



Australian  
Human Rights  
Commission

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# Submission to the UN Human Rights Committee for the List of Issues Prior to Reporting

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Australia

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28<sup>th</sup> of April 2025

ABN 47 996 232 602  
GPO Box 5218, Sydney NSW 2001  
General enquiries 1300 369 711  
National Info Service 1300 656 419  
TTY 1800 620 241

Australian Human Rights Commission  
[www.humanrights.gov.au](http://www.humanrights.gov.au)

## Introduction

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.<sup>1</sup>
2. The Commission welcomes the opportunity to make this submission identifying the key issues of compliance with the ICCPR that the Commission considers should be included in Australia's next periodic report to the Committee. The submission is based on work that has been undertaken by the Commission in accordance with our mandate and functions.
3. The Commission notes that since Australia last appeared before the UN Human Rights Committee (HRC), 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 that it has set out in the Free and Equal project (see further below) as well as the work of the Parliamentary Joint Committee on Human Rights (PJCHR) which has called for a new national human rights framework. The most comprehensive Royal Commissions in Australia's history have also been conducted on disability issues and protections against child sexual abuse, as well as in relation to aged care, social security and veterans.
4. The Commission is firmly of the view that concerns about human rights performance in Australia do not arise from a lack of knowledge of the solutions, but rather from a lack of implementation. The Commission recommends to the HRC that it not simply request information from Australia about key topic areas, but that it emphasise the importance of Australia reporting on progressive measures that it is taking and how it is considering implementing key national reports that would improve human rights outcomes.

## Framework

### ***Constitutional and legislative framework***

5. 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 'should adopt comprehensive federal legislation giving full legal effect to all Covenant provisions across all state and territory jurisdictions'.<sup>2</sup>
6. The PJCHR analyses bills and legislative instruments before the federal Parliament for compliance with human rights, including the ICCPR. 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. The Commission remains concerned, however, about the quality of 'Statements of Compatibility with Human Rights' that accompany bills, and limited consideration of the views of the PJCHR prior to the passage of legislation.<sup>3</sup> There is also limited human rights education and training for public officials to assist in the preparation of these Statements of Compatibility.

7. 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. The Commission has released three reports setting out a national reform agenda for human rights:
  - Position paper: [A national reform agenda for federal discrimination law](#)<sup>4</sup> setting out 38 reform priorities to ensure that Australia's federal discrimination laws are comprehensive and effective in their protection. 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](#)<sup>5</sup> 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](#)<sup>6</sup> 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.
8. 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.

9. 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.<sup>7</sup>
10. Recommendation 1 of the PJCHR substantially endorsed the recommendations of the Commission for a new national human rights framework, and recommended that the Commission's model Human Rights Act be utilised as the basis for national human rights legislation.
11. The Australian Government is currently considering the recommendations of the Commission's Free and Equal project reports and the report of the PJCHR.

**Recommended Issue 1: That the Australian Government report on progress towards establishing a national human rights framework, including the 8 key elements identified by the Commission. Further, that the Australian Government update the HRC on its response to the following two reports: the Commission's *Revitalising Australia's commitment to human rights* report, and the PJCHR's *Report on Australia's Human Rights Framework*.**

### ***National Human Rights Institution***

12. 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 as the international instruments scheduled to the Act. The definition of human rights does not include the Convention Against Torture, the International Covenant on Economic, Social and Cultural Rights or the United Nations Declaration on the Rights of Indigenous Peoples.<sup>8</sup>
13. The Commission is able to consider rights contained in the ICESCR and CAT due to the scheduling of other international treaties to the AHRC Act, and through the coverage and operation of federal discrimination laws.<sup>9</sup> However, the Commission should have an unambiguous legislative mandate on all human rights to which Australia is a party. This would be consistent with the definition of human rights for the PJCHR, which by contrast includes all seven human rights treaties to which Australia is a party.<sup>10</sup>
14. The Commission had its A status as an NHRI deferred in March 2022 due to concerns about the recruitment processes for commissioners, and issues relating to the scope of mandate of the Commission and resourcing challenges. The Parliament introduced legislative amendments to address the selection process in 2023, resulting in the Commission's A status being confirmed in November 2023. The GANHRI sub-committee on accreditation (GANHRI SCA) 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.

**Recommended Issue 2: That the Australian Government report on progress in addressing the concerns of the GANHRI SCA on the scope of the Commission's legislative mandate and adequacy of resources.**

### ***Human Rights Education***

15. Human rights education has been piecemeal and under-resourced in Australia. There are limited 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.

**Recommended Issue 3: That the Australian Government report on national measures on human rights education and steps taken to improve this with a particular emphasis on measures relating to schools, businesses, the public service, law enforcement officials and among the general community.**

### **Reservations**

16. The Commission remains concerned by Australia's reservations to article 10, 14 and 20 of the ICCPR. In the most recent Universal Periodic Review of Australia in 2021, the Government committed to review the reservation under Article 20. There has been no public process for a review, with no opportunity for input from civil society, the Commission or through Parliament.
17. In its *Free and Equal* Project, the Commission noted a lack of systemic process and public transparency about reservations and how they are reviewed.<sup>11</sup> The Commission noted in its final report to Parliament that:

It is unsatisfactory that there has been no formalised approach to reviewing reservations and interpretive declarations on a periodic basis to ensure their relevance to modern Australian life...

The Commission therefore considers it appropriate that an inquiry be referred to the Joint Standing Committee on Treaties to undertake a review of all existing reservations and interpretive declarations as an action under a new national framework on human rights.<sup>12</sup>

**Recommended issue 4: That the Australian Government identify steps taken to review reservations under the ICCPR, particularly in light of its commitment to do so in the UPR process and the Commission's recommended actions in the *Free and Equal* report.**

## Human rights on the ground

### ***Decision Making During Emergencies***

18. There were many things that Australia got right 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.<sup>13</sup> 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.
19. 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.

**Recommended issue 5: That the Australian Government provide information on the integration of human rights impacts in public decision-making during emergency responses.**

### ***Aboriginal and Torres Strait Islander Peoples***

20. There remains an unacceptable level of disadvantage experienced by Aboriginal and Torres Strait Islander peoples. This corresponds with limited progress in the past five years to improve the recognition of the rights of Aboriginal and Torres Strait Islander peoples, particularly participation in decision making.
21. The Australian Constitution permits racial discrimination.<sup>14</sup> A referendum held on 14 October 2023 to enshrine an Indigenous Voice to Parliament in the Australian Constitution failed. As a result, the lack of Constitutional recognition of Indigenous Peoples, which was noted by the Committee in 2021, continues.<sup>15</sup> We note this was also a focus of the Committee in its 2017 Concluding Observations.<sup>16</sup>
22. Representation, truth-telling and agreement-making remain critical to addressing the concerns experienced by Aboriginal and Torres Strait Islander peoples. The Uluru Statement of the Heart sets out a process to address these concerns.
23. The Voice Referendum having failed, there is still no national representative mechanism for Indigenous peoples in Australia, as freely determined by them.<sup>17</sup> Consideration of a legislated Voice appears to have been taken off the table by both major political parties for the foreseeable future, as have options for regional and local representative structures for Indigenous peoples (the functions of which would include inform a national Voice).<sup>18</sup>

24. Neither are there national mechanisms in place to advance the other two pillars of the Uluru Statement: truth telling and agreement making. Although the Australian Government stated its commitment in 2022 to take steps to establish a Makarrata Commission to oversee these processes and had set aside funds in the federal budget for this purpose.<sup>19</sup>, this policy was overturned following the 2023 Referendum outcome.

**Recommended issue 6: That the Australian Government identify progress to ensure the full and effective participation of Aboriginal and Torres Strait Islander peoples in decisions that affect them, and to address truth-telling and agreement making.**

25. 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 report'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'.<sup>20</sup>
26. 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 Parliamentary Joint Committee on Human Rights 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.

**Recommended issue 7: That the Australian Government identify progress in fully protecting the rights of Aboriginal and Torres Strait Islander peoples, including through implementation of the UN Declaration on the Rights of Indigenous Peoples.**

27. 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. As of 2025, Productivity Commission reporting shows no data on progress against the four Priority Reform Areas, and that four of the of the nineteen socio-economic targets (children thriving, criminal justice, child protection and social and emotional wellbeing) are worsening. Four targets are on track. These are:
- By 2025, increase the proportion of Aboriginal and Torres Strait Islander children enrolled in Year Before Full time Schooling (YBFS) early childhood education to 95%.
  - By 2031, increase the proportion of Aboriginal and Torres Strait Islander people aged 25-64 who are employed to 62%.
  - By 2030, a 15% increase in Australia's land mass subject to Aboriginal and Torres Strait Islander people's legal rights or interests.
  - By 2030, a 15% increase in areas covered by Aboriginal and Torres Strait Islander people's legal rights or interests in the sea.<sup>21</sup>

28. Child justice is an area of acute concern for the Commission and other stakeholders. In terms of raising the age of criminal responsibility, there has been limited progress.<sup>22</sup> The ACT passed legislation in 2023 raising the minimum age of criminal responsibility to 12 without exception. After 1 July 2025 this will rise to 14 years with exceptions for listed 'serious offences' including murder.<sup>23</sup> The Victorian Government passed legislation in 2024 that will raise the minimum age of criminal responsibility to 12<sup>24</sup> by 30 September 2025 but this was accompanied by new police powers to detain children aged 10 and 11. These include powers to transport children in a police vehicle; detain them, including at police stations, without any express time limits; use force on them and subject them to searches.<sup>25</sup> The previous Victorian commitment to raise age to 14 years has been dropped.<sup>26</sup> In October 2024, the newly elected Northern Territory government lowered the age of criminal responsibility from 12 to 10, reversing the previous government's move to raise the age to 12.<sup>27</sup> There have been no legislative changes in other Australian jurisdictions.<sup>28</sup> Furthermore, a political and media focus on law and order across jurisdictions has steered nationwide movement towards harsher penalties and other measures which are not compliant with Australia's human rights obligations to children. Key examples include the recent legislation passed in Queensland<sup>29</sup> and the Northern Territory.<sup>30</sup>
29. 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,<sup>31</sup> criminal justice,<sup>32</sup> and as victims of family violence,<sup>33</sup> with a focus on trauma recovery. Two of seven 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 Girls<sup>34</sup>, has not been implemented. The Australian Government has, nonetheless, 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 First Nations National Plan on addressing domestic and family violence specifically.<sup>35</sup>

**Recommended issue 8: That the Australian Government identify measures being taken to ensure that the Closing the Gap targets are met. Further, that the Government identify measures being taken to ensure that regressions in child justice systems nationally do not exacerbate the disproportionate rates of contact of Aboriginal and Torres Strait Islander youth in those systems, and measures being taken to ensure the equal enjoyment of human rights for Aboriginal and Torres Strait Islander women and girls.**

30. Significant concerns remain about the incompatibility of the *Native Title Act 1993* with Australia's human rights obligations, including the Act's evidentiary requirements for proving Indigenous peoples' connection to country.<sup>36</sup> The Commission's *Women in Native Title: Native Title Report 2024*<sup>37</sup> 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.

**Recommended issue 9: That the Australian Government identify measures taken to improve the native title system, especially in relation to the evidentiary requirements for connection to country and support for prescribed bodies corporate to maintain native title. Further, that the Government identify measures taken to protect the cultural heritage of Aboriginal and Torres Strait Islander peoples.**

***Racism and people from culturally and linguistically diverse backgrounds***

31. Systemic and structural racism is deeply embedded throughout Australia and requires an urgent, national response, particularly for Aboriginal and Torres Strait Islander peoples.<sup>38</sup> 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.<sup>39</sup> There is serious racism experienced by people of African and Asian background.<sup>40</sup> 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 and changes of anti-Asian racism in Australia, and highlighted community-led research, advocacy, and education efforts to overcome it.<sup>41</sup>
32. Over the past 2 years there has been an increase in severe antisemitic<sup>42</sup> and Islamophobic attacks.<sup>43</sup> This is particularly in response to international events in Israel and Gaza since October 7, 2023. The Australian Government has established special envoys on antisemitism, Islamophobia and social cohesion, as well as funded supports for affected communities. The Commission is undertaking community consultations with affected communities, and is also conducting a prevalence study on experiences of racism in university settings, which includes antisemitism, anti-Palestinian racism and Islamophobia. Additional protections against race hate and vilification have been introduced nationally and in some states and territories.

**Recommended issue 10: That the Australian Government report on measures to address the rise in antisemitism, Islamophobia and anti-Palestinian racism, and the adequacy of measures to prohibit hatred in accordance with Art.20 of the ICCPR.**

33. 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 acts as a roadmap for governments, non-government organisations, businesses, and civil society organisations to take anti-racist action across sectors.<sup>44</sup>
34. 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.<sup>45</sup>
35. As a priority the Commission 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 Nations peoples and their unique experiences of racism.<sup>46</sup>

36. 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.<sup>47</sup>

**Recommended issue 11: That the Australian Government report on initiatives to address racism in Australia as a national priority, and its consideration of the proposed National Anti-Racism Framework.**

### ***Religious discrimination***

37. 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. In some situations, such as complaints to the Commission of religious discrimination in employment, those existing legal protections do not provide for enforceable remedies where discrimination is established.
38. 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 should they be provided with equivalent protection against discrimination on the ground of religious belief or practice.
39. 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.<sup>48</sup>
40. 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 56 below).

**Recommended issue 12: That the Australian Government report on the adequacy of protections against discrimination on the basis of religious belief or activity**

## ***People with disability***

41. A Royal Commission (a national commission of inquiry) examining experiences of violence, abuse, neglect and exploitation of people with disability was held from 2019 – 2023. The Royal Commission's final report set out an expansive reform agenda to protect the rights of people with disability.<sup>49</sup> All Australian Governments have issued an initial response to the recommendations of the Royal Commission, although this is not comprehensive.<sup>50</sup> Australia also has a national disability strategy in operation from 2021 - 2031. This provides a significant opportunity to improve the rights of people with disability. However, there remain significant concerns about progress under the strategy.<sup>51</sup>

### **Recommended issue 13: That the Australian Government report on outcomes achieved to date under Australia's Disability Strategy as well as the implementation status of recommendations of the Disability Royal Commission, and next steps to implement those recommendations.**

42. The limits of the effectiveness of the above measures are demonstrated by the persistent lack of progress on the following human rights issues. These issues have been the subject of serious concerns that have consistently arisen in treaty reviews (particularly the CRPD and previous ICCPR reviews):
43. People with disability, particularly First Nations, who are assessed as unfit to stand trial / not guilty by way of mental impairment continue to face arbitrary and indefinite detention.<sup>52</sup>
44. Compulsory treatment, administration of forced interventions, and involuntary hospitalisation continues to be legally permitted on the basis of perceived or actual mental impairment. The Commission notes that police or other first responders perception of 'mental disorder' is commonly the basis for detention.
45. People with disability face restrictions on their rights to equal recognition before the law and to exercise legal capacity. Australia has not implemented a national decision-making framework,<sup>53</sup> which would introduce national consistency in facilitating the exercise of legal capacity, and lacks legislation prohibiting the sterilisation of people with disability without consent.<sup>54</sup>

### **Recommended issue 14: That the Australian Government inform the Committee on steps taken to:**

- **reform laws and practices that enable the deprivation of liberty, including fitness to plead laws, indefinite detention, and forced interventions on the basis of impairment across criminal and civil settings**
- **implement a National Decision-Making framework**
- **implement uniform legislation to prohibit involuntary sterilisation and forced medical interventions of people with disability.**

**In doing so, the Committee should note the persistent nature of concerns about these issues expressed by various UN human rights treaty bodies and other UN mechanisms over time.**

46. Notwithstanding positive attempts at improving accessibility in electoral processes, people with disability are disenfranchised in electoral processes by domestic legislation,<sup>55</sup> limiting voting rights, legal capacity and equal recognition before the law. The Australian government has not meaningfully reformed laws perpetuating political disenfranchisement on the basis of mental impairment.<sup>56</sup>
47. There remain high rates of violence, abuse, neglect and exploitation against people with disability, in particular women and girls,<sup>57</sup> and a lack of a nationally consistent approach to eliminating the use of restrictive practices across all settings.<sup>58</sup>
48. People with disability continue to be segregated in closed employment settings<sup>59</sup> and subject to a supported wage system permitting sub-minimum wages on the basis of impairment and assessed productivity level.<sup>60</sup> There are concerns that these settings and regimes are discriminatory and inconsistent with ICCPR obligations.<sup>61</sup>
49. Australia's migration laws discriminate against people with disability, with decision making framed by requirements identifying the cost to the community,<sup>62</sup> which maintains a deficit view of disability and limits freedom of movement.<sup>63</sup>

**Recommended issue 15: That the Australian Government provide information on:**

- **how many people have been legally disenfranchised from electoral processes due to disability, and steps taken to address this**
- **the status of planning to end segregated employment and to eliminate the supported wage system**
- **how many people with disability are affected by the Migration Health Requirement and proposed steps to reform migration laws. In particular, information should be provided on measures taken to implement the views and recommendations from the CRPD individual communication, *Sherlock v. Australia* 2021.**

***Gender equality and gender-based violence***

50. The Commission notes that gendered violence, in all its forms, remains endemic in Australia.<sup>64</sup> In Australia in 2024, 78 women were killed as a result of gendered violence.<sup>65</sup> The intersection of gender with other forms of inequality results in women and girls with disability, who are First Nations, from culturally and racially marginalised backgrounds, and LGBTIQ+ people experiencing higher rates of violence, as well as additional barriers to support.<sup>66</sup> The prevention of gender-based violence also requires a focus on the unique needs of children who experience violence.
51. Workplace sexual harassment continues to occur at unacceptably high levels, with the one in 3 workers experiencing workplace sexual harassment in the last 5 years, and women, people with disability, young people, First Nations people, people with an intersex variation, and people with minority sexual orientations significantly more likely than others to experience workplace sexual harassment.<sup>67</sup> While Government action has addressed recommendations arising from the Respect@Work Report,<sup>68</sup> there is an ongoing need to ensure industrial, workplace health and safety, and human rights

institutions collectively address community and workplace needs to eliminate this form of gender-based violence.

52. 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 Nations 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.<sup>69</sup>
53. 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 pay gap is 21.8%.<sup>70</sup> This means that for every \$1 a man makes, a woman on average makes 78c.<sup>71</sup> The Commission acknowledges the government has introduced a range of measures to value work in caring professions such as aged care and early education. These are female dominated industries and the steps taken contribute to reduction in pay inequity as an example.

**Recommended issue 16: That the Australian Government report on:**

- **efforts to implement evidenced-based, community-led efforts to prevent gendered violence, including specific supports for children and the role of men in preventive measures**
- **efforts to ensure ongoing coordination and analysis by workplace regulators and human rights institutions in responding to and working to eliminate sexual harassment in Australian workplaces**
- **specific measures to support First Nations peoples in a way that embeds and promotes cultural safety, place-based approaches and self-determination**
- **the collection of intersectional data on the experiences of gendered violence by people with disability, who are First Nations, are from culturally and racially marginalised backgrounds and are LGBTIQ+**
- **the implementation of comprehensive, inclusive and accessible consent and reproductive health education in schools, as well as education on harmful gender attitudes, stereotypes and norms**
- **initiatives to recognise unpaid labour, and address the undervaluing of work in feminised industries, such as care, particularly for culturally and racially marginalised women.**

### ***Older persons***

54. 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.<sup>72, 73.</sup>
55. 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. With an ageing population, the risk and incidence of elder abuse is likely to increase.<sup>74</sup> Current inconsistencies in enduring power of attorney laws across jurisdictions, lack of community awareness and critical gaps in the adult safeguarding and reporting frameworks contribute to this.<sup>75, 76.</sup>

**Recommended issue 17: That the Australian Government report on responses to workplace discrimination, elder abuse and ageism against older Australians; and efforts of the Australian government to ensure that human rights are fully applied to older persons.**

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

56. Legislation to protect people on the basis of sexual orientation, gender identity, gender expression, and sex characteristics remains inconsistent nationally. Children with innate variations in sex characteristics are not adequately protected from unnecessary medical interventions, and LGBTIQ+ individuals continue to experience discrimination and vilification.<sup>77</sup> The federal Sex Discrimination Act 1984 continues to provide exemptions for religious schools to discriminate against LGBTIQ+ people, including students, despite the Australian Government committing to revise these exemptions.
57. Education and public awareness of sexual orientation, gender identity, and variations of sex characteristics are insufficient. Education and awareness of LGBTIQ+ civil rights, and of the presence and contribution of LGBTIQ+ people in Australia's history is also inadequate across all levels of education. This contributes to an environment in which mis/dis information, sensationalist media coverage, and use of LGBTIQ+ issues for short-term political gain can occur.
58. Anti-LGBTIQ+ rhetoric and mobilisation is increasing in Australia, as it is around the world. A lack of positive Government leadership to counter this rhetoric means under-resourced LGBTIQ+ civil society and community groups face additional pressure to address it, creating unsafe environments.<sup>78</sup>

**Recommended issue 18: That the Australian Government report on progress in amending the Sex Discrimination Act to revise exemptions for religious schools; and in ensuring comprehensive legislative protection for LGBTIQ+ individuals from discrimination and vilification in all settings, including access to appropriate healthcare, without exception.**

**Recommended issue 19: That the Australian Government report on education and public awareness measures to improve understanding and inclusion of LGBTIQ+ communities; as well as how data is collected to ensure LGBTIQ+ people are considered in policy and planning.**

## **Children**

59. There are inadequate legal protections for children's rights in Australia, including remedies. Significant gaps in the implementation of children's rights exist across all areas of data collection, policy, programs and service delivery.<sup>79</sup> The Commission has made recommendations for government to 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.<sup>80</sup> The Commission's model Human Rights Act, discussed earlier, would more comprehensively protect children's rights in legislation.
60. Until 2023, there has been no national information on the prevalence of child maltreatment in Australia. The initial results of the Australian Child Maltreatment Study (ACMS) were published in April 2023. The main findings of the ACMS study were that child maltreatment is endemic with multi-type maltreatment common. The study of 8,500 Australians aged 16 found two-thirds of respondents reporting having experienced maltreatment in childhood. 32% of these respondents had experienced physical abuse, 28.5% had experienced sexual abuse, 30.9% had experienced emotional abuse, 8.9% had experienced neglect, and 39.6% had experienced domestic and family violence. 39.4% of respondents had experienced two or more types of child maltreatment. Knowledge of prevalence is fundamental to informing prevention and early intervention strategies.<sup>81</sup>
61. Rates of children in out-of-home care have been steadily increasing,<sup>82</sup> with Aboriginal and Torres Strait Islander children significantly over-represented. As at 30 June 2023 45,300 children were in out-of-home care (7.9 per 1,000). Of these, 19,700 were Aboriginal and Torres Strait Islander children (57 per 1,000 Indigenous children) and 25,500 were non-Indigenous children (4.7 per 1,000 non-Indigenous children). With respect to Aboriginal and Torres Strait Islander children, around 10,700 (54%) were placed with their relatives or kin. Of these, most children were placed with a grandparent, aunt, uncle or sibling as their carer (5,900 or 55%). Around 1,800 (9.1%) Aboriginal and Torres Strait Islander children were placed with a non-relative Aboriginal and Torres Strait Islander caregiver.<sup>83</sup>

**Recommended issue 20: That the Australian Government report on how Governments are prioritising prevention and early intervention programs to stop child maltreatment, and how they are prioritising early intervention programs to prevent children entering child protection and justice systems. Information on how over-representation of Aboriginal and Torres Strait Islander children in these systems is being addressed should also be provided.**

62. Over the 5 years from 2019–20 to 2023–24, the number of young people aged 10 and over in detention on an average day fell by 3.7% (from 858 to 827), while the rate of young people aged 10–17 in detention declined by 4.5% (from 2.8 to 2.7 per 10,000).<sup>84</sup> Despite this, Australia is increasingly adopting harsher responses to child crime. Two states have passed legislation which means detention is no longer a 'last resort' for children.<sup>85</sup> Mandatory minimum sentencing laws also undermine the principle of detention as a last resort. In Western Australia, minimum mandatory sentences for certain offences still apply to children.<sup>86</sup> Despite many calls for mandatory sentencing to be abolished in the Northern Territory, children are still subject to mandatory sentencing if their matter is dealt with under the *Sentencing Act 1995* rather than the *Youth Justice Act 2005*.<sup>87</sup> Australian states and territories have or are introducing new bail-related offences will likely lead to a significant increase in the incarceration of children. In Australia, the power to isolate a child in a detention facility is subject to statutory limitations, however, these protections vary by jurisdiction, and no jurisdiction prohibits solitary confinement. 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.<sup>88</sup> Most Australian states and territories maintain an age of criminal responsibility of 10 years. Only two have increased the age to 12 years.<sup>89</sup>
63. The Commission's National Children's Commissioner has released a report proposing reforms to address the key human rights challenges in child justice systems nationally, *Help Way Earlier!* The recommendations of the report have yet to be responded to by the government or implemented.

**Recommended issue 21: That the Australian Government report on progress in raising the age of criminal responsibility in all jurisdictions to 14 years; how the principle of detention as a measure of last resort is being upheld; the status of the use of solitary confinement and isolation practices in child detention facilities; the detention of children with adults, such as in police watch houses; and the Government's response to the recommendations of the *Help Way Earlier!* report.**

64. Aboriginal and Torres Strait Islander children consistently raise the importance of maintaining connections to culture and language.<sup>90</sup> While the National Curriculum for schools includes a framework for Aboriginal and Torres Strait Islander languages,<sup>91</sup> the programs implemented in schools vary greatly across jurisdictions. Progress in implementing the actions in the five inter-connected themes outlined in *Australia's Action Plan for the International Decade of Indigenous Languages 2022–2032* is unknown.<sup>92</sup>

**Recommended issue 22: That the Australian Government reports on outcomes in implementing 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***

65. *Closed Immigration Detention*. Immigration detention remains mandatory for all unlawful non-citizens, including children, regardless of risk.<sup>93</sup> Australian courts do not have jurisdiction to remove a person from detention on the basis that their detention is arbitrary, and there is no legislative time limit on detention. This has resulted in prolonged and indefinite detention, causing significant physical and mental health problems and family separation.<sup>94</sup> While there has been a decrease in the average time spent in detention, it remains high, at 457 days.<sup>95</sup>
66. In *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs*<sup>96</sup> the High Court of Australia ruled that it was unlawful for the Australian Government to detain a person who does not have a visa in immigration detention indefinitely where it is not possible to remove the person to another country. The decision resulted led to the release of a number of people from indefinite immigration detention. Since *NZYQ*, the Australian Government has passed new laws that raise serious issues of compliance with Australia's international obligations. The *Migration Amendment (Bridging Visa Conditions) Act 2023* provided for the imposition of conditions of continuous electronic monitoring and curfew on detainees upon their release. After this law was declared unlawful by the High Court,<sup>97</sup> the Government introduced the *Migration Amendment (Removal and Other Measures) Act 2024* and *Migration Amendment Act 2024* allowing Australia to pay third countries to accept non-citizens, including refugees who have had a protection finding reversed, and criminalising non-cooperation with removal with up to 5 years imprisonment.<sup>98</sup> In *SF17 v Commonwealth*<sup>99</sup>, 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.
67. Closed immigration detention should be limited to circumstances where it is strictly necessary to manage unacceptable risks to the community.<sup>100</sup>
68. *Non-refoulement obligations*. Section 197C of the *Migration Act 1958* (Cth) stipulates that Australia's *non-refoulement* obligations are 'irrelevant' to removals carried out under s 198 of the Act. In 2021, the Act was amended to provide that Australia will not remove a person to a country where they have a well-founded fear of persecution or other serious harm (s 197C(3)). The Australian Human Rights Commission welcomed this development and recommended repeal of s 197C, but this has not yet been done.<sup>101</sup>
69. The Commission is concerned about possible *refoulement*, arbitrary, prolonged and/or indefinite detention, and separation from family resulting from decisions to cancel or refuse the visas of non-citizens, including permanent residents, under s 501 and s 116 of the *Migration Act 1958*.

70. The *Migration Amendment Act 2024* is not limited to individuals from the NZYQ cohort who committed serious crimes and served their sentences. Rather, it allows Australia to remove a wider range of non-citizens and allows for their detention until they can be removed where they 'voluntarily' refuse to cooperate. This includes people who have had their refugee claims assessed and refused under the deeply flawed and problematic former fast track process, creating a risk of *refoulement* and family separation, despite many of the individuals concerned having family in Australia and having lived in the country for many years.<sup>102</sup>
71. *Legacy Caseload and Temporary Protection Visas*. In 2023 Australia extended permanent protection to 19,000 people who had previously arrived in Australia by boat before 2014, and granted them family reunification rights.<sup>103</sup> However, other members of the 'Legacy Caseload' had their protection claims refused under the 'fast-track' process, with limited appeal rights.<sup>104</sup> Around 2,000 asylum seekers in the 'Legacy Caseload' are currently awaiting a decision on a protection application, and are unable to apply for family reunion.<sup>105</sup>
72. Asylum seekers arriving by boat without a valid visa or plane where their visa is cancelled on arrival before immigration clearance can only potentially apply for temporary protection,<sup>106</sup> with statutory bars applying to prevent unauthorised maritime arrivals from being eligible to apply unless the Minister exercises discretion to lift the bar.<sup>107</sup> The Commission is concerned that certain migrants and asylum seekers do not have sufficient support to ensure an adequate standard of living.<sup>108</sup> 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.
73. *Boat Turnbacks and Takebacks*. Since December 2013, Australia has intercepted boats carrying asylum seekers who seek to enter Australia and has sent them back through turnbacks and takebacks. In some cases, people have been returned directly to their countries of origin after undergoing an inadequate screening process at sea. These measures have been widely condemned<sup>109</sup> and create a significant risk of *refoulement* as onboard screening processes do not provide a fair or thorough assessment of protection claims in the absence of normal safeguards and a lack of access to lawyers.<sup>110</sup>
74. *Offshore Processing*. Australia's ongoing offshore processing regime for asylum seekers who arrive by boat is inconsistent with international law. Numerous reports and inquiries have repeatedly documented serious human rights violations for people seeking asylum in Australia who have been sent to Nauru and Papua New Guinea for offshore processing.

75. The UN Human Rights Committee recently ruled in two cases that Australia had violated the rights of asylum seekers arbitrarily detained in offshore facilities in Nauru in 2014.<sup>111</sup> The Committee found that Australia bore legal responsibility for the arbitrary detention of the asylum seekers in offshore detention facilities in Nauru, in breach of the ICCPR. The Committee called on Australia to take all steps necessary to prevent similar violations from occurring in the future and to review and modify its legislation, policies and transfer agreements to ensure their conformity with the ICCPR. The Commission has long considered that transferring asylum seekers to third countries does not release Australia from its international obligations and raises substantial human rights concerns.<sup>112</sup>
76. While Australia has stopped sending asylum seekers intercepted at sea to Papua New Guinea, Australia continues to send asylum seekers intercepted at sea to an Australian-funded centre on Nauru. As of 31 August 2024, there were 94 transitory persons in Nauru.<sup>113</sup> The commission continues to be seriously concerned about the conditions and treatment of asylum seekers and refugees in Nauru. In 2024, medical staff, caseworkers, and asylum seekers sent to Nauru reported that healthcare is inadequate and extremely limited, and that there is no dedicated torture and trauma counselling available or specialist care.<sup>114</sup> Detainees have also reported having their phones confiscated, restricting their ability to contact family, support agencies or NGOs, and that their phones were replaced by 'brick' phones without cameras that would enable them to document their detention.<sup>115</sup>
77. In 2025 the Australian Government announced a new arrangement with Nauru to resettle three people from the *NZYQ* cohort on Nauru. These individuals had been released from immigration detention following the High Court decision in *NZYQ* but were then re-detained pending removal to Nauru under the new 2024 laws.<sup>116</sup>
78. The Commission continues to hold serious concerns that individuals remaining in PNG who were previously detained at Australia's offshore detention centre 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.<sup>117</sup>

**Recommended issue 23: That the Australian Government provide information on steps taken to:**

- **Ensure immigration detention is strictly limited and time-bound**
- **Prevent the detention of children**
- **Ensure pathways for the assessment of protection claims for all asylum seekers and refugees, including those whose protection claims were previously rejected under the fast-track process**
- **Abolish temporary protection visas and provide pathways to permanent protection and family reunification**
- **Ensure refugee status determination is consistent with Australia's international obligations, including during interceptions at sea and boat turnbacks and takebacks.**

**Recommended issue 24: That the Australian Government provide information on the use of offshore processing and steps being taken to provide viable long-term protection for all asylum seekers and refugees subject to third country processing.**

***OPCAT and ensuring adequate oversight of places of detention***

79. 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, which is also an obligation under Article 7 of the ICCPR. The multi-body Australian National Preventive Mechanism (NPM) currently consists of 12 members across six Australian jurisdictions, with the Commonwealth Ombudsman designated as the NPM Coordinator.<sup>118</sup>
80. However, progress has remained too slow. On 20 January 2023, Australia missed its extended deadline to fully implement OPCAT.<sup>119</sup> Three States are yet to designate their NPMs, namely New South Wales, Queensland and Victoria. Significant challenges include inadequate funding and resources for NPMs and the absence of dedicated legislation.<sup>120</sup> Concerns have also been raised about Australia's demarcation between 'primary' and 'secondary' places of detention.<sup>121</sup> The Commission published reports in both 2020 and 2022 outlining a roadmap for OPCAT compliance and a clear framework for implementation.<sup>122</sup>
81. The Commission has ongoing concerns regarding conditions 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.
82. 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.<sup>123</sup>

**Recommended issue 25: That the Australian Government provide information about the adequacy of oversight mechanisms for all places of detention in all Australian jurisdictions and progress towards the full implementation of OPCAT.**

### ***The right to peaceful assembly and freedom of expression***

83. Over recent years, Australian states and territories have increasingly enacted laws that limit the right to peaceful assembly and freedom of expression. These laws often create offences that can have broad application and impose disproportionately harsh penalties on individuals exercising their right to protest.<sup>124</sup> Environmental and climate activists are the group most consistently impacted by these new measures.

**Recommended issue 26: That the Australian Government report on how all Australian jurisdictions balance rights to peaceful assembly and freedom of expression with restrictions on their exercise.**

### ***Human Rights and the Environment***

84. In 2024 the Federal Government announced plans to establish an independent statutory authority, the Environmental Protection Agency (EPA). The EPA was to be a key pillar as part of the Government's nature positive reforms. The EPA was to be responsible for determining environmental approvals for major projects (including mining), auditing companies' compliance with relevant laws and issuing stop work orders to those suspected of breaking the law. The plans to establish the EPA were stopped by the Federal Government in 2024-2025 and it is unclear when the agency will be established.
85. The Federal Government legislated the Climate Change Act 2022 (Cth) (CCA) which aims to advance an effective response to climate change. Under the CCA, Australia has set a 2030 target of reducing emissions by 43% reduction from 2005 levels and reaching net zero emissions by 2050. The CCA does not enforce duties in relation to achieving Australia's emissions reduction targets, nor does it require decision-makers to consider human rights in making decisions concerning climate change, emissions or the environment. Notably the CCA does not impose any climate change related due diligence reporting requirements on organisations (which ought to be included in a broader mandatory human rights due diligence laws, as discussed below).
86. Based on 2024 emission projections, Australia is unlikely to reach its legislated 2030 target of reducing emissions by 43% below 2005 levels. Collectively these targets are incompatible with achieving a maximum global temperature rise of 1.5 degrees Celsius. By failing to meet the reduction targets it is almost certain that there will be downstream negative human rights impacts for people and communities. For example, climate change will likely increase the intensity and frequency of natural disasters such as bushfires, floods and severe storms. The Commission is currently undertaking Phase 2 of the Emergency Response Framework Project which is working to ensure human rights are centred in natural disaster emergency responses in Australia.

**Recommended issue 27: That the Australian Government provide information on the status of the proposed environmental protection agency; and what urgent efforts it is taking to limit global warming to 1.5 degrees Celsius.**

### ***National security and counter-terrorism***

87. Australia's counter-terrorism laws disproportionately and unnecessarily limit ICCPR rights. Especially those relating to: 'declared areas' offences,<sup>125</sup> presumptions against bail and parole,<sup>126</sup> control orders and preventive detention orders,<sup>127</sup> continuing detention and other post-sentence orders,<sup>128</sup> 'stop, search and seize' powers,<sup>129</sup> revocation of citizenship,<sup>130</sup> temporary exclusion orders,<sup>131</sup> restrictions on fair trial rights,<sup>132</sup> and measures limiting children's rights such as in the prosecution and sentencing of children for terrorism offences.<sup>133</sup>
88. The Commission has ongoing concerns that national security laws on metadata retention and encryption unjustifiably limit freedom of expression and privacy, especially for journalists and whistleblowers.<sup>134</sup> More generally, the Commission has concerns about the impact of the exercise of law enforcement and intelligence powers on the freedom of the press.<sup>135</sup>
89. In 2021, the Australian Parliament gave new powers to law enforcement agencies under the *Surveillance Legislation Amendment (Identify and Disrupt) Act 2021* to address cyber-enabled serious and organised crime. The Commission is concerned that these additional powers are not operating within a proportionate framework that provides effective protections for people's privacy.<sup>136</sup>

***Recommended issue 28: That the Australian Government provide information on progress made towards ensuring that national security laws are appropriate and do not unduly limit human rights, particularly freedom from arbitrary detention, freedom of expression and the right to privacy. This should include information on the implementation of recommendations made by the Independent National Security Legislation Monitor.***

### ***Business and Human Rights***

90. The Commission welcomes the introduction in December 2022 of the positive duty under the *Sex Discrimination Act 1984* (Cth).<sup>137</sup> 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 discrimination<sup>138</sup> and racism in the workplace.<sup>139</sup>
91. The Commission also continues to recommend the introduction of mandatory human rights due diligence laws.<sup>140</sup> 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*.<sup>141</sup>

***Recommended issue 29: That the Australian Government report on the effectiveness of due diligence laws in relation to modern slavery and business and human rights.***

### ***Human rights and technology***

92. The Australian Government has taken a range of steps to ensure that new and emerging technologies are adopted in responsible and ethical ways. This can particularly be seen with respect to artificial intelligence, with the establishment of the National AI Centre in 2021, interim response to the *Safe and responsible AI in Australia consultation*,<sup>142</sup> publication of the *Voluntary AI Safety Standard*,<sup>143</sup> and the introduction of the *Policy for the responsible use of AI in government* (which took effect on 1 September 2024).<sup>144</sup> There is a need to ensure that this approach extends to all new and emerging technologies, with neurotechnology being an example of an area where direct consideration of the impact on human rights needs to be considered.
93. To protect children and young people from online harms and the negative impact social media is having on their well-being, the Australian Parliament has passed legislation setting a minimum age for 'age-restricted social medial platforms'.<sup>145</sup> This will require 'age-restricted social media platforms' to take reasonable steps to prevent Australian children under the age of 16 years from having accounts on their platforms, and is intended to be in place by the end of 2025. While the social media ban is designed to protect children and young people from online harms, it is likely to also have negative human rights impacts on children such as curtailing their right to freedom of expression and access to information, and isolating them from their peers.<sup>146</sup> The social media ban also results in privacy risks for all Australian given its reliance on effective age assurance processes being adopted, and does not address the root causes of online risks.<sup>147</sup> Before the social media ban is implemented it is important to consider whether there are less restrictive options available to achieve the aim of protecting children from harm, including specific details about the proposal to legislate a digital duty of care to place the onus on digital platforms to keep Australians safe and better prevent online harms.<sup>148</sup>

**Recommended issue 30: That the Australian Government report on how it is ensuring that the impact of new and emerging technologies on human rights is directly considered; and how they will mitigate against the negative human rights impacts of the social media ban for all Australians, particularly children and young people.**

### ***Slavery and trafficking***

94. Australia is not immune from modern slavery. The 2023 Global Slavery Index estimates that on any given day in 2021, there were 41,000 individuals living in modern slavery in Australia.<sup>149</sup> The Australia Government has taken positive steps to address modern slavery, including through the development of the *National Action Plan to Combat Modern Slavery 2020 – 25 ('National Action Plan')*,<sup>150</sup> the completion of 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) and the recent appointment of Australia's inaugural Anti-Slavery Commissioner, Mr Chris Evans.<sup>151</sup>

95. 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.<sup>152</sup> 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.
96. 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.<sup>153</sup>
97. 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.<sup>154</sup> 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.<sup>155</sup> 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.

**Recommended issue 31: That the Australian Government report on the implementation of the recommendations made by the *McMillan Review*; progress in introducing a national compensation scheme for victims and survivors of modern slavery and human trafficking; and progress in strengthening forced marriage civil protections and remedies.**

## APPENDIX

### ENDNOTES

<sup>1</sup> '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.

<sup>2</sup> United Nations Committee on Civil and Political Rights, *Concluding observations on sixth periodic report on Australia*, 121<sup>st</sup> sess, UN Doc CCPR/C/AUS/CO/6 (1 December 2017).

<sup>3</sup> The *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth) establishes the Parliamentary Joint Committee on Human Rights and requires the preparation of Statements of Compatibility with Human Rights with all bills and most legislative instruments introduced to Parliament for consideration. The Act defines human rights as the rights and freedoms recognised or declared by the International Convention on the Elimination of all Forms of Racial Discrimination; International Covenant on Civil and Political Rights; Convention on the Elimination of All Forms of Discrimination Against Women; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities. See also: Parliament of Australia, *Parliamentary Joint Committee on Human Rights*, <[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Human\\_Rights](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights)>.

<sup>4</sup> Australian Human Rights Commission, *Free & Equal: a reform agenda for federal discrimination laws* (Position Paper, December 2021) <<https://humanrights.gov.au/our-work/rights-and-freedoms/publications/free-and-equal-reform-agenda-federal-discrimination-laws>>. The Commission has identified reforms for discrimination laws focused on building a preventative culture; modernising the regulatory framework; enhancing access to justice; and improving the practical operation of these laws.

<sup>5</sup> Australian Human Rights Commission, *A national Human Rights Act for Australia*, (Position paper, March 2023) <<https://humanrights.gov.au/human-rights-act-for-australia>>.

<sup>6</sup> Australian Human Rights Commission, *Free & Equal Revitalising Australia's Commitment to Human Rights* (Final Report, November 2023) <[https://humanrights.gov.au/sites/default/files/2311\\_freeequal\\_finalreport\\_1\\_1.pdf](https://humanrights.gov.au/sites/default/files/2311_freeequal_finalreport_1_1.pdf)>.

<sup>7</sup> Joint Parliamentary Committee on Human Rights, *Final report on the Inquiry into Australia's Human Rights Framework*, (Parliament of Australia, May 2024) <[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Human\\_Rights/HumanRightsFramework/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/HumanRightsFramework/Report)>.

<sup>8</sup> 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).

<sup>9</sup> 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.

<sup>10</sup> *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth)

<sup>11</sup> Australian Human Rights Commission, *Free & Equal Final Revitalising Australia's Commitment to Human Rights*, (Final Report, 2023) 115 – 117 <[https://humanrights.gov.au/sites/default/files/2311\\_freeequal\\_finalreport\\_1\\_1.pdf](https://humanrights.gov.au/sites/default/files/2311_freeequal_finalreport_1_1.pdf)>.

<sup>12</sup> Australian Human Rights Commission, *Free & Equal Final Revitalising Australia's Commitment to Human Rights*, (Final Report, 2023) 117 [5]-[6] <[https://humanrights.gov.au/sites/default/files/2311\\_freeequal\\_finalreport\\_1\\_1.pdf](https://humanrights.gov.au/sites/default/files/2311_freeequal_finalreport_1_1.pdf)>.

- <sup>13</sup> Australian Human Rights Commission, *'Collateral Damage' Report into Australia's COVID-19 Pandemic Response* (Final Report, March 2025) <<https://humanrights.gov.au/our-work/rights-and-freedoms/publications/collateral-damage-report-australias-covid-19-pandemic>>.
- <sup>14</sup> This occurs through the operation of s51(xxvi) and s25.
- <sup>15</sup> Office of the United Nations High Commissioner for Human Rights, *Report of the Working Group on the Universal Periodic Review: Australia*, 47<sup>th</sup> sess, UN Doc A/HRC/47/8 (24 March 2021).
- <sup>16</sup> United Nations Committee on Civil and Political Rights, *Concluding observations on sixth periodic report on Australia*, 121<sup>st</sup> sess, UN Doc CCPR/C/AUS/CO/6 (1 December 2017) [9]
- <sup>17</sup> 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] <[https://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/69/L.1](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/69/L.1)>.
- <sup>18</sup> 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) <<https://www.aph.gov.au/DocumentStore.ashx?id=81afbee8-381f-40a4-a758-b1384881e633&subId=658933>>.
- <sup>19</sup> Commonwealth of Australia, *Budget paper No.1, Budget Strategy and Outlook 2022 – 2023* (25 October 2022) 27 <[https://archive.budget.gov.au/2022-23-october/bp1/download/bp1\\_2022-23.pdf](https://archive.budget.gov.au/2022-23-october/bp1/download/bp1_2022-23.pdf)>.
- <sup>20</sup> 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] <[https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/RB000083/toc\\_pdf/InquiryintotheapplicationoftheUnitedNationsDeclarationontheRightsofIndigenousPeoplesinAustralia.pdf](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/RB000083/toc_pdf/InquiryintotheapplicationoftheUnitedNationsDeclarationontheRightsofIndigenousPeoplesinAustralia.pdf)> <<https://www.aph.gov.au/UNDRIP>>.
- <sup>21</sup> Australian Government Productivity Commission, *Closing the Gap; Information Repository* (Web page) <<https://www.pc.gov.au/closing-the-gap-data/dashboard>>.
- <sup>22</sup> Senate of Australia Standing Committee on Legal and Constitutional Affairs. (2025). Australia's youth justice and incarceration system, 103 [Table 4.1] at [https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000499/toc\\_pdf/Australia%e2%80%99syouthjusticeandincarcerationsystem.pdf](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000499/toc_pdf/Australia%e2%80%99syouthjusticeandincarcerationsystem.pdf)
- <sup>23</sup> Senate of Australia Standing Committee on Legal and Constitutional Affairs. (2025). Australia's youth justice and incarceration system, 103 [Table 4.1] at [https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000499/toc\\_pdf/Australia%e2%80%99syouthjusticeandincarcerationsystem.pdf](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000499/toc_pdf/Australia%e2%80%99syouthjusticeandincarcerationsystem.pdf)
- <sup>24</sup> Youth Justice Act 2024 (Vic), s 10 (however, while certain sections of the Act are in force, s 10 has not yet commenced).
- <sup>25</sup> Youth Justice Act 2024 (Vic), ss 66-79.
- <sup>26</sup> Senate of Australia Standing Committee on Legal and Constitutional Affairs. (2025). Australia's youth justice and incarceration system, 103 [Table 4.1] at [https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000499/toc\\_pdf/Australia%e2%80%99syouthjusticeandincarcerationsystem.pdf](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000499/toc_pdf/Australia%e2%80%99syouthjusticeandincarcerationsystem.pdf)
- <sup>27</sup> Senate of Australia Standing Committee on Legal and Constitutional Affairs. (2025). Australia's youth justice and incarceration system, 103 [Table 4.1] at [https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000499/toc\\_pdf/Australia%e2%80%99syouthjusticeandincarcerationsystem.pdf](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000499/toc_pdf/Australia%e2%80%99syouthjusticeandincarcerationsystem.pdf)

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- <sup>29</sup> Queensland Government, *Making Queensland Safer Bill 2024 Statement of Compatibility* (2024) <<https://documents.parliament.qld.gov.au/bills/2024/3232/Making-Queensland-Safer-Bill-2024---Statement-of-Compatibility-c348.pdf>>.
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- <sup>37</sup> Australian Human Rights Commission, *Women in Native Title: Native Title* (Final Report, March 2024) <[https://humanrights.gov.au/sites/default/files/2024-08/2403\\_Native%20Title%20Report%202024\\_final\\_optimised\\_0.pdf](https://humanrights.gov.au/sites/default/files/2024-08/2403_Native%20Title%20Report%202024_final_optimised_0.pdf)>
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- <sup>49</sup> *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), Executive Summary.
- <sup>50</sup> Australian Human Rights Commission 'Commissioner urges stronger government commitment to Disability Royal Commission findings' (Media Release, 31 July 2024) <<https://humanrights.gov.au/about/news/media-releases/commissioner-urges-stronger-government-commitment-disability-royal>>.
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- <sup>53</sup> The Australian Government has not responded to or implemented recommendations made by the Australian Law Reform Commission in 2014 in relation to the implementation of National Decision-Making principles and guidelines and reform to commonwealth laws to enable people with disability to exercise their legal capacity: Australian Law Reform Commission, *Equality, Capacity and Disability in Commonwealth Laws* (Final Report, 24 November 2014) 63-89, 91-127; See also Australian Human Rights Commission, *Information concerning Australia's compliance with the Convention on the Rights of Persons with Disabilities* (25 July 2019) [57]-[58].

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- <sup>55</sup> Data from 2012 shows that 28,603 people with disability have been disenfranchised by domestic legislation: See Joint Standing Committee on Electoral Matters (Cth), *Advisory Report on the Electoral and Referendum (Improving Electoral Procedure) Bill 2012 (Cth)* (August 2012) 29 [2.66]; *Commonwealth Electoral Act 1918* (Cth) sub-s 93(8)(a).
- <sup>56</sup> Recommendations 9-1 – 9-7: Australian Law Reform Commission, *Equality, Capacity and Disability in Commonwealth Laws* (Final Report, 24 November 2014) 261-272.
- <sup>57</sup> See *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), vol 3.
- <sup>58</sup> See *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), vol 11; Australian Human Rights Commission, *Information concerning Australia's compliance with the Convention on the Rights of Persons with Disabilities* (25 July 2019) [67]-[71].
- <sup>59</sup> See *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), vol 7(b) 461-519; See also Australian Human Rights Commission, *Information concerning Australia's compliance with the Convention on the Rights of Persons with Disabilities* (25 July 2019) [107].
- <sup>60</sup> People with disability in Australia can be paid as little as \$3.01 per hour of work under the Supported Wage System: See *Fair Work Act 2009* (Cth) ss 294(1)(b)(iii), 294(4)(c); *Supported Employment Services Award 2020* (Cth) (MA000103) sch D <[https://awards.fairwork.gov.au/MA000103.html#\\_Toc175834423](https://awards.fairwork.gov.au/MA000103.html#_Toc175834423)>; 'Employees with disability pay rates' (Web Page) <<https://www.fairwork.gov.au/pay-and-wages/minimum-wages/employees-with-disability-pay-rates>>.
- <sup>61</sup> See generally Linda Steele, 'Law and Disability 'Supported' Employment in Australia: 'The Case for Ending Segregation, Discrimination, Exploitation, and Violence of People with disability at Work' (2022) 49(2) *Monash University Law Review* 1 <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4187360](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4187360)>.
- <sup>62</sup> See Joint Standing Committee on Migration, Parliament of Australia, *Migration treatment of disability: Enabling Australia* (Final Report, 2010) <[Report - Enabling Australia - Parliament of Australia \(aph.gov.au\)](https://aph.gov.au/Report-Enabling-Australia)> ('*Enabling Australia*'); Australian Human Rights Commission, *Information concerning Australia's compliance with the Convention on the Rights of Persons with Disabilities* (25 July 2019) [78]-[80]; UN Special Rapporteur on the human rights of migrants, 'UN Special Rapporteur on the Human Rights of Migrants Concludes His Official Visit to Australia' (1 November 2016) [49], [92]; *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), vol 4 331-335; Committee on the Rights of Persons with Disability, *Views: Communication No 20/2014*, UN Doc CRPD/C/24/D/20/2014 (30 April 2021) 14 [9(b)] (*Sherlock v Australia*); 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) [36(a)].

<sup>63</sup> The *Migration Regulations 1994* (Cth), subordinate legislation to the *Migration Act 1958* (Cth), provide for Public Interest Criteria 4005 and 4007 which attach to particular types of visas. These public interest criteria provide that the visa applicant must be ‘free from a disease or condition’ (which includes any disability) that is likely to result in a need for health care or community services, and where the provision of those services would be likely to result in a significant cost to the Australian community or prejudice the access of Australian citizens or permanent residents to such services. Significant cost assessments are applied ‘regardless of whether health care or community services will actually be used in connection with the applicant’ and do not consider or recognise the social and economic benefits or contributions migrants with disability bring to Australian society. Some minor changes have been made to the operationalisation of the Migration Health Requirement, including an increase in cost thresholds and special consideration for child visa applicants born and ordinarily resident in Australia with a health condition or disability to enable the grant of a visa, however this does not go nearly far enough to address the broader human rights concerns associated with this policy: See *Migration Regulations 1994* (Cth) sch 4 regs 4005, 4007; Department of Home Affairs (Cth), *Report on the review of the Migration Health Requirement and Australia’s visa Significant Cost Threshold* (Consultation Report, April 2024) <<https://www.homeaffairs.gov.au/reports-and-publications/reviews-and-inquiries/departmental-reviews/report-review-migration-health-requirement-australias-visa-sct>>.

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<sup>65</sup> Destroy the Joint, ‘Counting Dead Women Australia’ (Facebook) <<https://www.facebook.com/p/Counting-Dead-Women-Australia-100063733051461/>>.

<sup>66</sup> See Australian Human Rights Commission, *Wiyi Yani U Thangani: Women’s Voices Securing our rights, securing our future* (Final report, October 2020) 44 <[https://wiyiyaniuthangani.humanrights.gov.au/sites/default/files/2023-03/ahrc\\_wiyi\\_yani\\_u\\_thangani\\_report\\_2020.pdf](https://wiyiyaniuthangani.humanrights.gov.au/sites/default/files/2023-03/ahrc_wiyi_yani_u_thangani_report_2020.pdf)>; Centre of Research Excellence in Disability and Health, 2021, *Nature and extent of violence, abuse, neglect and exploitation against people with disability in Australia: Research report*. Centre of Research Excellence in Disability and Health, *Violence against young people with disability in Australia Fact Sheet 2*. Australian Institute of Health and Welfare, 2020 *People with Disability in Australia*; Australian Bureau of Statistics 2021–2022, *Sexual violence* <<https://www.abs.gov.au/statistics/people/crime-and-justice/sexual-violence/latest-release>>.

<sup>67</sup> AHRC, *Time for Respect: Fifth national survey sexual harassment workplaces* (2022) <<https://humanrights.gov.au/time-for-respect-2022>>

<sup>68</sup> Respect@Work: Sexual Harassment National Inquiry Report (2020)

<sup>69</sup> Department of the Prime Minister and Cabinet, *Working for Women: A Strategy for Gender Equality* (2024) <<https://genderequality.gov.au/>>.

<sup>70</sup> Workplace Gender Equality Agency, *Gender pay gap data* (2024) <<https://www.wgea.gov.au/pay-and-gender/gender-pay-gap-data>>.

<sup>71</sup> Women’s Economic Equality Taskforce, *A 10-Year Plan to unleash the full capacity and contribution of women to the Australian Economy* (2023) <<https://www.pmc.gov.au/resources/10-year-plan>>; Care and Support Economy Taskforce, *Draft National Care and Support Economy Strategy 2023*, <<https://www.pmc.gov.au/resources/draft-national-strategy-care-and-support-economy>>.

<sup>72</sup> Australian Human Rights Commission, *What’s Age Got To Do With It?* (2021). At <<https://humanrights.gov.au/our-work/age-discrimination/publications/whats-age-got-do-it-2021>>.

<sup>73</sup> Australian Royal Commission into Aged Care Quality and Safety: Final Report (2021). At <<https://www.royalcommission.gov.au/system/files/2021-03/final-report-executive-summary.pdf>>

- <sup>74</sup> National Elder Abuse Prevalence Study: Final Report (2021), Australian Institute of Family Studies. At <[https://aifs.gov.au/sites/default/files/publication-documents/2021\\_national\\_elder\\_abuse\\_prevalence\\_study\\_summary\\_report\\_0.pdf](https://aifs.gov.au/sites/default/files/publication-documents/2021_national_elder_abuse_prevalence_study_summary_report_0.pdf)>
- <sup>75</sup> Australian Human Rights Commission, *Empowering futures: A national survey on the understanding and use of financial enduring powers of attorney* (2024) <<https://humanrights.gov.au/our-work/age-discrimination/publications/empowering-futures-report-enduring-powers-attorney-2024>>
- <sup>76</sup> Australian Law Reform Commission, *Equality, Capacity and Disability in Commonwealth Laws* (Final Report 124, August 2014) <<https://disability.royalcommission.gov.au/publications/final-report>>.
- <sup>77</sup> Equality Australia, *Dismissed, Denied and Demeaned: a national report on LGBTQ+ Discrimination in faith-based schools and organisations* (Final report, March 2024) <<https://equalityaustralia.org.au/resources/dismissed-denied-and-demeaned-a-national-report-on-lgbtq-discrimination-in-faith-based-schools-and-organisations/>>. See also: Hill AO, Lyons A, Jones J, McGowan I, Carman M, Parsons M, Power J, Bourne A, *Writing Themselves In 4: The health and wellbeing of LGBTQA+ young people in Australia*, 2021, National report, monograph series number 124. Melbourne: Australian Research Centre in Sex, Health and Society, La Trobe University. ISBN 978-0-6450256-2-0 DOI: 10.26181/6010fad9b244b.
- <sup>78</sup> For example, these workers experience psychological strain due to collapsing social support and exposure to hateful and degrading language online and in person, physical strain from negative conditions that are social determinants of health (real and perceived reductions in social inclusion and protection), financial strain caused by rising costs for security now needed for social gatherings (in addition to the impacts of cost of living, housing, etc, on a generally underemployed and economically disempowered demographic). See Trans Justice Project and Victorian Pride Lobby, *Fuelling Hate, Abuse, Harassment, Vilification and Violence against Trans People in Australia* (Final Report, August 2023) <<https://transjustice.org.au/wp-content/uploads/2023/08/Fuelling-Hate-Anti-Trans-Abuse-Harassment-and-Vilification-WEB-SINGLES-1-1.pdf>> See also, Institute for Strategic Dialogue, *A Year of Hate: Anti-Drag Mobilisation Efforts Targeting LGBTQ+ People in Australia* (Final report, 25 March 2024) <<https://www.isdglobal.org/isd-publications/a-year-of-hate-anti-drag-mobilisation-efforts-targeting-lgbtq-people-in-australia/>>; A recent study looking at data from the HILDA survey found TGD-cisgender mental health inequalities are increasing in Australia see Karinna Saxby, Sara Hutchinson Tovar, Glenda M. Bishop, Ian Down, Ricki Spencer, Dennis Petrie, Zoe Aitken 'Gender identity and mental health inequalities 2001–2022: population-level evidence from an Australian cohort study' (2025) 28(1) *BMJ Mental Health* <<https://mentalhealth.bmj.com/content/28/1/e301277>>.
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- <sup>82</sup> Australian Institute of Health and Welfare, *Child protection Australia 2022-23* (Cat. no: CWS 95 27 February 2025) <<https://www.aihw.gov.au/getmedia/04055637-d163-4c7e-8923-ab5107d6b0cf/child-protection-australia-2022-23.pdf?v=20250227100609&inline=true>>.

<sup>83</sup> Australian Institute of Health and Welfare, *Child protection Australia 2022-23* (Cat. no: CWS 95 27 February 2025) <<https://www.aihw.gov.au/getmedia/04055637-d163-4c7e-8923-ab5107d6b0cf/child-protection-australia-2022-23.pdf?v=20250227100609&inline=true>> and SNAICC, *Understanding and Applying the Aboriginal and Torres Strait Islander Child Placement Principle: A Resource for Legislation, Policy, and Program Development* (June 2017) < [https://www.snaicc.org.au/wp-content/uploads/2017/07/Understanding\\_applying\\_ATSICCP.pdf](https://www.snaicc.org.au/wp-content/uploads/2017/07/Understanding_applying_ATSICCP.pdf)>.

<sup>84</sup> Australian Institute of Health and Welfare, *Youth justice in Australia 2023-24* (Cat. no: JUV 145, 28 March 2025) <<file:///C:/Users/susan.nicolson/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/16G1T2TM/Youth-justice-in-Australia-2023-24.pdf>>.

<sup>85</sup> The *Making Queensland Safer Act 2024* received assent on 13 December 2024. Some of the provisions in the Act commenced on assent, and some are to commence by proclamation once necessary implementation work has been completed. The amendments to the *Youth Justice Act 1992* that commenced on assent:

- provide that children who commit specified offences are liable to the same maximum, mandatory, and minimum penalties as adults
- remove the principle of detention as a last resort, and the principle that a non-custodial order is better than detention in promoting a child's ability to reintegrate into the community
- promote the consideration of the impacts of offending on victims in the Charter of Youth Justice Principles and when sentencing a child
- alter the process for the transfer of 18-year-old detainees from youth detention centres to corrective services facilities.

<https://www.youthjustice.qld.gov.au/our-department/our-legislation/changes-act#2021-amendments-35429-339>

In Victoria, 3B(1)(b) of the *Bail Act 1977* (Vic) has removed using remand as a last resort for children. The amendments got Royal Assent on 25 March 2025.

<sup>86</sup> Criminal Code 1913 (WA) ss 297, 318, 401(4).

<sup>87</sup> Sentencing Act 1995 (NT), e.g. Part 3, Division 3A.

<sup>88</sup> Australian Human Rights Commission, *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing* (Report, 2024) <https://humanrights.gov.au/our-work/childrens-rights/publications/help-way-earlier>.

<sup>89</sup> Australian Human Rights Commission, *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing* (Report, 2024) <<https://humanrights.gov.au/our-work/childrens-rights/publications/help-way-earlier>>.

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<sup>91</sup> Australian Curriculum, Assessment and Reporting Authority (ACARA), 'Framework for Aboriginal Languages and Torres Strait Islander Languages' *Australian Curriculum* (Web Page) <<https://www.australiancurriculum.edu.au/f-10-curriculum/languages/framework-for-aboriginal-languages-and-torres-strait-islander-languages/>>.

<sup>92</sup> International Decade of Indigenous Languages Directions Group, Australian Government, *Australia's Action Plan for the International Decade of Indigenous Languages 2022-2032* (August 2023) <<https://www.arts.gov.au/sites/default/files/documents/voices-of-country%E2%80%9494australias-action-plan-for-the-international--decade-of-indigenous-languages-2022%E2%80%932032.pdf>> The Action Plan was developed by the International Decade of Indigenous Languages Directions Group and the Australian Government. Voices of Country is framed through five inter-connected themes including Stop the loss; Aboriginal and Torres Strait Islander communities are centre; Caring for Country; Intergenerational knowledge transfer; Truth-telling and celebration.

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