical and mental health deterioration, lack of access to meaningful activities, services and support, family separation and harmful impacts on children.¹⁷⁹
139. While there has been a decrease in the average time spent in detention, it remains high, at 466 days as of 30 November 2025.¹⁸⁰ As of 30 November 2025, there are 68 people currently in detention who have been there for more than 5 years.¹⁸¹
140. The High Court of Australia ruled in *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs* (2023) 280 CLR 137 (*NZYQ*) that it is unlawful to detain a person without a valid visa indefinitely in immigration detention when there is no real prospect of their removal from Australia in the foreseeable future.
141. As a result of this decision, the Australian Government released 358 people from immigration detention, who were subject to removal from Australia after their visas were cancelled or refused.¹⁸²
142. The Australian Government then enacted new laws that raise significant concerns about Australia's compliance with its international obligations.¹⁸³ Some potentially impact a much wider group of people than the *NZYQ* cohort with criminal records, such as people who had their refugee claims refused under a now discontinued 'fast-track' process.

143. Amendments to the *Migration Act 1958* (Cth) allow the Australian Government to pay other countries to accept non-citizens, including refugees whose protection finding has been reversed.¹⁸⁴ Another amendment to the Migration Act criminalises non-cooperation with removal with up to 5 years imprisonment or 300 penalty units, or both.¹⁸⁵
144. Despite the decision in *NZYQ*, in Australia a person can still be subject to indefinite detention in certain circumstances. In *SF17 v Commonwealth* [2024] HCA 19, the High Court ruled that the prolonged and indefinite detention of a person remains lawful where they ‘voluntarily’ refuse to cooperate with removal, even if they are refusing to cooperate because they fear serious harm in their home country.

Recommendation 52: The Australian Government should end its policy of mandatory immigration detention and implement alternatives to detention. Immigration detention should only be used as a last resort, be strictly limited and time bound. The *Migration Act 1958* (Cth) should be amended to prohibit the detention of children in all circumstances.

The Legacy Caseload and Pathways to Protection

145. In 2023, in a welcome development, Australia extended permanent protection to 19,000 people holding temporary visas who had arrived in Australia by boat before 2014 (the ‘Legacy Caseload’), granting them social security and family reunification rights.¹⁸⁶
146. However, more than 2,500 asylum seekers in the ‘Legacy Caseload’ remain in limbo, still awaiting a decision on their claim.¹⁸⁷ More than 8,800 people had their protection claims rejected under a flawed fast-track process.¹⁸⁸ These people have been in Australia for over a decade and established strong family and community ties in Australia, including having children who are Australian citizens.¹⁸⁹
147. In 2019, a Commission report highlighted prolonged delays in processing, limited access to support services, ineligibility for permanent residency and restrictions on family reunion for people in the Legacy Caseload, leading to financial hardship, deteriorating mental health and poorer settlement outcomes.¹⁹⁰

Recommendation 53: The Australian Government should provide clear and swift pathways for the assessment of protection claims for all asylum seekers and refugees whose claims were previously rejected under the fast-track process.

Temporary Protection

148. Asylum seekers who arrive by boat without a valid visa, or by plane and have their visa cancelled before clearing immigration are only eligible to apply for temporary protection.¹⁹¹ Further, a statutory bar prevents people who arrive by boat from lodging a valid visa application unless the Minister for Home Affairs personally lifts the bar.¹⁹²
149. Making protection temporary and dependent on the discretion of a Minister is an insufficient safeguard to protect against return to harm and creates significant barriers to accessing fair and efficient refugee status determination and pathways to permanent protection.
150. The Commission is also concerned that certain asylum seekers and migrants do not have sufficient support to maintain an adequate standard of living.¹⁹³ Temporary visa holders do not have access to the same services and entitlements as permanent visa holders. They are not eligible for family reunion or a range of settlement services, and face barriers to accessing tertiary education.
151. The uncertainty and insecurity caused by temporary protection contributes to serious and ongoing mental health issues among refugees and asylum seekers, compounding the challenges they face in rebuilding their lives.

Recommendation 54: The Australian Government should abolish its temporary protection visa regime for asylum seekers who arrive without a valid visa and ensure clear pathways to permanent protection and family reunification.

Offshore Processing and Third Country Arrangements

152. Australia's ongoing offshore processing regime for asylum seekers who arrive by boat is inconsistent with international law.¹⁹⁴ The Commission and other bodies have consistently documented serious human rights violations against people removed to Nauru and Papua New Guinea. These include prolonged and arbitrary detention, inadequate living conditions, physical and sexual assault, limited health care, poor physical and mental health outcomes, and the risk of *refoulement*.¹⁹⁵ Preventable deaths have occurred as a result of Australia's offshore processing arrangements, including cases of suicide, homicide, delayed or denied access to medical treatment, and failures to evacuate individuals in time for life-saving care.¹⁹⁶
153. In October 2024, the UN Human Rights Committee ruled that Australia was responsible for the arbitrary detention of asylum seekers transferred to offshore detention facilities in Nauru in 2013 and 2014.¹⁹⁷ The Commission has long maintained that transferring asylum seekers offshore does not release Australia from its international obligations.¹⁹⁸

154. Australia continues to send people to an Australian-funded centre on Nauru. According to the latest government statistics, as of 31 August 2024, there were 94 'transitory persons' in Nauru.¹⁹⁹
155. The Commission remains seriously concerned about the conditions and treatment of asylum seekers and refugees in Nauru. There has been no independent oversight of offshore processing since 2019, nor of the new arrangement with Nauru. Limited reports from media, caseworkers and human rights organisations indicate that healthcare is inadequate, with no access to specialist care or dedicated counselling for trauma and torture survivors. An outbreak of dengue fever reportedly led at least 9 asylum seekers to contract the illness, including one man who was medically evacuated to Australia for treatment but then returned to the island during the outbreak.²⁰⁰ People in detention have reported having their phones confiscated and replaced with basic devices that cannot take photos, restricting their ability to contact family or support groups, or to document their situation.
156. Asylum seekers sent to Nauru reportedly face significant hardships, including the inability to afford food, restrictions on working to support themselves, and a rise in violent incidents.²⁰¹ Persistent concerns remain about the security arrangements on the island.²⁰²
157. In February 2025, the Government announced an interim arrangement with Nauru to receive 3 people from the NZYQ cohort. These people, who have completed sentences for past criminal offences, had been released from immigration detention but were subsequently re-detained pending removal to Nauru.²⁰³ Nauru granted long term visas to live in Nauru for a minimum of 30 years with rights to work, move freely around the island and access social services.²⁰⁴ These 3 men brought legal challenges against their removal and, as at 9 January 2026 do not appear to have been removed pending the outcome.²⁰⁵
158. In August 2025, Australia and Nauru signed a memorandum of understanding (MOU) to facilitate the removal of certain migrants to Nauru.²⁰⁶ The Australian Government has stated that the 'MOU will allow the continued management of the NZYQ cohort'.²⁰⁷ Under the agreement, Australia committed up to \$2.5 billion over the 30-year life of the agreement, including an upfront payment of \$408 million and annual payments of \$70 million thereafter.²⁰⁸ The Australian Government has stated that the agreement includes undertakings to ensure the proper treatment of people transferred.²⁰⁹ Some information about the interim arrangement and MOU has been revealed through court cases and parliamentary processes.²¹⁰ However, there are outstanding questions regarding, for example, how Nauru's commitments will be enforced, recourse for people if their rights are breached and oversight mechanisms.

159. Recent amendments to the Migration Act removed existing safeguards and procedural fairness that would afford migrants the opportunity to be informed and respond before a decision is made regarding their removal to a third country that has significant implications for their rights to life, safety, health and family unity.²¹¹
160. The Minister for Home Affairs confirmed that an initial transfer to Nauru occurred on 24 October 2025 but did not disclose the number of people removed.²¹² The Government later confirmed that as of 2 December 2025, 5 people had been transferred from Australia to Nauru, including refugees.²¹³
161. While Australia has stopped sending asylum seekers intercepted at sea to Papua New Guinea (PNG), as of July 2025, 37 refugees and asylum seekers transferred by Australia to PNG still remain there, along with their families.²¹⁴ They currently live in Port Moresby in the community, having spent over a decade in PNG following their detention on Manus Island.
162. The Commission continues to hold serious concerns that people remaining in PNG who were previously detained on Manus Island may be subjected to inadequate living conditions. Disputes over unpaid bills between the Australian and PNG Governments have led to forcible evictions and the cutting of basic income, medical and support services, which were restored after one year to a minimum level.²¹⁵ The Asylum Seeker Resource Centre (ASRC) reports that most of the refugees remaining are extremely unwell and traumatised and face barriers to accessing healthcare.²¹⁶ According to the ASRC, the refugees and their families have experienced violent attacks, thefts and home invasions in Port Moresby. Many fear for their lives and the safety of their children and are too frightened to leave their accommodation.²¹⁷

Recommendation 55: The Australian Government should end its offshore asylum processing and third country reception arrangements. It should provide viable, long-term protection pathways for all asylum seekers and refugees subject to offshore processing, including those already in Australia. In the interim, Australia must ensure that adequate safeguards are in place, compliance with international standards and independent monitoring and oversight.

OPCAT and adequate oversight of places of detention

163. The Commission welcomes the progress Australia has made in implementing OPCAT since ratification in 2017. OPCAT requires Australia to establish mechanisms to prevent torture and inhumane treatment in places of detention. The multi-body Australian National Preventive Mechanism (NPM) currently consists of 12 members across 6 Australian jurisdictions, with the Commonwealth Ombudsman designated as the NPM Coordinator.

164. However, progress has been too slow. On 20 January 2023, Australia missed its extended deadline to fully implement its obligations under OPCAT.²¹⁸ New South Wales, Queensland and Victoria have yet to designate their NPMs. Concerns have been raised about Australia's distinction between 'primary' and 'secondary' places of detention.²¹⁹ In 2022, the Commission published a *Roadmap to OPCAT Compliance*, outlining the immediate steps Australian governments need to take to fully implement OPCAT.²²⁰
165. The Commission has ongoing concerns about conditions and treatment in prisons, youth detention centres, immigration facilities and other places of forcible detention, including hospitals, aged care, mental health and disability facilities across Australia. Effective oversight mechanisms are critical to preventing and addressing mistreatment and abusive practices and to ensure fundamental rights are upheld, including the rights to an adequate standard of living, to health and to take part in cultural life.
166. In October 2022, a delegation from the UN Subcommittee on the Prevention of Torture (SPT) suspended its first country visit to Australia after being refused entry to detention sites in NSW and Queensland. After failing to receive adequate assurances, the SPT took the extraordinary step of terminating the visit on 20 February 2023.²²¹

Recommendation 56: All Australian jurisdictions should have National Preventive Mechanisms (NPMs) fully operating and funded without delay and should implement the recommendations of the Commission's Road Map to OPCAT Compliance report.

Human Rights and the Environment

167. Climate change will have severe impacts on people's human rights in Australia, including through more frequent and severe extreme weather and natural disasters including bushfires and floods. People's rights that will be directly affected include rights to life, food, water, health, work and an adequate standard of living. Other rights will be indirectly affected.
168. The impacts of climate change will not be felt equally by people in Australia. Those who are already disadvantaged are more vulnerable. People living in poverty, older people, people with a disability, First Peoples and rural communities will be hit harder.
169. There is an urgent need to take action to limit global warming in accordance with Australia's commitments under the Paris Agreement. Based on 2024 emission projections, Australia is unlikely to reach its legislated 2030 target of reducing emissions by 43% below 2005 levels.
170. In September this year, the Australian Government announced a more ambitious target to cut emissions by 62-70% below 2005 levels by 2035. This

announcement has been acknowledged as progress, however criticised as not enough of a global contribution to prevent the catastrophic impacts laid out in the National Climate Risk Assessment.

171. While the Australian Government has legislated the Climate Change Act 2022 (Cth) (CCA), the CCA is not sufficient in enforcing duties in relation to achieving Australia's emissions reduction targets or requiring human rights consideration in decision making concerning climate change, emissions or the environment.
172. Children will experience the most extreme impacts of climate change for a greater portion of their lives. Their state of physiological and psychological development also increases their risk of death, disease and trauma compared to adults.²²² Two-thirds of young people in Australia identify climate change as harmful to their mental health, with 77% believing that stronger action from the Australian Government would improve mental wellbeing.²²³ These impacts are compounded for children who live in rural and remote areas and for Aboriginal and Torres Strait Islander children.²²⁴

Recommendation 57: The Australian Government take action to limit global warming to 1.5 degrees including by urgently phasing out fossil fuels and fossil fuel subsidies.

Business and Human Rights

173. Businesses can have significant positive or negative impacts on human rights through their operations, supply chains and business relationships.
174. While other countries have introduced laws requiring businesses to conduct human rights due diligence, Australia currently lacks due diligence legislation. This undermines the implementation of the United Nations Guiding Principles on Business and Human Rights and leaves workers, communities and consumers vulnerable to human rights abuses. Voluntary measures are inadequate to ensure consistent and effective human rights protection across industries.
175. The Australian Government has noted the recommendation from the statutory review into the Modern Slavery Act 2018 (Cth) ('McMillan Review') that the Act be amended to introduce obligations for a due diligence system. This recommendation should not only be introduced with respect to modern slavery obligations, but should be extended to introduce a mandatory human rights due diligence obligation upon businesses that reflects their broader obligations under the United Nations Guiding Principles on Businesses and Human Rights.²²⁵

Recommendation 58: The Australian Government legislate human rights due diligence requirements for businesses.

Slavery and trafficking

176. Australia is not immune from modern slavery. The 2023 Global Slavery Index estimates that on any given day in 2021, there were 41,000 people living in modern slavery in Australia.²²⁶ The Australian Government has taken positive steps to address modern slavery, including through developing the *National Action Plan to Combat Modern Slavery 2020 – 25* (*'National Action Plan'*),²²⁷ reviews into both the *Modern Slavery Act 2018 (Cth)* (*'McMillan Review'*) and Divisions 270 and 217 of the *Criminal Code Act 1995 (Cth)*, additional funding for the Support for Trafficked People Program (including the creation of an Alternative Referral Pathway pilot), passing the *Migration Amendment (Strengthening Employer Compliance) Act 2024* to enhance protections against migrant worker exploitation, and the recent appointment of Australia's inaugural Anti-Slavery Commissioner, Mr Chris Evans.²²⁸
177. The McMillan Review was a comprehensive statutory review of the first three years of the operation of the *Modern Slavery Act*. It made thirty recommendations for changes to strengthen Australia's anti-slavery framework, and the Australian Government has agreed in full or in-principle to 25 out of the 30 recommendations.²²⁹ The recommendations of the McMillan Review should be implemented in full, including lowering the revenue threshold for modern slavery report (from \$100 million to \$50 million), introducing penalties for non-compliance, requiring reporting entities to have a due diligence system for responding to modern slavery risks, and introducing a high-risk declaration procedure.
178. The Commission also welcomes the completion of the overview of state and territory victims of crime financial assistance schemes and their availability to victims and survivors of modern slavery (which delivers action item 27 of the *National Action Plan*) but recommends the introduction of a national compensation scheme to strengthen the commitment to afford victims and survivors of modern slavery access to effective remedies.²³⁰
179. Forced marriage is amongst the most common forms of modern slavery reported to Australian authorities, with the Australian Federal Police receiving 91 reports of forced marriage in 2023-24.²³¹ The Australian Government has undertaken public consultations to inform the development of enhanced civil protections and remedies for people in or at risk of forced marriage, focused on the areas of building a shared understanding of forced marriage as a form of family and domestic violence, enhancing education and awareness raising, and strengthening forced marriage civil protections and remedies.²³² This is being done in partnership with all state and territory governments, but no clear timeline has been announced for the progression of this work.

Recommendation 59: The Australian Government should implement the recommendations made by the *McMillan Review* and introduce a national compensation scheme for victims and survivors of modern slavery and human trafficking and strengthen forced marriage civil protections and remedies.

Technology and human rights

180. Emerging technologies such as Artificial Intelligence (AI) and neurotechnology are reshaping our world. They offer both powerful opportunities and challenges to human rights.
181. A National AI Plan will guide the development and deployment of AI in Australia. The Australian Government consulted on a prospective AI Act providing for risk-based regulation of AI tools, which the Commission supported.²³³ The announced plan, however, shifts away from mandatory guardrails to reliance on existing legal frameworks.²³⁴ The Australian Government has also announced creation of an Australian Artificial Intelligence Safety Institute²³⁵ and a commitment to legislating a digital duty of care under the *Online Safety Act 2021* (Cth).²³⁶ As Australia's AI regulatory framework is developing, it is essential to embed strong human rights protections including mandatory risk based guardrails, adequately resourced oversight, and systemic transparency and accountability.

Recommendation 60: The Australian Government should introduce a risk-based and preventative approach to AI regulation centered on human rights, including a specific AI Act to address the need for mandatory guardrails in high-risk settings.

182. The Commission's [Peace of Mind](#) report on neurotechnology highlights another technology which poses significant risks and opportunities for rights fulfilment.

Recommendation 61: The Australian Government should implement the recommendations made in the *Peace of Mind* report on neurotechnology.

Endnotes

- ¹ '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.
 - ² Australian Human Rights Commission Act 1986 (Cth).
 - ³ 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), Recommendations 146.23 – 146.30.
 - ⁴ 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), [6].
 - ⁵ Australian Human Rights Commission, [*Free & Equal: a reform agenda for federal discrimination laws*](#) (Position Paper, December 2021). 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.
 - ⁶ Australian Human Rights Commission, [*Free & Equal: a reform agenda for federal discrimination laws*](#) (Position Paper, December 2021) 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.
 - ⁷ Australian Human Rights Commission, [*A national Human Rights Act for Australia*](#), (Position paper, March 2023).
 - ⁸ Australian Human Rights Commission, [*Free & Equal Revitalising Australia's Commitment to Human Rights*](#) (Final Report, November 2023).
 - ⁹ Australian Human Rights Commission, [*Factsheet Series: Positive Duty under the Sex Discrimination Act 1984*](#) (Cth) (September 2023).
 - ¹⁰ Rosemary Kayess, '[It's time disability reform became an election priority](#)', *The Mandarin* (5 December 2024).
 - ¹¹ Australian Human Rights Commission, [*National Anti-Racism Framework: A road map to elimination racism in Australia*](#) (2024) 16-17.
 - ¹² Joint Parliamentary Committee on Human Rights, [*Final report on the Inquiry into Australia's Human Rights Framework*](#) (Parliament of Australia, May 2024).
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- ¹⁴ Rosemary Kayess, [*'It's time disability reform became an election priority'*](#), *The Mandarin* (5 December 2024).
- ¹⁵ Australian Human Rights Commission, [*National Anti-Racism Framework: A road map to elimination racism in Australia*](#) (2024) 16-17.
- ¹⁶ There are two exceptions to this: the Aboriginal and Torres Strait Islander Social Justice Commissioner is required to have regard to ICESCR when exercising their functions set out in section 46C of the *Australian Human Rights Commission Act 1986* (Cth); the Children's Commissioner is specifically required to have regard to the ICESCR and the Convention on the Rights of the Child, other human rights treaties and declarations, and other human rights instruments the Commissioner considers relevant, when exercising their functions as set out in s 46MB of the *Australian Human Rights Commission Act 1986* (Cth).
- ¹⁷ The Commission does have the ICCPR and CRC scheduled to its legislation, which fully cover the rights set out in the CAT. Additionally, the Commission's legislation also has the CRPD, CEDAW and ICERD scheduled to its legislation which extensively cover ESC rights. Discrimination laws for age, sex, race, disability, LGBTIQ+ also protect against discrimination in relation to ESC rights, with additional protections for ILO conventions also included in the Commission's legislation.
- ¹⁸ *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth)
- ¹⁹ Department of Social Services, [*Economic Inclusion Advisory Committee 2025 report to Government*](#) (Report, 2025).
- ²⁰ Parliament of Australia, Inquiry into compulsory Income Management (Final report, September 2024) See also: 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) ; 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) ; Australian Human Rights Commission, [*Submission to the Senate Community Affairs Legislation*](#)
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8. [Committee](#), Inquiry into the Social Services Legislation Amendment (Cashless Debit Card) Bill 2017 (29 September 2017) ; and Australian Human Rights Commission, [Social Justice and Native Title Report 2015](#) (Report, 2015) 48-61.
- ²¹ Department of Social Services, [Economic Inclusion Advisory Committee 2025 report to Government](#) (Report, 2025) 29.
- ²² Peter Davidson and Bruce Bradbury, [Poverty in Australia 2025: Overview](#) (Report, Australian Council of Social Service and UNSW, 2025) 12.
- ²³ Peter Davidson and Bruce Bradbury, [Poverty in Australia 2025: Overview](#) (Report, Australian Council of Social Service and UNSW, 2025) 9.
- ²⁴ Senate Community Affairs References Committee, Parliament of Australia, [The Extent and Nature of Poverty in Australia](#) (Final Report, February 2024) 41–43.
- ²⁵ Foodbank Australia, [Hunger Report 2025](#) (Report, 2025) 26.
- ²⁶ In 2019-2020 25% of people with disability in Australia were in poverty, accounting for one third (33%) of adults in poverty, despite making up approximately 21% of the total population. This has increased since 2018. Additionally, the relative poverty risk for people with disability of working age is more than two times higher in Australia compared to other OECD countries, making it one of the highest in the OECD: Australian Council of Social Service (ACOSS) and UNSW Sydney, [Poverty in Australia 2023: Who is Affected](#) (Report, March 2023) 55; ACOSS and UNSW Sydney, [Poverty in Australia 2018](#) (Report, October 2018) 58–9 ; Alan Duncan, [Behind the Line: Poverty and Disadvantage in Australia 2022](#) (Bankwest Curtin Economics Centre, Focus on the State Series No 9/22, March 2022) 27 ; World Bank, [World Report on Disability](#) (2011) 39.
- ²⁷ Australian Human Rights Commission, Submission [No 244 to Senate Community Affairs References Committee](#), Parliament of Australia, [Inquiry into the Extent and Nature of Poverty in Australia](#) (2023) 25–8, 46–9 ; Australian Federation of Disability Organisations, Submission No 118 to Senate Community Affairs References Committee, Parliament of Australia, [Inquiry on the Purpose, Intent and Adequacy of the Disability Support Pension](#) (September 2021); Senate Community Affairs References Committee, Parliament of Australia, [Purpose, Intent and Adequacy of the Disability Support Pension](#) (Final Report, February 2022); Committee on the Rights of Persons with Disabilities, [Concluding Observations on the Combined Second and Third Periodic Reports of Australia](#), UN Doc CRPD/C/AUS/CO/2-3 (15 October 2019) [51(b)], [52(b)].
- ²⁸ 'Estimating Homelessness: Census 2021', [Australian Bureau of Statistics](#) (Web Page, 22 March 2023); Human Rights Law Centre, [The Right to Housing in Australia](#) (Report, 17 February 2025).

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- ²⁹ 'Homelessness and Homelessness Services', [Australian Institute of Health and Welfare](#) (Web Page, 16 October 2025).
- ³⁰ 'Aboriginal and Torres Strait Islander Health Performance Framework', [Australian Institute of Health and Welfare](#), (Web page, 2021).
- ³¹ 'Estimating Homelessness: Census 2021', [Australian Bureau of Statistics](#) (Web Page, 22 March 2023).
- ³² 'Estimating Homelessness: Census 2021', [Australian Bureau of Statistics](#) (Web Page, 22 March 2023) Table 1.
- ³³ Australian Bureau of Statistics, Estimating homelessness, (Census, 2021) 20490DO002_2021.
- ³⁴ Australian Human Rights Commission, Older Women's Risk of Homelessness Background Paper 2019 states that there was a 55% increase in the last decade women aged 55-74 years seeking support from homelessness services, Older Women's Risk of Homelessness: Background Paper (2019).
- ³⁵ Australian Bureau of Statistics, '[Partner Violence](#)', Australian Bureau of Statistics 2021 – 2022 (Webpage, November 2023).
- ³⁶ Flanagan et al. 2019
- ³⁷ ANROWS 2019; Flanagan et al. 2019.
- ³⁸ Lowitja Institute and the Close the Gap Campaign Alliance Group, [Agency Leadership, Reform: Ensuring the survival, dignity and wellbeing of First Nations Peoples](#) (report, March 2025) 14.
- ³⁹ This occurs through the operation of s51(xxvi) and s25.
- ⁴⁰ First Nations National Constitutional Convention, [Uluru statement from the heart](#) (Statement to the Australian People, 26 May 2017).
- ⁴¹ 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] [Recommendations 136.75, 136.77, 136.84, 136.85]
- ⁴² Australian Human Rights Commission, [Submission No 394](#) to The Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples, Parliament of Australia, *Inquiry into constitutional recognition of Aboriginal and Torres Strait Islander Peoples* (29 July 2018).
- ⁴³ Commonwealth of Australia, [Budget paper No.1, Budget Strategy and Outlook 2022 – 2023](#) (25 October 2022) 27.
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- ⁴⁴ Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Final Report on the Inquiry into the application of the United Nations Declaration on the Rights of Indigenous Peoples in Australia* (Parliament of Australia, 2023) [xix].
- ⁴⁵ Australian Government & Coalition of Aboriginal and Torres Strait Islander Organisations (Coalition of Peaks), *National Agreement on Closing the Gap* (2020).
- ⁴⁶ Australian Government Productivity Commission, *Closing the Gap Annual Data Compilation Report* (July 2025).
- ⁴⁷ Australian Government & Coalition of Aboriginal and Torres Strait Islander Organisations (Coalition of Peaks), *National Agreement on Closing the Gap* (2020), clause 67; Australian Government Productivity Commission, *Annual Data Compilation Report* (July 2025), 'Attachment 6 – Current progress of the development of measurement for the Priority Reform targets'.
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- ⁵⁰ Australian Law Reform Commission, *Pathways to Justice—An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (ALRC Report 133, March 2018).
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- ⁵⁴ Australian Law Reform Commission, *Connection to Country: Review of the Native Title Act 1993* (ALRC Report 126, June 2015).
- ⁵⁵ Australian Human Rights Commission, *Women in Native Title: Native Title* (Final Report, March 2024).
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- ⁵⁶ Since its commencement in 1994, various amendments to the Native Title Act have significantly undermined its capacity to deliver a just, fair, independent, impartial, open and transparent process, that gives due recognition to the laws, traditions, customs and land tenure systems of traditional owner groups. The Review into the Future Acts Regime is an important opportunity to consolidate and assess information on how the Native Title Act is functioning in practice, and to map out a pathway to much-needed reform that honours the original stated intent of the Native Title Act. Australian Human Rights Commission, [Submission to the Australian Law Reform Commission, Review of the Future Acts Regime \(17 April 2025\)](#).
- ⁵⁷ Australian Law Reform Commission, [Review of the Future Acts Regime: Discussion Paper](#) (2025) <<https://www.alrc.gov.au/publication/review-of-the-future-acts-regime-discussion-paper-2025/>>.
- ⁵⁸ Call It Out Racism Register 2023-24, [If you don't think racism exists come take a walk with us](#) Jumbunna Institute of Education and Research, University of Technology Sydney, (Final report, 2025) 13. The referendum on an Indigenous Voice to Parliament led to a surge in racism directed at First Peoples. This is discussed in the above report with reference to this uptick at p. 9.
- ⁵⁹ See ASIO Director General, Mike Burgess, '[Annual Threat Assessment](#)' (Statement, 19 February 2025).
- ⁶⁰ James O'Donnell & Qing Guan with Trish Prentice, [Mapping Social Cohesion](#) (Final report, 2024) 50.
- ⁶¹ Australian Human Rights Commission, [Anti-Asian racism resources](#) (Web page, 2023).
- ⁶² Australian Human Rights Commission, '[Inquiry into Antisemitism at Australian Universities](#)' (Opening statement, Joint Parliamentary Committee on Human Rights, 22 January 2025).
- ⁶³ S Carland, N Alziyadat, M Vergani, & K O'Brien, [Islamophobia Register Australia, Islamophobia in Australia 2023 – 2024](#) (Report V, 2025).
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- ⁶⁶ Australian Human Rights Commission, [National Anti-Racism Framework: A road map to elimination racism in Australia](#) (Final Report, November 2024) 10.
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- ⁶⁷ Australian Human Rights Commission, [*National Anti-Racism Framework: A road map to elimination racism in Australia*](#) 15.
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- ⁶⁹ See, eg, Australian Human Rights Commission, [*Submission to the Senate Legal and Constitutional Legislation Committee, Inquiry into the Religious Discrimination Bill 2021 and related bills*](#), (December 2021).
- ⁷⁰ The Royal Commission handed down its final report in 2023. Since then, less than half the recommendations in the remit of the Australian Government have been completed or are being progressed (46%): See Australian Government Department of Health, Disability and Ageing, [*Disability Royal Commission Progress Report 2025*](#), (Progress report, 2025).
- ⁷¹ Australian Human Rights Commission '[Commissioner urges stronger government commitment to Disability Royal Commission findings](#)' (Media Release, 31 July 2024).
- ⁷² 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).
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⁷⁵ See *Fair Work Act 2009* (Cth) ss 294(1)(b)(iii), 294(4)(c); [Supported Employment Services Award 2020](#) (Cth) (MA000103) sch D; 'Employees with disability pay rates' (Web Page).

⁷⁶ Employees with disability covered by the Supported Wage System Award can be paid a supported wage that is the higher of: a percentage of the minimum hourly rate of pay for their classification based on their productive capacity, or \$3.12 per hour: See *Fair Work Act 2009* (Cth) ss 294(1)(b)(iii), 294(4)(c); [Supported Employment Services Award 2020](#) (Cth) (MA000103) sch D ; '[Employees with disability pay rates](#)' (Web Page) ; *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), vol 7(b) 461-519.

⁷⁷ *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), vol 7(a) 105-7.

⁷⁸ Queensland Government, '[Statement from the Premier](#)' (Media Release, 14 November 2023) ; Australian Human Rights Commission, '[Disability Discrimination Commissioner Urges QLD Government to Scrap Plans to Build](#)' (Media Release, 2023) ; Children and Young People with Disability Australia, '[Queensland Risks Condemning Generations of Students to Segregated Schooling](#)' (Webpage, 2023) ; Victorian School Building Authority, '[Officer Brunt Road Specialist School \(Interim Name\)](#)' (Webpage, 2023).

⁷⁹ Victorian School Building Authority, 'Officer Brunt Road Specialist School.

⁸⁰ All Australian governments agreed in principle to the development of a National Roadmap to Inclusive Education: See Australian Government Department of Social Services, [Australian Government response to the Disability Royal Commission](#) (Report, July 2024) 114.

⁸¹ Specialist Disability Accommodation is funded by the National Disability Insurance Scheme, and is housing built to meet the needs of people with disability who require specialist accessibility features to support independent living and/or the safe delivery of other supports. See NDIS Property Australia, '[Latest SDA and SIL statistics from the NDIS](#)' (Webpage, 2024).

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periodic reports of Australia, UN Doc CRPD/C/AUS/CO/2-3 (15 October 2019) [37(a)].
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