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Abbreviations

| | |
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| ABS | Australian Bureau of Statistics |
| ACT | Australian Capital Territory |
| ADA | Age Discrimination Act 2004 (Cth) |
| AFP | Australian Federal Police |
| AHRC | Australian Human Rights Commission |
| AHRC Act | Australian Human Rights Commission Act 1986 (Cth) |
| ALRC | Australian Law Reform Commission |
| CAT | Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CERD | Convention on the Elimination of All Forms of Racial Discrimination |
| CRC | Convention on the Rights of the Child |
| CRPD | Convention on the Rights of Persons with Disabilities |
| Cth | Commonwealth of Australia |
| DDA | Disability Discrimination Act 1992 (Cth) |
| DFAT | Department of Foreign Affairs and Trade |
| GDP | Gross domestic product |
| GNI | Gross national income |
| HIV | Human Immunodeficiency Virus |
| ICCPR | International Covenant on Civil and Political Rights |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| ILO | International Labour Organization |
| LGBTIQA+ | Lesbian, Gay, Bisexual, Transgender/gender diverse, Intersex, Queer, and Asexual and other sexually or gender diverse |
| NGO | Non-government organisation |
| NDIS | National Disability Insurance Scheme |
| NHRI | National Human Rights Institution |
| NPM | National Preventive Mechanism |
| NSW | New South Wales |
| NT | Northern Territory |
| OPCAT | Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| PJCHR | Parliamentary Joint Committee on Human Rights |
| Qld | Queensland |
| RDA | Racial Discrimination Act 1975 (Cth) |
| SA | South Australia |
| SDA | Sex Discrimination Act 1984 (Cth) |
| SPT | Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture |

| | |
|-----|-------------------|
| Tas | Tasmania |
| UN | United Nations |
| Vic | Victoria |
| WA | Western Australia |

Introduction

1. The Australian Government is pleased to present its updated common core document prepared in accordance with the harmonised guidelines issued by the Office of the High Commissioner for Human Rights in May 2006 (HRI/MC/2006/3; also, HRI/GEN/2/Rev.6).
2. This document includes general information on Australia, its human rights protection and promotion framework, and measures adopted to promote non-discrimination, equality and effective remedies.
3. Data reported in this document are the most current available at the time of preparation. Where possible, links to data sources have been provided to facilitate easy access to the most up to date data.

I. General Information

A. Demographic, economic, social and cultural characteristics

4. Australia is a stable, democratic and culturally diverse nation. Our strong domestic laws, policies and institutions function to protect human rights and support robust public debate of human rights issues. As a liberal democracy and a free and open society, we are committed to promoting values like human rights, gender equality and the rule of law. Everyone – including citizens and the government – is bound by and entitled to the benefit of laws.
5. Australia is the home of the oldest continuous civilisation on Earth, extending back over 60,000 years. Aboriginal and/or Torres Strait Islander identity is a deeply personal matter and can be extremely complex. Aboriginal and Torres Strait Islander cultures are a critical part of the Australian identity.
6. Australian governments have demonstrated enduring commitment to protecting and promoting human rights domestically and internationally. Australia is proud of its contribution to the founding of the United Nations (UN) and the international human rights framework and continues to be a responsible and active participant in UN human rights treaty body reporting and plays a constructive role shaping and maintaining international laws. Australia's election to the UN Human Rights Council (HRC) in 2018–20 reflected our steadfast commitment to the aims and purposes of the Universal Declaration of Human Rights, and the Australian Government's commitment to speak honestly and consistently for the advancement of human rights internationally.
7. A comprehensive profile of Australia can be found on the Department of Foreign Affairs and Trade's (DFAT) website at <https://www.dfat.gov.au/about-australia/Pages/about-australia>.

1. Geography

8. Australia is the sixth largest nation by land mass; at 7.7 million square kilometres (sq. km) Australia is approximately three-quarters the size of the total geographical area of Europe (10.2 million sq. km). Located in the Asia-Pacific region, Australia's closest neighbour is Papua New Guinea, located 1591km north-east of Darwin. Other neighbouring countries include Indonesia and Timor-Leste to the north, New Zealand to the south-east, and Pacific Island nations to the east. Australia is the only nation to govern a continent.
9. Nearly 20% of Australia's land mass is desert and 70% is classified as arid or semi-arid land, significant factors in shaping Australia's population distribution.

2. History

10. Aboriginal and Torres Strait Islander peoples have inhabited, cared for and owned the land now known as Australia for more than 60,000 years before the arrival of British settlers and convicts in 1788. It is estimated that, prior to colonisation, the Aboriginal and Torres

Strait Islander population comprised between 300,000 and one million people who belonged to over 500 different tribal nations and spoke over 250 different languages.

11. Between 1788 and 1859, six separate British colonies were established around Australia – New South Wales (NSW), Queensland (Qld), South Australian (SA), Tasmania (Tas), Victoria (Vic) and Western Australia (WA). These colonies were quasi-sovereign bodies, equal in status and politically independent of each other, with their own representative parliaments.

12. In 1901 the Australian colonies federated to become the Commonwealth of Australia, which remained a part of the British Empire. In addition to the six colonies, which were renamed ‘states’ by the Constitution, a number of territories were subsequently established. The Constitution provided for the establishment of a national capital; the Australian Capital Territory (ACT) was created in 1911 for this purpose. In the same year, the Northern Territory (NT), previously part of SA, was established. There are also a number of other Australian territories, though only the ACT and NT currently have self-government.

13. Australia attained an independent status in international affairs in the course of the 20th century. The Statute of Westminster, adopted by Australia in 1942 with retrospective effect from 3 September 1939, formally ended most of the constitutional links between the United Kingdom and Australia and the final constitutional ties were removed with the passing of the *Australia Act 1986* (Cth). The British monarch remains the head of state of Australia, though in an entirely distinct position as Queen or King of Australia. The executive power of the Commonwealth is vested in the monarch and is exercisable by the Governor-General appointed by the monarch. Apart from exceptional circumstances, the Governor-General acts in accordance with the advice of Commonwealth Ministers.

3. Economy

14. Australia has one of the strongest performing economies in the world. There is an efficient government sector, a highly-skilled and flexible labour market and a competitive business sector.

15. Australia’s gross domestic product (GDP) in the March quarter 2023 was \$557.1 billion, having risen by 2.3% compared with the previous year, and gross national income (GNI) was \$548.8 billion.¹ In the March quarter 2023, Australia’s GDP per capita income was \$21,112, compared with \$21,047 in the March quarter 2022 and an annual growth rate of 2.4%.² In the 2022–23 Budget, priorities included households, regional, health, education and environment to deliver on the Government’s commitments to provide cost of living relief, to build a more resilient and modern economy.³

16. Over the twelve months to the June 2023 quarter, the consumer price index (CPI) rose by 6.0%. The most significant price rises were insurance and financial services (+8.5%), housing (+8.1%), food and non-alcoholic beverages (+7.5%) and recreation and culture (+6.8%).⁴

17. Since 2019, primarily due to the COVID-19 pandemic, Australian Government gross debt has increased from \$534.4 billion in March 2019 to \$894.9 billion as of 28 October 2022.⁵

¹ Australian Bureau of Statistics, *Australian National Accounts: National Income, Expenditure and Product, December quarter 2022*, <https://www.abs.gov.au/statistics/economy/national-accounts/australian-national-accounts-national-income-expenditure-and-product/mar-2023>. Note: All financial figures in this report are provided in Australian Dollars. At the time of report-writing the exchange rate is approximately \$1AUD=\$0.68USD.

² Ibid; OECD, https://stats.oecd.org/Index.aspx?DataSetCode=PDB_GR.

³ Commonwealth of Australia, *Budget Overview 2022–23*, <https://budget.gov.au/2022-23-october/content/overview/index.htm>.

⁴ Australian Bureau of Statistics, *Consumer Price Index, Australia, 2022, 2023*, <https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia/latest-release>.

⁵ Australian Parliament House, *Australian Government Debt, 2022–23*, https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/r

18. Australia's foreign aid program in 2022–23 amounts to an estimated \$4.549 billion, an increase of \$241 million on the 2021–22 estimate of \$4.335 billion (inclusive of temporary measures). Aid as a proportion of Government spending is 0.72% in 2022–23, down from 1.32% in 2012–13.⁶

19. Key economic indicators change frequently; see the Australian Bureau of Statistics (ABS) website for the latest figures at www.abs.gov.au/AUSSTATS/abs@.nsf/mf/1345.0.

4. Demography

20. On 30 June 2022, Australia's estimated resident population was 25.9 million people.⁷ Annual population growth is 1.1%, with the contribution of overseas migration (approximately 60%) slightly outweighing natural increase (approximately 40%).⁸

21. Australia is one of the least-densely populated countries in the world; estimated population density is 3.3 people per sq. km, well below the high-income country average (33.0 people per sq. km) and comparable to Iceland.⁹

22. Reflecting Australia's geography, over 80% of Australians live within 100km of the coast. The population is highly urbanised with 72% of Australians living in major cities, including over 40% residing in just two state capitals – Sydney (5.3 million) and Melbourne (5.1 million). Population density varies widely, with the most densely populated areas encompassing Sydney and Melbourne (e.g. inner-city Melbourne: 19,900 people per sq. km) and the least densely populated areas concentrated in the states of Qld, WA and NSW (fewer than one person per sq. km).¹⁰

23. Aboriginal people in Australia are the custodians of one of the oldest continuous living cultures in the world. Archaeological evidence suggests that Australia has been continuously inhabited for more than 60,000 years. Another distinct group, of Melanesian origin, are the Torres Strait Islander peoples who first settled on islands north of the mainland, between the tip of Queensland and Papua New Guinea, thousands of years ago.

24. There were an estimated 984,000 Aboriginal and/or Torres Strait Islander people in Australia as at 30 June 2021, making up 3.8% of the total population of Australia.¹¹ This represents a 23.2% increase in the Aboriginal and/or Torres Strait Islander population since 2016, up from an estimated 798,400 people. Of those who identified as Aboriginal and/or Torres Strait Islander peoples in the most recent Census (conducted in 2021), 91.4% identified as being of Aboriginal origin, 4.2% as Torres Strait Islander and 4.4% as both.¹² Census data indicate that one in ten Aboriginal and Torres Strait Islander people speak an Aboriginal or Torres Strait Islander language at home, with over 150 different languages spoken.¹³

[p/BudgetReviewOctober202223/AustralianGovernmentDebt#:~:text=This%20continues%20the%20trend%20of,as%20of%2028%20October%202022](https://www.abs.gov.au/BudgetReviewOctober202223/AustralianGovernmentDebt#:~:text=This%20continues%20the%20trend%20of,as%20of%2028%20October%202022).

⁶ Australian Parliament House, *Foreign Aid Budget, 2022–23*, [https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview202223/ForeignAidBudget#:~:text=Australia%27s%20foreign%20aid%20program%20in,\(inclusive%20of%20temporary%20measures\)](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview202223/ForeignAidBudget#:~:text=Australia%27s%20foreign%20aid%20program%20in,(inclusive%20of%20temporary%20measures)).

⁷ Australian Bureau of Statistics, *National, state and territory population, June 2022*, <https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/jun-2022>.

⁸ Ibid.

⁹ World Bank, *Open Data: Population Density*, data.worldbank.org/indicator/en.pop.dnst.

¹⁰ Australian Bureau of Statistics, 3218.0 – Regional Population Growth, Australia, 2020–21, 2022, <https://www.abs.gov.au/statistics/people/population/regional-population/2020-21>. An interactive map showing regional population density can be accessed via this link.

¹¹ Australian Bureau of Statistics, *Estimates of Aboriginal and Torres Strait Islander Australians, 2021*, <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/estimates-aboriginal-and-torres-strait-islander-australians/latest-release>.

¹² Australian Bureau of Statistics, *Snapshot of Australia, 2021*, <https://www.abs.gov.au/statistics/people/people-and-communities/snapshot-australia/2021>.

¹³ Australian Bureau of Statistics, *Australia: Aboriginal and Torres Strait Islander population summary, 2022* <https://www.abs.gov.au/articles/australia-aboriginal-and-torres-strait-islander-population-summary>.

25. As with Indigenous peoples of other countries with similar colonial histories (e.g. Canada, New Zealand), numerous indicators show that Aboriginal and Torres Strait Islander peoples are overrepresented among Australians facing disadvantage.¹⁴ The *Closing the Gap* Annual report acknowledges the ongoing strength and resilience of Aboriginal and Torres Strait Islander people in sustaining the world's oldest living culture. All Australian governments are committed to working with Aboriginal and Torres Strait Islander people, their communities, organisations and businesses to implement the policies, programs and actions to achieve improved life expectancy outcomes, reduced early mortality, and improved education and employment outcomes for Aboriginal and Torres Strait Islander people.¹⁵

26. Australia is a multi-faith, culturally and linguistically diverse society. In the 2021 Census, 51.5% of Australians were either born overseas or had at least one parent who was born overseas. Over 300 different ancestries were identified with Australian the second-most commonly reported ancestry (34%). European heritage comprised three of the five most commonly reported ancestries (English: 33%, Irish: 9.5%, Scottish: 8.6%). Outside of Europe, the most commonly reported ancestry was Chinese (5.5%).¹⁶

27. Although Australia has no official language, English is the most commonly spoken language. Over one fifth of Australians speak a language other than English, most commonly Mandarin (2.6%), Arabic (1.4%), Vietnamese (1.2%), and Cantonese (1.1%).¹⁷

28. In the 2021 Census, of those who completed the optional question on religion, 43.9% of Australians identified as Christian and 38.9% as having no religion. Of the remaining Australians who reported their religion, the most commonly reported religions were Islam, Hinduism, Buddhism, Sikhism and Judaism.¹⁸ The religious beliefs of Australians have changed over the past decade, with the proportion of the population reporting no religion and the proportion reporting a religion other than Christianity both increasing.

29. In 2021 there were 309,996 births in Australia, with a total fertility rate of 1.70 live births per woman.¹⁹ Australia's total fertility rate has been below replacement level since 1976. In 2021 there were 171,469 deaths, representing a crude death rate of 6.7 deaths per 1,000 population and standardised death rate of 5.1 deaths per 1,000 population.²⁰

30. Australia has the third-highest life expectancy in the world; in 2019–2021 life expectancy at birth was 81.3 years for males and 85.4 years for females.²¹ Life expectancy has increased substantially over the past decade (by 1.6 years for males and 1.2 years for females) due to improved health services, safer working environments, and medical and technological advances. For both males and females, life expectancy for Aboriginal and Torres Strait Islanders is lower than for non-Indigenous Australians.²² Aboriginal and Torres

¹⁴ Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2020*, Productivity Commission, Canberra, 2020.

¹⁵ National Indigenous Australians Agency, *Commonwealth Closing the Gap Annual Report 2022*, <https://www.niaa.gov.au/sites/default/files/publications/niaa-closing-the-gap-annual-report-2022.pdf>; Closing the Gap, *National Agreement on Closing the Gap, July 2020*, https://www.closingthegap.gov.au/sites/default/files/2022-09/ctg-national-agreement_apr-21-comm-infra-targets-updated-24-august-2022_0.pdf.

¹⁶ Australian Bureau of Statistics, *Snapshot of Australia, 2021*, <https://www.abs.gov.au/statistics/people/people-and-communities/snapshot-australia/2021>.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Australian Bureau of Statistics, *Births, Australia, 2021*, <https://www.abs.gov.au/statistics/people/population/births-australia/latest-release>.

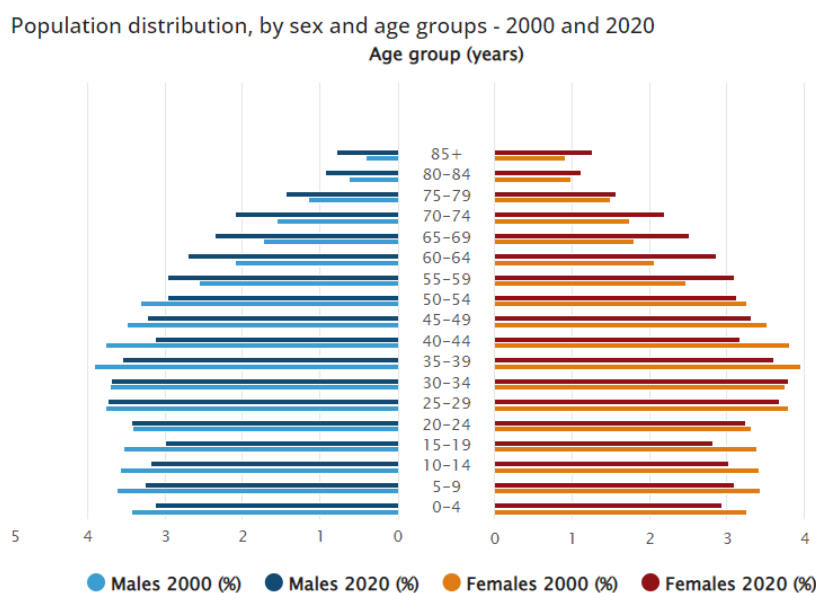
²⁰ Australian Bureau of Statistics, *Deaths, Australia, 2021*, <https://www.abs.gov.au/statistics/people/population/deaths-australia/latest-release>.

²¹ Australian Bureau of Statistics, *Life tables, 2019–2021, 2022*, <https://www.abs.gov.au/statistics/people/population/life-tables/latest-release>.

²² Australian Bureau of Statistics, *Life Tables for Aboriginal and Torres Strait Islander Australians, 2015–2017, 2018*, <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/aboriginal-and-torres-strait-islander-life-expectancy-estimates/latest-release>.

Strait Islander males born in 2015–2017 are expected to live to 71.6 years and females to 75.6 years.²³

31. The impacts of Australia’s low fertility rate and high life expectancy are reflected in Australia’s population pyramid (below).²⁴ The median age of the Australian population is 37.2 years. Over the past 20 years (2000–2020) children aged 0–14 years decreased from 21% to 19% of the population. Around 65% of the population are of working age (15–64 years) and although this has grown over the past 20 years, the rate of growth has slowed over the past five years. The total population dependency ratio is estimated at 54% (54 dependents for every 100 persons of working age).²⁵ Additional data is provided in Annex 1, Tables A1 to A2.



Source: Australian Bureau of Statistics, 2020.

32. Australia’s population is ageing; in 2022, 16% of the population (4 million people) were aged 65 years and over, with this figure projected to grow to between 21% and 23% in 2066.²⁶ The number of people aged 85 and over has increased by 91% in the past 20 years.²⁷ Ageing has been identified as one of the most important future challenges for Australia, with particular implications for health, aged care, housing and skilled labour.

33. According to the 2021 Census, most Australians live in private dwellings, commonly occupied by a single family (70.5%) or individual (25.6%).²⁸ Compared with non-Indigenous

²³ Productivity Commission, *Closing the Gap: Annual Data Compilation Report July 2023*, <https://www.pc.gov.au/closing-the-gap-data/annual-data-report/report>.

²⁴ Australian Bureau of Statistics, *National, state and territory population, 2020*, www.abs.gov.au/articles/twenty-years-population-change.

²⁵ Australian Bureau of Statistics, *Population Projections, Australia, 2017 (base) – 2066, 2018*, <https://www.abs.gov.au/statistics/people/population/population-projections-australia/latest-release>.

²⁶ Australian Bureau of Statistics, *National, state and territory population, June 2022, 2022*, <https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/jun-2022>; *Population Projections, Australia, 2017 (base) – 2066, 2018*, <https://www.abs.gov.au/statistics/people/population/population-projections-australia/latest-release>.

²⁷ Australian Bureau of Statistics, *National, state and territory population, June 2022, 2022*, <https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/jun-2022>.

²⁸ Australian Bureau of Statistics, *Snapshot of Australia, 2021, 2022*, <https://www.abs.gov.au/statistics/people/people-and-communities/snapshot-australia/2021#our-families-and-households>.

households, the average number of people per household is higher in Aboriginal and/or Torres Strait Islander households (3.1 people per household).²⁹

34. 2021 Census data show that the composition of Australian families has changed considerably over the past 25 years. Although couples with children living with them remain the most common family structure (53%), this has decreased from 54% in 1996, with couples without children living with them and single-parent families increasing (from 32% to 47%, and 15% to 16%, respectively).³⁰ In 2021, 80% of single-parent households were headed by women.³¹ Following the 2017 amendments to the *Marriage Act 1961*, which instituted marriage equality, nearly 25,000 same-sex marriages were counted in the 2021 Census.

5. Social, economic and cultural characteristics

Income and expenses

35. In the 2021 Census the median weekly personal income for Australians aged 15 years and over was \$805.³² Detailed data on the economic wellbeing of Australians is collected in the *ABS Survey of Income and Housing* (most recent results 2019–20). In 2019–20, the median weekly gross household income was \$1,786 and the median weekly equivalised disposable household income was \$959.³³ Households in the highest income quintile receive 40% of total income.³⁴ The Gini coefficient for equivalised disposable household income was 0.324.³⁵ The distribution of wealth is more unequal than the distribution of income, with the highest quintile owning 63% of total household wealth.³⁶ The Gini coefficient was 0.611 for household net worth and 0.436 for gross household income in 2019–20.³⁷

²⁹ Australian Bureau of Statistics, *Australia: Aboriginal and Torres Strait Islander population summary*, 2022, <https://www.abs.gov.au/articles/australia-aboriginal-and-torres-strait-islander-population-summary#households-and-families>.

³⁰ Australian Bureau of Statistics, *Snapshot of Australia, 2021*, 2022, <https://www.abs.gov.au/statistics/people/people-and-communities/snapshot-australia/2021#our-families-and-households>.

³¹ Australian Bureau of Statistics, *Household and families: Census, 2021*, 2022, <https://www.abs.gov.au/statistics/people/people-and-communities/household-and-families-census/2021>.

³² Australian Bureau of Statistics, *Income and work: Census, 2021*, 2022, <https://www.abs.gov.au/statistics/labour/earnings-and-working-conditions/income-and-work-census/2021>.

³³ Australian Bureau of Statistics, *Household Income and Wealth, Australia, 2019–20*, 2022, <https://www.abs.gov.au/statistics/economy/finance/household-income-and-wealth-australia/2019-20>.

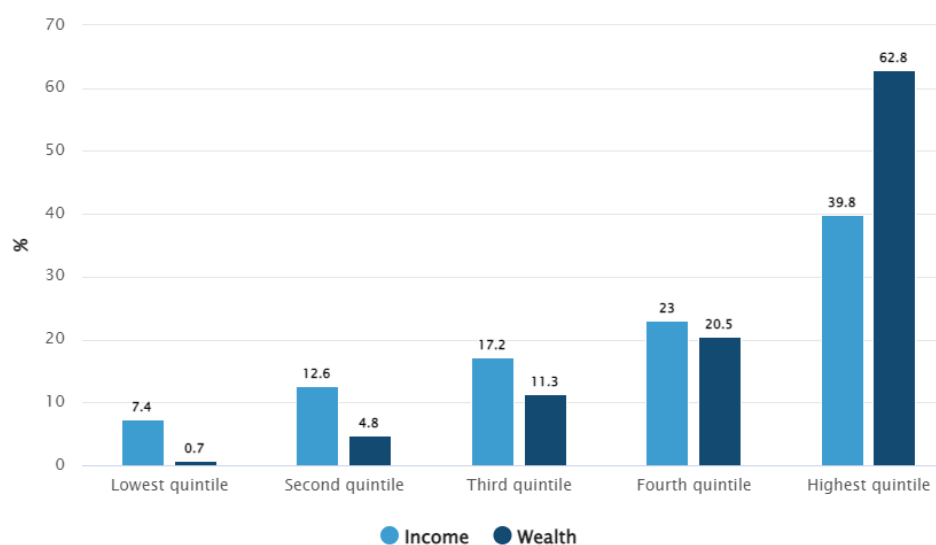
³⁴ Australian Bureau of Statistics, *Household Income and Wealth, Australia, 2019–20*, 2022, <https://www.abs.gov.au/statistics/economy/finance/household-income-and-wealth-australia/2019-20>.

³⁵ *Ibid* (The Gini Coefficient is a measure of the deviation of the distribution of income among individuals or households within a country from a perfectly equal distribution. A value of 0 represents absolute equality, a value of 1 absolute inequality).

³⁶ *Ibid*.

³⁷ *Ibid*.

36. Graph: Share of EDHI and net worth per quintile 2019–20.



a. Equivalised disposable household income

Source: ABS Survey of Income and Housing, 2019–20

37. Three quarters of Australian households (75%) have debt and 30% have debt three or more times their income.³⁸ Over the past decade, rising property values and low interest rates combined with minimal real income growth have contributed to increased over-indebtedness.

38. In 2015–16, housing costs accounted for 30% of weekly household spending on goods and services (Annex 1, Table A4). Other major expenses include food and non-alcoholic beverages (17%), transport (15%) and medical and health care (6%).³⁹ Household spending on education showed the largest percentage increase between 2009–10 and 2015–16, increasing 44% from \$31 per week to \$44. In terms of dollars spent, without adjusting for inflation, average household expenditure on basics increased from \$718 in 2009–10, and to \$846 in 2015–16.

39. The General Social Survey indicates that in 2020, 19% of households were unable to raise \$2,000 within a week for something important; and 21% experienced a cash flow problem in the previous 12 months.⁴⁰

Labour force participation

40. As at June 2023, the labour force participation rate was 66.8% (71.3% for males and 62.7% for females) with employment increasing to 14,046,100, following large month to month changes between March 2020 and November 2021 due to the COVID-19 pandemic.⁴¹

41. In June 2023, the unemployment rate remained at 3.5% (3.6% for males and 3.4% for females), with the youth unemployment (15–24 year old's) rate increasing to 7.8%, below the peak of 16.6% in July 2020 and the rate immediately prior to COVID-19 (11.6% in March 2020).⁴²

³⁸ Ibid.

³⁹ Australian Bureau of Statistics, *6530.0 – Household Expenditure Survey, Australia: Summary of Results, 2015–16*, 2017, www.abs.gov.au/ausstats/abs@.nsf/mf/6530.0.

⁴⁰ Measuring What Matters Statement, https://treasury.gov.au/sites/default/files/2023-07/measuring-what-matters-statement020230721_0.pdf.

⁴¹ Australian Bureau of Statistics, *Labour Force, Australia, Feb 2023*, seasonally adjusted data, <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia/latest-release>.

⁴² Ibid.

42. In May 2023 the largest employment industry in Australia was health care and social assistance (15.3% of workers), followed by professional, scientific and technical services (9.5%), construction (9.4%) and retail trade (9.3%), and education and training (8.4%).⁴³

43. In 2021, 58.0% of Aboriginal and Torres Strait Islander people aged 15–24 years were fully engaged in employment, education or training and 55.7% of Aboriginal and Torres Strait Islander people aged 25–64 years were employed.⁴⁴ Given the dynamic nature of the labour market, the ABS releases up to date statistics monthly, with data for June 2023 the latest at the time of drafting.⁴⁵

44. In August 2022, 12.5% of employees surveyed identified as being trade union members, although this varied across industries, with the highest levels of union membership in the education and training industry (30%) and professionals occupation groups (19%).⁴⁶

Education

45. In Australia, education is delivered by government and non-government schools (including faith-based and independent schools); most students (65.1%) attend government schools.⁴⁷ Students must participate in formal education from the age of five or six until 17 or 18 (this varies across jurisdictions). Government schools receive the majority of their public funding through their state or territory governments, with a proportion provided by the Australian Government. Families are generally required to pay for uniforms, books and other needs.

46. In 2021 the full-time equivalent student to teaching staff ratio in Australia was 14.5 for primary schools (14.4 in government and 14.8 in non-government schools) and 11.9 for secondary schools (12.4 in government and 11.3 in non-government schools).⁴⁸ In 2022, the average student to teaching staff ratio for all schools was 13.1 students to one teacher.⁴⁹

47. The proportion of the population aged 6–15 enrolled at school (99.3%),⁵⁰ school attendance (71.2% of students in Years 1–10 have attendance at 90% or higher) and apparent school retention rates (81.6% at Year 10–12) are all high.⁵¹

48. Educational achievement is also high, with over 90% of students meeting or exceeding the national minimum standards for both literacy and numeracy at Years 3, 5, 7 and 9.⁵² For persuasive/narrative writing, figures decrease from 97% at Year 3 to 82% at Year 9.⁵³ In 2016, 81% of Australian Year 4 students were at or above the international reading literacy proficiency standard, compared with 76% in 2011.⁵⁴ Data comparing educational

⁴³ Australian Bureau of Statistics, *Labour Force, Australia, Detailed, Quarterly, June 2023*, seasonally adjusted data, <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia-detailed/latest-release>.

⁴⁴ Productivity Commission, *Closing the Gap: Annual Data Compilation Report July 2023*, <https://www.pc.gov.au/closing-the-gap-data/annual-data-report/report>.

⁴⁵ Australian Bureau of Statistics, *Labour Force, Australia, Detailed, Quarterly, May 2023*, seasonally adjusted data, <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia-detailed/latest-release>.

⁴⁶ Australian Bureau of Statistics, *6333.0 – Characteristics of Employment, Australia, Aug 2022, 2022*, www.abs.gov.au/ausstats/abs@.nsf/mf/6333.0.

⁴⁷ Australian Curriculum and Assessment Reporting Authority, National report on schooling in Australia, 2021, https://acaraweb.blob.core.windows.net/acaraweb/docs/default-source/assessment-and-reporting-publications/national-report-on-schooling-in-australia-2021.pdf?sfvrsn=f9184c07_0.

⁴⁸ Ibid.

⁴⁹ Australian Bureau of Statistics, *Schools, 2022, 2023*, <https://www.abs.gov.au/statistics/people/education/schools/latest-release>.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Australian Council for Education Research Ltd, Reporting Australia's results PIRLS 2016, 2017, Victoria, <https://research.acer.edu.au/pirls/1/>.

achievement for Aboriginal and Torres Strait Islander students and non-Indigenous students are provided in the *Closing the Gap* Annual Report.⁵⁵

49. In 2021, there were 1,162,260 domestic student enrolments in higher education. Since 2011, domestic undergraduate enrolments have increased by 29.9%. Enrolments from students with a regional or remote permanent home residence have increased by 14.0%, enrolments from students from a low socio-economic background have increased by 43.2%, enrolments from students with an Aboriginal and Torres Strait Islander status have increased by 96.5%, and enrolments from students with a disability have increased by 157.9%. An estimated 43.5% of Australians aged 25–34 years have a Bachelor Degree or higher.⁵⁶

50. Nationally in 2022, 99.2% of Aboriginal and Torres Strait Islander children in the Year Before Full-time Schooling age cohort were enrolled in a preschool program.⁵⁷

51. Nationally in 2021:

- 34.3% of Aboriginal and Torres Strait Islander children commencing school were assessed as being developmentally on track in all five Australian Early Development Census domains.
- 68.1% of Aboriginal and Torres Strait Islander people aged 20–24 years had attained year 12 or equivalent.
- 47.0% of Aboriginal and Torres Strait Islander people aged 25–34 years had completed non-school qualifications of Certificate level III (a minimum qualification for entry into many industries) or above.⁵⁸

Health

52. Australia has an effective health system and Australians generally live long lives and experience good health.

53. The largest burden of disease in 2022 was non-communicable diseases including cancer (17%), followed by musculoskeletal diseases (13%), cardiovascular disease (12%), mental health and substance use conditions (12%) and neurological disease (8%), although there are differences in patterns of disease across age groups and sex (Annex 1, Figure A1).⁵⁹

54. More than one third (38%) of the burden of disease could be prevented by reducing exposure to modifiable risk factors, particularly alcohol and tobacco use, being overweight (including obesity), dietary risks, physical inactivity and high blood pressure.⁶⁰

55. Infectious diseases accounted for 4.5% of total disease burden in 2022.⁶¹ Disease notification rates in 2021 were highest for COVID-19 (471,000 notifications), sexually transmissible infections (e.g. Chlamydia: 86,000 notifications), gastrointestinal diseases (e.g. Campylobacteriosis: 37,000 notifications), and the disease which causes chickenpox

⁵⁵ National Indigenous Australians Agency, *Commonwealth Closing the Gap Annual Report 2022*, <https://www.niaa.gov.au/sites/default/files/publications/niaa-closing-the-gap-annual-report-2022.pdf>.

⁵⁶ Higher Education Student Collection. Department of Education Higher Education Statistics – Department of Education, Australian Government Student Data – Department of Education, Australian Government.

⁵⁷ Productivity Commission, *Closing the Gap: Annual Data Compilation Report July 2023*, <https://www.pc.gov.au/closing-the-gap-data/annual-data-report/report>.

⁵⁸ Productivity Commission, *Closing the Gap: Annual Data Compilation Report*, July 2023, <https://www.pc.gov.au/closing-the-gap-data/annual-data-report/report>.

⁵⁹ Australian Institute of Health and Welfare, *Australian Burden of Disease Study 2022*, <https://www.aihw.gov.au/getmedia/d9ae4bfa-df27-4e3c-9846-ba452bef6ac5/aihw-bod-37.pdf.aspx?inline=true>.

⁶⁰ Australian Institute of Health and Welfare, *Australian Burden of Disease Study 2018: Interactive data on risk factor burden*, 2021, <https://www.aihw.gov.au/reports/burden-of-disease/abds-2018-interactive-data-risk-factors/contents/summary>.

⁶¹ Australian Institute of Health and Welfare, *Australian Burden of Disease Study 2022*, <https://www.aihw.gov.au/reports/burden-of-disease/australian-burden-of-disease-study-2022/contents/summary>.

and shingles (Varicella Zoster: 33,000 notifications).⁶² In 2021, there were 552 new HIV diagnoses in Australia. The HIV notification rate was 2.2 per 100,000 population, a 38% decline since 2019.⁶³

56. Australia has a low infant mortality rate (3.3 per 1,000 live births in 2021), a low prevalence (6.8% in 2021) of low birthweight babies (defined as birthweight less than 2,500 grams) and most (92.6%) of Australian children are fully immunised at two years of age.⁶⁴ Nationally in 2020, 89.0% of Aboriginal and Torres Strait Islander babies born were of a healthy birthweight.⁶⁵

57. Nutrition is a major concern for Australian children, with 8.5% of children having the recommended fruit and vegetable intake in 2022.⁶⁶ Around 25% of Australian children aged 5–17 years are living with overweight or obesity.⁶⁷

58. Australian women's access to, and uptake of, sexual and reproductive health care varies. In a 2013 national survey of women and men aged 18–51 years, 85% used contraception.⁶⁸ Among women aged 18–23, contraception use is high and the pill is more commonly used than condoms, particularly by the younger cohort (60% on pill and 45% using condoms).⁶⁹ Around one in five young women has experienced an unintended pregnancy, with unintended pregnancy more frequently associated with inconsistent contraceptive use rather than non-use.

59. Abortion is legal in all states and territories in Australia, however abortion laws differ across jurisdictions. Notification of abortion is mandatory in some jurisdictions and there is no nationally consistent reporting of abortion data. It is estimated that 20–25% of Australian women will have an abortion within their lifetime.⁷⁰

60. Indicators of maternal health are positive; in 2021, 80% of women who gave birth accessed antenatal care in the first trimester of their pregnancy, and 96% had five or more antenatal care visits.⁷¹ In 2020, the maternal mortality ratio was 5.5 deaths per 100,000 women giving birth and between 2011 and 2020, the maternal mortality ratio was relatively stable, ranging from between 5.0 to 8.4 per 100,000 women giving birth.⁷²

61. The mortality rate remained low in 2021 (507.2 per 100,000 people). The ten major causes of death in 2021 were coronary heart disease which accounted for 10.1% of deaths, dementia, including Alzheimer disease (9.3%), cerebrovascular diseases (5.7%), lung cancer (5.1%), chronic lower respiratory diseases, colorectal cancer, diabetes, lymphoid cancer,

⁶² Australian Institute of Health and Welfare, *Infectious and communicable diseases, 2022*, <https://www.aihw.gov.au/reports/australias-health/infectious-and-communicable-diseases>.

⁶³ The Kirby Institute, HIV, viral hepatitis and sexually transmissible infections in Australia: Annual surveillance report 2022.

⁶⁴ Australian Institute of Health and Welfare, *Australia's mothers and babies, 2023*, <https://www.aihw.gov.au/reports/mothers-babies/australias-mothers-babies/contents/baby-outcomes/birthweight>.

⁶⁵ Productivity Commission, *Closing the Gap: Annual Data Compilation Report*, July 2023, <https://www.pc.gov.au/closing-the-gap-data/annual-data-report/report>.

⁶⁶ Australian Bureau of Statistics, *Dietary Behaviour, 2022*, <https://www.abs.gov.au/statistics/health/health-conditions-and-risks/dietary-behaviour/latest-release>.

⁶⁷ Australian Bureau of Statistics, *National Health Survey: First results, 2017–18, 2018*, www.abs.gov.au/ausstats/abs@.nsf/mf/4364.0.55.001.

⁶⁸ Freilich K, Holton S et al. (2017) *Sociodemographic characteristics associated with the use of effective and less effective contraceptive methods: findings from the Understanding Fertility Management in Contemporary Australia survey*. *European Journal of Contraception and Reproductive Health Care* 22(3):212–221.

⁶⁹ Loxton, D., et al., *Reproductive health: Contraception, conception, and change of life – Findings from the Australian Longitudinal Study on Women's Health*. 2021.

⁷⁰ Wright, S. M., Bateson, D., & McGeechan, K. (2021). *Induced abortion in Australia: 2000–2020*. Family Planning NSW: Ashfield, Australia.

⁷¹ Australian Institute of Health and Welfare, *Australia's mothers and babies, 2023*, <https://www.aihw.gov.au/reports/mothers-babies/australias-mothers-babies-data-visualisations/contents/summary>.

⁷² Australian Institute of Health and Welfare, *Maternal deaths, 2020*, <https://www.aihw.gov.au/reports/mothers-babies/maternal-deaths-australia>.

diseases of the urinary system and accidental falls.⁷³ Deaths due to circulatory diseases have declined in recent years due to reductions in smoking rates and improvements in prevention, detection and treatment, while dementia has increased 53.8% over the past decade.⁷⁴

62. Mental health continues to be an area of concern for Australia.

- Mental and substance use disorders are the fourth-leading cause of burden of disease, contributing 12% of the total disease burden.⁷⁵
- Mental disorders can vary in severity and duration, and may also be episodic. In the most recent National Study of Mental Health and Wellbeing conducted in 2020–21, an estimated 21.4% of the adult population experienced any mental disorder in the past 12 months, most commonly anxiety disorders.⁷⁶
- Over half (54.4%) of Australians who identify as gay, lesbian or bisexual, or use a different term such as asexual, pansexual or queer, experienced a mental disorder in 2020–21. This is more than double the rate among the general population (21.4%), inclusive of those who identify as gay, lesbian, bisexual, or other.”⁷⁷

63. Mental ill-health, self-harm and suicide are high cause of morbidity and mortality among young people.

- In 2020–21, 39.6% of young people aged 16–24 years had a 12-month mental disorder, including almost half (46.6%) of females and almost one third (31.2%) of males aged 16–24 years.⁷⁸
- Suicide and self-inflicted injuries and depressive disorders were two leading causes of total disease burden among people aged 15–24 years. Anxiety disorders and alcohol use disorders were also leading causes for females and males, respectively. Cumulatively, these leading causes accounted for 24.0% of total disease burden for females and 25.7% for males.⁷⁹
- During 2021, 3,144 people died due to intentional self-harm (suicide) with higher rates among males compared with females. The suicide rate for males increased between 2012 and 2021 from 17.0 to 18.2 deaths per 100,000 and for females from 5.6 to 6.1 deaths per 100,000.⁸⁰

64. Australians have access to a variety of mental health care services provided in different care settings, including general practice, community mental health services and hospital services. In 2021–22 an estimated 2.8 million people received Medicare-subsidised mental health services.⁸¹ A 2020–21 survey found that a high proportion of respondents rated the care they received through specialised mental health services and community-based

⁷³ Australian Bureau of Statistics, *Causes of Death, Australia, 2021, 2022*, <https://www.abs.gov.au/statistics/health/causes-death/causes-death-australia/latest-release>.

⁷⁴ Ibid.

⁷⁵ Australian Institute of Health and Welfare, *Australian Burden of Disease Study 2022*, <https://www.aihw.gov.au/reports/burden-of-disease/australian-burden-of-disease-study-2022/contents/summary.e>.

⁷⁶ Australian Bureau of Statistics, *National Study of Mental Health and Wellbeing 2020–21, 2022*, <https://www.abs.gov.au/statistics/health/mental-health/national-study-mental-health-and-wellbeing/latest-release>.

⁷⁷ this information is available from the data downloads, Table 4 – 12-month mental disorders by population characteristics, <https://www.abs.gov.au/statistics/health/mental-health/national-study-mental-health-and-wellbeing/latest-release#data-downloads>.

⁷⁸ Ibid.

⁷⁹ Australian Institute of Health and Welfare, *Australian Burden of Disease Study 2022*, <https://www.aihw.gov.au/getmedia/d9ae4bfa-df27-4e3c-9846-ba452bef6ac5/aihw-bod-37.pdf.aspx?inline=true>.

⁸⁰ Australian Bureau of Statistics, *Causes of Death, Australia, 2021, 2022*, <https://www.abs.gov.au/statistics/health/causes-death/causes-death-australia/latest-release>.

⁸¹ Australian Institute of Health and Welfare, *Medicare-subsidised mental health-specific services*, <https://www.aihw.gov.au/mental-health/topic-areas/medicare-subsidised-services>.

specialised mental health services as good, very good or excellent, with over 70% and close to 90% of survey respondents reporting a positive experience of service.⁸²

65. Australia's LGBTIQ+ communities are diverse, often have unique healthcare needs, face attitudinal and other barriers to accessing care and are at an increased risk of poorer health outcomes.

- The self-reported health status of LGBTIQ+ people is worse than the average for the Australian community.⁸³
- LGBTIQ+ people are often challenged by significant levels of stigma and discrimination.⁸⁴ Stigma, prejudice, discrimination, isolation and abuse experienced by the LGBTIQ+ community are linked to adverse health outcomes.⁸⁵

66. In 2023, the Australian Government announced the development of the first LGBTIQ+ Health and Wellbeing 10 Year National Action Plan (the Action Plan). The Action Plan will guide how Australia addresses health disparities and make improvements across the health system for LGBTIQ+ individuals.

B. Constitutional, political and legal structure

1. General structure

Federal structure

67. Australia has a federal constitutional system of government. Australia's Constitution establishes a democratic system of representative and responsible government. Our federal system divides power between the Australian Government and the governments of the six states (NSW, Vic, Qld, WA, SA and Tas) and two self-governing territory governments (ACT and NT).

68. Each jurisdiction has a legislative branch elected by the people, an executive branch which is responsible to the legislative branch, and an independent judicial branch. In line with the principle of the separation of powers, the Australian Constitution establishes the legislative, executive and judicial branches of the Commonwealth, with a strict separation between the judicial branch and the other branches. The Australian Constitution also distributes powers between the Commonwealth and the states. A wide range of institutions and safeguards – most particularly democratic elections, the distribution of powers between the three branches of government at the federal level, and an independent judiciary – protect against the arbitrary use of government power and promote robust public debate of issues of relevance to human rights.

69. The Commonwealth Parliament may only legislate in relation to particular subjects which are either expressly or impliedly indicated in the Constitution. Most of these subjects are listed in section 51 of the Constitution. Areas of federal responsibility include defence and external affairs; interstate and international trade and commerce; foreign, trading and financial corporations; currency; immigration; postal, telecommunications and broadcasting services; and most social welfare services and pensions.

70. The state legislatures have a general power to make laws for the peace, order and good government of the state, subject to the Australian Constitution. Areas of state responsibility, though not exclusive, include health; education; criminal justice and roads. Each state has its

⁸² Ibid.

⁸³ Hill, Bourne, McNair, Carman, & Lyons, *Private Lives 3: The health and wellbeing of LGBTIQ people in Australia*, 2020, https://www.latrobe.edu.au/__data/assets/pdf_file/0009/1185885/Private-Lives-3.pdf.

⁸⁴ Leonard et al., 2012, 2015; McKay, 2011; Perales, 2019, cited in *Private Lives 3 National Report*, 2020, https://www.latrobe.edu.au/__data/assets/pdf_file/0009/1185885/Private-Lives-3.pdf.

⁸⁵ 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, https://www.latrobe.edu.au/__data/assets/pdf_file/0010/1198945/Writing-Themselves-In-4-National-report.pdf.

own constitution setting out its system of government. Each state has established a system of local governments which typically deal with things such as local planning decisions and municipal services.

71. Section 122 of the Constitution empowers the Commonwealth Parliament to make laws in relation to territories. The Commonwealth Parliament has conferred a large measure of self-government on the ACT and NT.

72. The Australian Government and state and territory governments interact in several ways.

- Income tax and duties of customs and excise are imposed by the Commonwealth. The Australian Government may provide grants of financial assistance to the states, to provide revenue to perform their functions. Section 96 of the Constitution allows the Commonwealth to make conditional grants of money to the states for any purpose. The power to impose conditions on how the money is spent by the states allows the Commonwealth to influence the way things are done in areas over which it has no direct power. States retain legislative power to impose income tax.
- Section 109 of the Constitution articulates the relationship between Commonwealth and state law. It provides that when a law of the state is inconsistent with a law of the Commonwealth, the Commonwealth law operates and the state law is inoperative to the extent of the inconsistency.

Legal framework

73. In Australia, the law primarily consists of:

- Acts passed by the Commonwealth Parliament acting within the scope of its powers under the Australian Constitution, together with delegated or subordinate legislation made under such Acts;
- Acts passed by state parliaments and the Legislative Assemblies of the NT and the ACT, together with delegated or subordinate legislation made under such Acts;
- Common or statute law of England as was received and still applies to Australia and remains in force;
- Australian common law, which developed from the English common law system and continues to be interpreted and enunciated by Australian courts.

74. The only way to change the Australian Constitution is by holding a referendum. A successful referendum requires the majority of electors in the majority of states, as well as a majority of voters overall to approve the change. Since Federation there have been 44 proposals for constitutional change put to Australian electors at a referendum, of which 8 have been successful. The last successful referendum was in 1977.

75. Australia is a secular state. Under section 116 of the Australian Constitution the Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

76. A referendum will be held in late 2023 to amend the Australian Constitution to include a new Chapter IX. Chapter IX would establish a body called the Aboriginal and Torres Strait Islander Voice. The Voice would have the function of making representations to the Parliament and the Executive Government on matters relating to Aboriginal and Torres Strait Islander peoples.

The legislative branch

77. Under the Australian Constitution, the legislative power of the Commonwealth of Australia is vested in the Parliament of the Commonwealth, which formally consists of His Majesty King Charles III (who is generally represented by the Governor-General), the House of Representatives and the Senate. The King does not, however, play a day to day role in government of Australia. Further, it is a fundamental principle of Australian constitutional

practice that most functions which the King or his representative perform are performed in accordance with advice from the Australian Government.

78. The lower house, known as the House of Representatives, has 151 members (to be decreased to 150 at the next federal election, due to population changes) elected on a popular basis from single member electorates. Each electorate generally represents a similar number of people. The number of members chosen to represent each state is generally proportionate to its population.

79. The upper house, known as the Senate, was established to represent the interests of the people of the states as part of a federal system. The Senate is made up of 76 Senators, 12 from each state and two each from the ACT and NT. Section 7 of the Constitution provides that Senators for each state are directly chosen by the people of the state, voting (until the Parliament otherwise provides) as one electorate.

80. Legislation must be passed by both Houses before being presented to the Governor-General for royal assent to become law.

Political participation

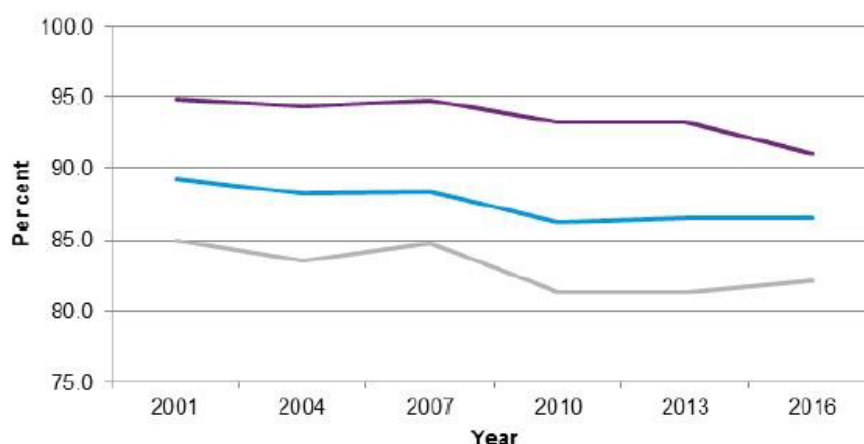
81. Australia’s electoral system is based upon the democratic principle of universal adult suffrage. The *Commonwealth Electoral Act 1918* (Cth) (the Electoral Act) provides that Australian citizens 18 years of age and over must enrol to vote and voting is compulsory in federal elections. Enrolment and voting are also compulsory in state and territory elections.

82. The following people are not eligible to enrol or to vote in federal elections:

- People who are incapable of understanding the nature and significance of enrolment and voting. The Electoral Act requires a certificate from a medical practitioner to be provided to support any such finding prior to action being taken to remove a person from the electoral roll.
- People who have been convicted of treason or treachery, and not pardoned.

83. Prisoners serving a sentence of imprisonment of three years or longer are not entitled to vote in federal elections but remain enrolled.

84. As of 30 June 2023, 97.5% of Australians eligible to vote had enrolled to do so.⁸⁶ Owing to compulsory voting, turnout rates at federal elections are generally high (see figure below for House of Representative elections). Although voter turnout has decreased slightly in recent years, effective participation rates (formal votes as a proportion of total Voting Eligible Population (VEP)) have remained relatively stable. Additional data is provided in Annex 1, Table B1 including voter turnout by state and territory.



⁸⁶ Australian Electoral Commission, https://www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/national/2022.htm.

— Turnout — VEP 'turnout' (total votes as a proportion of VEP)
 — Effective participation (formal votes as a proportion of VEP)

Source: Australian Electoral Commission, 2022.

85. The Australian Government aims to ensure that voting processes facilitate participation for all electors across all sectors of the community.

- The Australian Electoral Commission (AEC) developed the *Disability Inclusion Strategy 2012–20* to support people with disability to fully participate in the electoral system. It includes measures to ensure voting material is accessible and to maximise physical accessibility of electoral office, polling area and voting services.
- The Government recognises that Aboriginal and Torres Strait Islander peoples are under-represented on the electoral Roll and in voting, and have higher rates of informal voting. However, the Indigenous enrolment rate is rising. The estimated enrolment rate for Aboriginal and Torres Strait Islander peoples as at 30 June 2023 was 94.1%, compared with 74.7% in 2017.⁸⁷ In 2010, the *Indigenous Electoral Participation Program* was established to increase electoral knowledge and address barriers to enrolment and voting. AEC Engagement Officers, through establishing partnership arrangements with local community organisations and other stakeholders, deliver electoral services and information to Aboriginal and Torres Strait Islander peoples in ways that meet cultural and regional needs.

86. In 2019, 87% of respondents overall indicated they were very or fairly confident in the AEC's ability to deliver electoral services, and 85% overall believed the AEC would conduct, or had conducted, the 2019 federal election fairly.

87. As at 15 March 2023, 57 political parties were registered in Australia, including state branches of national parties.⁸⁸ Of those parties currently represented in the Australian Parliament, since 1943, only the Australian Labor Party and the Liberal Party in coalition with the National Party have won enough seats in the House of Representatives to form a Government following an election.

88. Changes in Parliamentary composition occur due to resignations, disqualifications and changes in party membership. The current distribution of legislative seats by party and gender can be found on the Australian Parliament House website at www.aph.gov.au/Senators_and_Members.

89. As of 1 January 2022, 39% of federal parliamentarians and 39% of state and territory parliamentarians were women. Over the past two decades, the proportion of women across state and territory parliaments has tracked closely with the proportion of women in the federal parliament. Women's overall representation in state and territory parliaments has increased from 22% in 2001.⁸⁹ Data on cultural diversity in Parliament are limited, but in the previous Parliament in 2018 an estimated 78% of Commonwealth Parliamentarians had an Anglo-Celtic background, 16% had a European background, 4% had a non-European background and 2% had an Aboriginal and/or Torres Strait Islander background.⁹⁰

The executive branch

90. The Constitution recognises a system of responsible government under which Ministers are directly responsible to Parliament. The Prime Minister, and therefore the Executive Government, can retain office only while they have the 'confidence' of the lower

⁸⁷ Australian Electoral Commission, *Media Release: New Indigenous enrolment record: An in-depth look*, August 2023, <https://www.aec.gov.au/media/2023/08-03.htm>.

⁸⁸ Australian Electoral Commission Current Register of Political Parties, www.aec.gov.au/parties_and_representatives/party_registration/Registered_parties.

⁸⁹ Parliament of Australia, *Trends in the gender composition of state and territory parliaments, 2022*, https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/FlagPost/2022/May/Gender_composition_of_state_and_territory_parliaments.

⁹⁰ Australian Human Rights Commission, *Leading for Change: A blueprint for cultural diversity and inclusive leadership revisited*, Sydney, 2018.

house. Ministers must be drawn from the upper or lower house. There is therefore a direct line of accountability from the people who elect the Members of Parliament to the Executive.

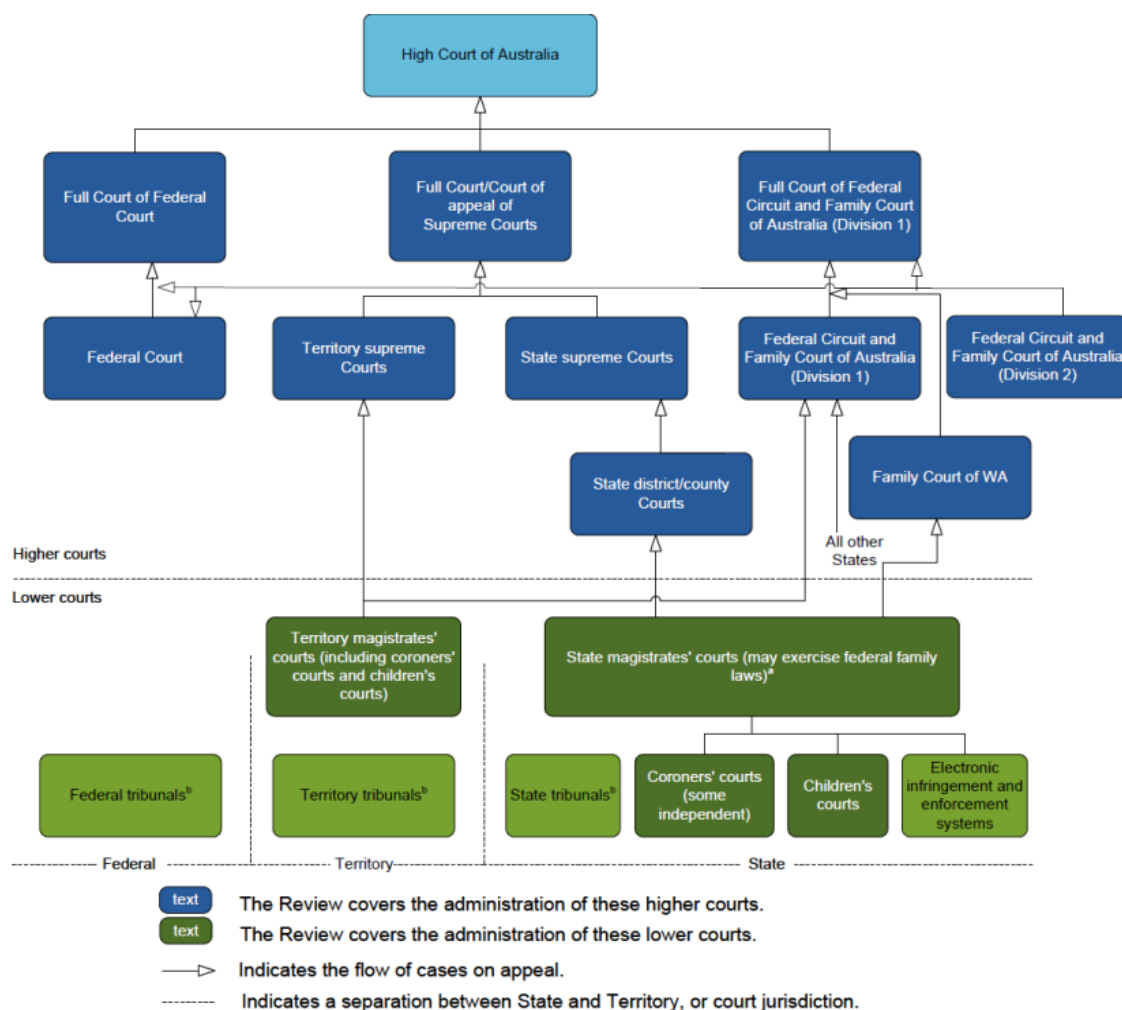
91. Following a general federal election, the Governor-General commissions a Member of Parliament to be Prime Minister. The person commissioned is the leader of the party or coalition of parties that obtained a majority of seats in the House of Representatives, or the person who is able to obtain the 'confidence' of a majority of that House. Other Ministers of the Australian Government are appointed by the Governor-General on the recommendation of the Prime Minister from among the Members of Parliament.

92. On a literal reading of the Constitution, the powers of the Governor-General appear extensive. In practice and according to convention, however, the Governor-General's executive functions are exercised almost exclusively on the advice of Ministers of the Australian Government and it is the Australian Government that accepts the political responsibility for those acts. In exercising statutory powers and functions, and many constitutional powers and functions, the Governor-General acts on the advice of the Federal Executive Council, whose active members consist of the Ministers of the Australian Government.

The judicial branch

93. The independence of the judiciary and its separation from the legislative and executive arms of government is of great importance in Australia. Judges in Australia act independently from the Government in interpreting and applying the law. Security of tenure is guaranteed by the Constitution for federal judges and by legislation for judges in the states and territories. Federal judges are constitutionally required to retire from the Court at age 70.

94. The judicial power of the Commonwealth of Australia is vested in the High Court of Australia, in other federal courts created by the Australian Parliament and in the state and territory courts vested with federal jurisdiction. The hierarchy of Australian courts and relationships between courts are illustrated in the following diagram.



Source: Productivity Commission, 2023.

95. The Constitution vests two types of jurisdiction in the High Court: original and appellate. Original jurisdiction is conferred under section 75 of the Constitution in respect of all matters:

- Arising under any treaty;
- Affecting consuls or other representatives of other countries;
- In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party;
- Between states, or between residents of different states, or between a state and a resident of another state;
- In which a writ of mandamus or prohibition or an injunction is sought against an officer of the Commonwealth Government or of a Federal court.

96. Under section 76 of the Constitution, the Commonwealth Parliament may also make laws conferring original jurisdiction on the High Court in certain other matters, including matters arising under or involving the interpretation of the Constitution and matters arising under laws made by the Parliament. The High Court shares some of its jurisdiction under these sections with the Federal Court of Australia and in some types of matters with the Federal Circuit and Family Court of Australia and state and territory courts. The High Court is the final court of appeal in Australia for federal and state courts.

97. The Federal Court, created by the *Federal Court of Australia Act 1976* (Cth), has both original and appellate jurisdiction. The Federal Court may hear appeals from judgments of other courts, including the Federal Circuit and Family Court of Australia and, in limited circumstances, state and territory courts. The Federal Court's jurisdiction includes any matter

arising under a law made by the Commonwealth Parliament and matters in which a writ of mandamus or prohibition or an injunction is sought against an officer of the Commonwealth.

98. The Federal Circuit and Family Court of Australia (FCFC) was created under the *Federal Circuit and Family Court of Australia Act 2021* (Cth) (FCFC Act). The FCFC Act commenced on 1 September 2021 and brought together the Family Court of Australia (established under the *Family Court of Australia Act 1975*) and the Federal Circuit Court (FCC) (established under the *Federal Circuit Court of Australia Act 1999* (Cth)), into a single administrative structure.

99. The federal court formerly known as the Family Court of Australia continues in existence as the FCFC (Division 1), and has original jurisdiction in matters that are the subject of family law or child support proceedings that are transferred from the FCFC (Division 2) or as conferred by another law of the Commonwealth, and has appellate jurisdiction in family law and child support matters. The federal court formerly known as the FCC continues in existence as the FCFC (Division 2) and has original jurisdiction in general federal law matters (including administrative law, bankruptcy, consumer protection law, privacy law, migration, copyright and the Fair Work jurisdiction). The FCFC (Division 2) is also the single point of entry for all family law matters. All federal family law matters are filed in the FCFC (Division 2).

100. State and territory courts have original jurisdiction in all matters brought under state or territory laws, and in matters arising under Commonwealth laws, where jurisdiction has been conferred on the courts by the Commonwealth Parliament. Generally, criminal matters, whether arising under federal, state or territory law, are dealt with by state or territory courts.

101. The Supreme Courts are the highest state and territory courts and deal with the significant civil litigation and serious criminal cases.

102. The intermediate courts, which are presided over by a single judge, deal with the majority of serious criminal offences where a jury is required to decide the facts of a case, and with civil litigation up to certain monetary limits. The ACT and NT do not have intermediate courts. This jurisdiction is shared between the Supreme Court and Magistrates or Local Court.

103. The courts of summary jurisdiction (including Magistrates and Local Courts) are presided over by a magistrate and deal with matters summarily (i.e. without a jury). They deal with offences such as traffic infringements, civil litigation for debt recovery and smaller claims by one citizen against another or against a company, as well as some maintenance, custody and property disputes. Magistrates also conduct committal proceedings for serious offences to determine whether there is a *prima facie* case to be determined by a judge and jury.

104. Small claims courts and tribunals have been established in all states and territories to enable minor legal disputes to be dealt with quickly, cheaply and informally.

2. Non-Government Organisations

105. The not-for-profit sector in Australia is large and diverse and makes important contributions in a range of areas including civil society, community development, housing and homelessness, and poverty and disadvantage alleviation. There are over 200,000 not-for-profit organisations in Australia. Under the Australian Government's regulatory framework, over 58,500 organisations are registered as charities by the Australian Charities and Not-for-profits Commission, of which almost two thirds are small charities, with annual revenue of less than \$250,000. Up-to-date details can be found at www.acnc.gov.au.

106. Australian development assistance supports non-government organisations (NGOs) to implement a wide range of community development programs overseas. Australian NGOs must be accredited by the Department of Foreign Affairs and Trade (DFAT) in order to obtain funding through the Australian NGO Cooperation Program. As at March 2023, 44 NGOs

have full accreditation and 16 NGOs have base accreditation.⁹¹ Up-to-date details can be found at <https://www.dfat.gov.au/development/who-we-work-with/ngos/non-government-organisations-effective-development-partners-statement>.

3. Media

107. Australia has a free and independent press and recognises the significant role an independent press plays in promoting a free exchange of ideas and information, and encouraging public debate.

108. Australia has two public broadcasters that produce independent television, radio and online content – the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (SBS). SBS focuses on multilingual and multicultural programming, and includes the National Indigenous Television (NITV) channel, made by, for and about Aboriginal and Torres Strait Islander people.

109. The level of media ownership in Australia is among the most concentrated in the world, dominated by a small number of corporations and interconnected family interests.⁹² Of the 10 metropolitan or state-wide newspapers, nine are owned by two companies, who also own most of the top online news websites. Four companies account for the majority of revenue in television and radio. However, new online sites have entered the market in recent years, with many Australians turning to social media or other digital platforms to access media content.

110. Reflecting the importance of an independent news media, each Australian media sector has its own form of co- or self-regulation. Government does not interfere in editorial decisions of commercial or government owned-media outlets. Certain media content in Australia is, however, subject to regulation or classification.

111. Australian media is free to report on all parliamentary proceedings. Court decisions are open to media reporting except in defined and limited circumstances, such as to protect the identity of a child or victim of a sexual offence.

112. Certain privileges are afforded to media organisations and journalists in Australia, including protections enshrined in legislation such as:

- Protection for journalists against disclosing sources;
- Exemptions from the application of the *Privacy Act 1988* (Cth) where an act was undertaken in the course of journalism and where the organisation is publicly committed to observing published privacy standards.

113. In developing policies and legislation, the Government balances competing rights and responsibilities affecting access to information and freedom of expression, including achieving an appropriate balance between the public interest and Australia's national security requirements.

4. Crime and Justice

114. States and territories are primarily responsible for criminal law and justice matters. The laws regarding Commonwealth offences are set out in the *Crimes Act 1914* (Cth) and the *Criminal Code Act 1995* (Cth).

115. The death penalty was abolished under Commonwealth and territory law in Australia in 1973 through the passage of the *Death Penalty Abolition Act 1973* (Cth). In 2010 the *Crimes Legislation (Torture Prohibition and Death Penalty Abolition) Act* extended the prohibition to all states.

⁹¹ Australian Government Department of Foreign Affairs and Trade, *Non-government organisations (NGOs)*, 2023, <https://www.dfat.gov.au/development/who-we-work-with/ngos/list-of-australian-accredited-non-government-organisations>.

⁹² Dwyer, T. *FactCheck: Is Australia's level of media ownership concentration one of the highest in the world?* The Conversation, 12 Dec 2016, theconversation.com/factcheck-is-australias-level-of-media-ownership-concentration-one-of-the-highest-in-the-world-68437.

Victims of crime

116. In 2021, rates of victimisation were 121 per 100,000 persons for sexual assault, and 1.4 per 100,000 persons for homicide and related offences.⁹³ There were 153 victims of kidnapping/abduction. These figures indicate a decrease in kidnapping and homicide compared with 2013. Since 1993, the rate of victimisation for sexual assault has increased from 69 to 121 victims per 100,000 persons in 2021.⁹⁴ This is the highest rate of victimisation for sexual assault recorded by police across the 29-year time series.⁹⁵

117. Recent national data on compensation to victims of crime are unavailable, but in 2011–12 an estimated \$177 million in victim compensation was paid.⁹⁶ Some state and territory governments have their own crime compensation programs, such as the Victims Assistance Program (VAP) in Victoria which can provide compensation depending on the type of victim and crime.

Offending

118. The minimum age of criminal responsibility in most Australian jurisdictions is 10 years old except for in the Northern Territory where the minimum age of criminal responsibility is 12. Children under the minimum age are not able to be charged with a crime and avoid formal involvement with the criminal justice system. For children aged between 10 and 14 years old (or between 12 and 14 years old in the Northern Territory) the rebuttable presumption of *doli incapax* means that a child can only be found criminally responsible where it can be demonstrated beyond reasonable doubt that the child knew that their conduct was wrong or seriously wrong. This is a question of fact, which the prosecution must prove.

119. The ABS collates statistics about proceedings against alleged offenders by police, including charges laid that an offender must answer to in court and non-court actions such as warnings or issuing of penalty notices. In 2021–22, 369,488 offenders aged 10 years and over were proceeded against by police, a 3% increase since the previous year. The number of offenders increased from 1,599 in 2020–21 to 1,632 per 100,000 persons in 2021–22. The three most common principal offences were acts intended to cause injury (23% of offenders), illicit drug offences (14%) and miscellaneous offences (17%).⁹⁷ There were 635 offences of homicide and other related offences in 2021–22, a rate of 2.8 per 100,000 persons aged 10 years and over.⁹⁸

Incarceration

120. In 2022, there were 14,864 unsentenced prisoners in Australian prisons, comprising 37% of the prison population.⁹⁹ Remandees are typically held in separate facilities to sentenced prisoners. As at 30 June 2020, the median time spent in pre-trial detention was 3.4 months.

121. In 2022, the number of adult prisoners in Australia was 40,591, with the national imprisonment rate decreasing by 6% since 2021, from 214 to 201 prisoners per 100,000 adults.¹⁰⁰ The most common offences/charges for prisoners were acts intended to cause injury,

⁹³ Australian Bureau of Statistics, Sexual assaults increase for tenth year in a row, 2022, <https://www.abs.gov.au/media-centre/media-releases/sexual-assaults-increase-tenth-year-row>.

⁹⁴ Australian Bureau of Statistics, Recorded Crime – Victims, 2021, <https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-victims/2021#key-statistics>.

⁹⁵ Ibid.

⁹⁶ Smith R, et al. *Counting the costs of crime in Australia: A 2011 estimate*. Australian Institute of Criminology Research and Public Policy Series No. 129, Canberra, 2014.

⁹⁷ Australian Bureau of Statistics, 4519.0 – Recorded crime – offenders, Australia, 2021–22, 2023, www.abs.gov.au/AUSSTATS/abs@.nsf/mf/4519.0.

⁹⁸ Ibid.

⁹⁹ Australian Bureau of Statistics, 4517.0 – Prisoners in Australia, 2022, 2023, www.abs.gov.au/ausstats/abs@.nsf/mf/4517.0.

¹⁰⁰ Australian Bureau of Statistics, 4517.0 – Prisoners in Australia, 2022, 2023, www.abs.gov.au/ausstats/abs@.nsf/mf/4517.0.

illicit drug offences and sexual assault and related offences. The median sentence length for these offence categories was 1.8 years, 4.2 years, and 7.5 years, respectively.¹⁰¹

122. In 2022, 31.8% of prisoners were Aboriginal and Torres Strait Islander, compared with 67.6% who were non-Indigenous).¹⁰² The imprisonment rate among Indigenous Australians is 2,330 prisoners per 100,000 Aboriginal and Torres Strait Islander population.

123. There have been 43 deaths in custody since January 2023.¹⁰³ The rate of deaths in prison custody has remained stable over the past decade and in 2022 was 0.21 deaths per 100 prisoners.¹⁰⁴ Aboriginal and Torres Strait Islander peoples accounted for one in five deaths in custody. Prisoners aged 55 years and over made up most deaths resulting from natural causes and prisoners aged less than 55 years accounted for almost all hanging deaths. In 2021–22, 17 deaths occurred in police custody and custody-related operations, 9 of which occurred while police were in the process of detaining, or attempting to detain, the individual.¹⁰⁵

Youth justice

124. The youth justice system deals primarily with young people aged 10–17 years at the time of the offence, although there are some variations among the states and territories. A major feature of the system is the supervision of young people in the community rather than in detention.

125. In 2021–22 a total of 4,536 young people were under youth justice supervision in Australia on an average day, comprising 82% in the community and 18% in detention. 76% of young people in detention were unsentenced. 96% of young people under supervision were aged 14 years and over and 71% of young people were aged 14–17 years when they first entered supervision. Individual periods of supervision that were completed during 2021–22 lasted for a median length of 14 weeks.¹⁰⁶

126. Similar to adults, Aboriginal and Torres Strait Islander young people are overrepresented in the criminal justice system. The supervision rate of Aboriginal and Torres Strait Islander young people in 2021–22 was 121.1 per 10,000 compared with 6.5 per 10,000 among non-Indigenous young people (rate ratio: 19).¹⁰⁷

Justice system

127. Expenditure on the justice system was estimated at \$20.9 billion nationally in 2020–21, of which 65% was on police services, 26% on corrective services and 9% on courts.¹⁰⁸ In 2020–21, police agencies employed 284 operational staff per 100,000 persons and there were an estimated 4.6 judicial officers per 100,000 persons (2.4 in the criminal courts; 2.2 in the civil courts).¹⁰⁹

128. In 2021–22, 506,212 defendants had their cases finalised by state and territory criminal courts. Of the defendants whose cases were finalised in a higher court, 87% received an adjudicated outcome, 9% had their cases withdrawn by the prosecution and 3% were transferred to other court levels. The median duration from initiation to finalisation for all criminal courts was 9.1 weeks, a slight increase compared with previous years (2020–21: 10.3 weeks, 2019–20: 7.9 weeks, 2018–19: 7.0 weeks, 2017–18: 6.7 weeks, 2016–17: 6.9

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Australian Institute of Criminology, *Deaths in Custody in Australia*, <https://www.aic.gov.au/statistics/deaths-custody-australia>.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ Australian Institute of Health and Welfare, *Youth in justice in Australia 2021–22, 2023*, <https://www.aihw.gov.au/reports/youth-justice/youth-justice-in-australia-2021-22/contents/summary>.

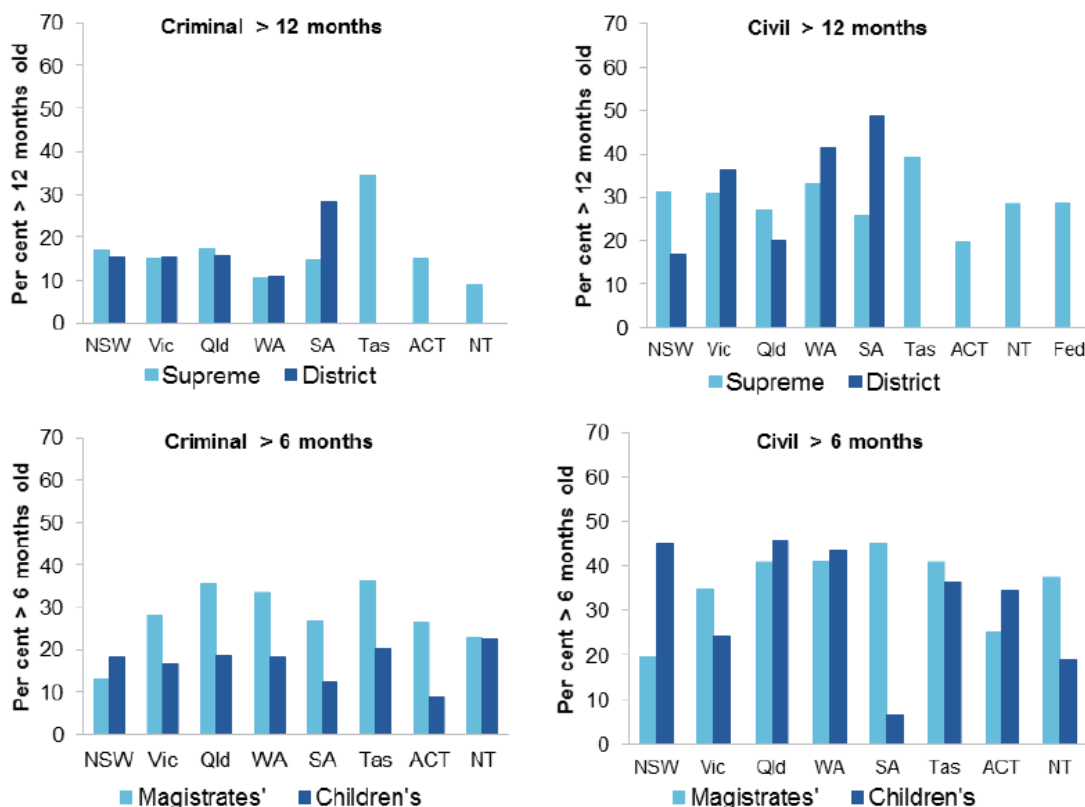
¹⁰⁷ Ibid.

¹⁰⁸ Steering Committee for the Review of Government Service Provision, *Report on Government Services 2022, vol. C, Justice*, <https://www.pc.gov.au/ongoing/report-on-government-services/2022/justice>.

¹⁰⁹ Ibid.

weeks). Efficiency varies across courts; the median time to finalisation was 36.4 weeks for higher courts, 11.4 weeks for children’s courts, and 8.3 weeks for Magistrates courts.¹¹⁰

129. Average backlog varies across court types and jurisdictions, but in general, backlog in civil courts for the Supreme, District and Magistrates courts was generally higher than criminal courts across all states and territories (see below). Backlog is defined as the number of cases in a nominated age category as a percentage of the total pending caseload, with benchmark criteria differing across court types.¹¹¹



Source: Productivity Commission, 2016.

130. The provision of legal aid is a key mechanism to ensure equality before the law (see paragraphs 189 and 229). In 2022–23, 79% of the 96,773 applications for free legal aid were approved.¹¹²

¹¹⁰ Australian Bureau of Statistics, 4513.0 – Criminal Courts, Australia, 2021–22, 2023, www.abs.gov.au/AUSSTATS/abs@.nsf/mf/4513.0.

¹¹¹ Steering Committee for the Review of Government Service Provision, *Report on Government Services 2022, vol. C, Justice*, <https://www.pc.gov.au/ongoing/report-on-government-services/2022/justice>.

¹¹² National Legal Aid, *National Legal Aid Statistics, 2022–2023, 2023*, <https://nla.legalaid.nsw.gov.au/nlareports/reportviewer.aspx?reportname=ApplicationStatus>.

II. General framework for the protection and promotion of human rights

A. Acceptance of international human rights norms

131. Australia has a long tradition of supporting human rights. Australia has ratified the seven core human rights treaties and seven of the associated optional protocols (see table below). Additional information on Australia's acceptance of international human rights instruments is provided in Annex 2, Tables A1–A2.

| <i>Treaty</i> | <i>Ratified</i> | <i>Entered into force</i> | <i>Reservations</i> | <i>Declarations</i> | <i>Amendments</i> |
|---------------|-------------------|--|---|---------------------|-------------------|
| ICCPR | 13 August 1980 | 13 November 1980 (except Art.41 – 28 January 1993) | Art. 10 p.2(a),2(b),3 Art. 14 p.6 Art. 20 | Yes | - |
| OP1- ICCPR | - | 25 September 1991 (accepted) | - | - | - |
| OP2- ICCPR | 2 October 1990 | 11 July 1991 | - | - | - |
| ICESCR | 10 December 1975 | 10 March 1976 | - | - | - |
| CAT | 8 August 1989 | 26 June 1987 | - | Yes | Yes |
| OP-CAT | 21 December 2017 | 20 January 2018 | - | Yes | - |
| CEDAW | 28 July 1983 | 27 August 1983 | Art. 11(2) | Yes | - |
| OP- CEDAW | - | 4 December 2008 (accepted) | - | - | - |
| CERD | 30 September 1975 | 30 October 1975 | Art. 4(a) | Yes | - |
| CRC | 17 December 1990 | 16 January 1991 | Art. 37(c) | - | Yes |
| OP- CRC-AP | 26 September 2006 | 26 October 2006 | - | Yes | - |
| OP- CRC-SC | 8 January 2007 | 8 February 2007 | - | - | - |
| CRPD | 17 July 2008 | 16 August 2008 | - | Yes | Yes |
| OP-CRPD | - | 21 August 2009 (accepted) | - | - | - |

132. Australia's reservations are consistent with the object and purpose of these treaties and consistent with the Vienna Convention on the Law of Treaties and there have been no formal objections made to these reservations by other State Parties.

133. On 25 October 2018, Australia passed the *Civil Law and Justice Legislation Amendment Bill 2018*, repealing section 43 of the *Sex Discrimination Act 1984*, which exempted discrimination against women in connection with combat duties. This allowed Australia to withdraw one of its two reservations to CEDAW. Australia is now compliant with the obligations under Articles 11(1)(b) and 11(1)(c).

134. Australia is not considering removal of its remaining reservations to other treaties at this time.

B. Legal framework for the protection of human rights at the national level

1. General legal frameworks

Constitutional guarantees

135. Australia does not have a bill of rights at the national level but the Australian Constitution contains a number of express guarantees of rights and immunities (and also common law rights), such as:

- Any property acquired by the Commonwealth Government must be acquired on just terms (section 51(xxxi));
- Trial on indictment of any offence against any law of the Commonwealth shall be by jury (section 80);
- The Commonwealth Government shall not make any law to establish any religion or to prohibit the free exercise of religion (section 116);
- Citizens are not to be subjected to any discrimination in any state by reason of residence in another state (section 117);
- Citizens have a right to vote in Commonwealth elections subject to restrictions on that right imposed by Commonwealth law (sections 7, 24).

136. The High Court has also indicated that some rights are inherent in the structure of the Constitution itself. For example, in *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520, the High Court held that the Constitution is predicated on a system of “representative democracy” and that, since free communication and debate on political issues and institutions of government are essential to that system, legislation which infringes a freedom of communication on “political matters” is invalid, unless necessary to protect some other public interest.

Parliamentary activities

137. The liberal democratic system of government in each of the Australian jurisdictions enables interested individuals to raise concerns regarding human rights and fundamental freedoms. Ministers are individually and collectively answerable to the Parliament and must answer questions in the Parliament on matters within their responsibilities.

138. Parliamentary debate during the passage of legislation is the primary forum for the scrutiny of, and making of judgments about, encroachments on fundamental rights, freedoms and privileges. Parliamentary scrutiny committees assess bills against a set of accountability standards that focus on the effect of proposed legislation on individual rights, liberties and obligations, including:

- The Senate Standing Committee for the Scrutiny of Bills, which reviews proposed legislative measures and alerts the Senate “to the possibility of the infringement of personal rights and liberties or the erosion of legislative power of Parliament”.
- The Senate Standing Committee for the Scrutiny of Delegated Legislation, which examines delegated or subordinate legislation where it “takes away, reduces, circumscribes or qualifies the fundamental rights and liberties traditionally enjoyed in a free and democratic society”.

139. The Parliamentary Joint Committee on Human Rights (PJCHR) is the primary committee concerned with the scrutiny of bills and legislative instruments in the context of any impact on human rights.

- Under the Human Rights (Parliamentary Scrutiny) Act 2011 the PJCHR’s main function is to examine all new bills and legislative instruments that come before either House of the Parliament for compatibility with human rights, with a view to minimising risks of new legislation giving rise to breaches of human rights in practice. The PJCHR reports to Parliament to advise whether a bill or legislative instrument is

compatible with human rights and if limitations to human rights exist, whether the limitations are permissible. Human rights are defined in the Act as the rights and freedoms contained in the seven core human rights treaties to which Australia is a party.

- The PJCHR's reports are considered in developing and refining legislation but do not affect the validity of the legislation or the capacity for a bill to pass Parliament.
- The PJCHR also has the following functions:
 - To examine existing Acts for compatibility with human rights, and to report to both Houses of the Parliament.
 - To inquire into any matter relating to human rights which is referred to it by the Attorney-General, and to report to both Houses of the Parliament on that matter.

140. The Government may ask other Senate Committees to inquire into human rights issues where relevant.

- The Senate Standing Committee on Legal and Constitutional Affairs can investigate matters under the portfolios of the Attorney-General's Department and Department of Home Affairs, and has conducted inquiries into legislative exemptions that allow faith-based educational institutions to discriminate against students, teachers and staff on the basis of sexual orientation and gender identity, and allegations of abuse in immigration detention.
- The Senate Standing Committee on Community Affairs can examine Health and Social Services matters, and has conducted inquiries into violence, abuse and neglect against people with disability in institutional and residential settings.

141. The Australian Government, and state and territory governments, may also establish Royal Commissions, which are the highest form of inquiry into matters of public importance. In recent years, Australian Government Royal Commissions have inquired into a number of significant matters including, but not limited to, human rights issues. These Royal Commissions include the:

- Royal Commission into the Robodebt Scheme
- Royal Commission into Defence and Veteran Suicide
- Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
- Royal Commission into Aged Care Quality and Safety
- Royal Commission into Institutional Responses to Child Sexual Abuse, and
- Royal Commission into the Detention and Protection of Children in the Northern Territory.

The judiciary

142. Australia has a common law legal system, meaning that the recognition and protection of many basic rights and freedoms relies on the enunciation of those rights over the centuries by judges in common law. Traditional rights, freedoms and privileges recognised by the common law are considered in the Australian Law Reform Commission's (ALRC) 2015 report into traditional rights and freedoms (ALRC Report 129), available at www.alrc.gov.au/publications.

143. The judiciary plays a role in protecting certain recognised fundamental rights and freedoms including by developing rules of statutory construction which reduce the degree of inadvertent legislative encroachment into those rights and freedoms. The principle of legality protects fundamental common law rights from being eroded during the process of interpreting legislation. Judges assume that the Parliament does not generally intend to abrogate fundamental common law rights. Thus, an interpretation abrogating fundamental rights will

only be adopted if the Parliament has used clear words to signal such intention or it is required by necessary implication.

Administrative law

144. Australia's administrative law system offers accountability mechanisms that apply to government decision-making about matters which impact an individual's rights or interests. These mechanisms allow people to challenge decisions made under federal laws and to obtain reasons for particular decisions that have been made.

- The Administrative Appeals Tribunal Act 1975 establishes the Administrative Appeals Tribunal, an independent body whose function is to review decisions made by Commonwealth Ministers, authorities and officials under more than 400 Acts of the Parliament. The Tribunal can affirm or vary a decision, set aside a decision and substitute its own decision, or remit the decision to the original decision-maker for reconsideration with directions and recommendations. The Tribunal conducts merits review in those areas in which it has jurisdiction, which include social security; Australian citizenship, passports, customs, visas and visa-related decisions; corporations and financial services regulation; and freedom of information, among others.
- The Administrative Decisions (Judicial Review) Act 1977 provides for judicial review of administrative action taken under Commonwealth legislation by the Federal Court. Where an order of review is sought by an aggrieved person, the Court is empowered to review the lawfulness of a decision, including the process by which a decision has been made. In judicial review, the court cannot remake the decision. The typical remedy is remitting the decision to the original decision-maker to remake the decision in accordance with law.

145. All Australian states and territories have administrative law mechanisms which perform similar functions to those performed in the Commonwealth sphere.

2. Specific human rights and anti-discrimination legal frameworks

146. Australia has a dualist legal system, which means that international treaties, including human rights instruments, are not self-executing and require domestic legislative implementation to have effect under Australian law. Before Australia becomes bound by a treaty, the Australian Government satisfies itself that any legislation necessary to implement the treaty is in place.

Federal human rights legislation

147. Australia's federal anti-discrimination laws are contained in the following legislation:

- The *Racial Discrimination Act 1975* (Cth) (RDA), which makes it unlawful to discriminate against people on the basis of their race, colour, descent, national or ethnic origin, or immigrant status in all areas of public life.
 - The RDA domestically implements Australia's obligations under CERD.
- The *Sex Discrimination Act 1984* (Cth) (SDA), which makes it unlawful to discriminate against people on the basis of their sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, breastfeeding, or family responsibilities in key areas of public life.
 - The SDA domestically implements Australia's obligations under CEDAW.
- The *Disability Discrimination Act 1992* (Cth) (DDA), which makes it unlawful to discriminate against people on the basis of disability in key areas of public life.
 - The DDA domestically implements Australia's obligations under the CRPD.
- The *Age Discrimination Act 2004* (Cth) (ADA), which makes it unlawful to discriminate against people on the basis of age in key areas of public life.

148. Other federal human rights legislation includes:

- The *Australian Human Rights Commission Act 1986* (Cth), which establishes the Australian Human Rights Commission (AHRC) as an independent statutory body with functions including education and awareness-raising, investigating and conciliating complaints of unlawful discrimination and breaches of human rights, and conducting national inquiries and reporting on issues of human rights concerns (see paragraphs 151–155 for detailed information about the AHRC).
- The *Fair Work Act 2009* (Cth), which includes provisions intended to prevent and eliminate discrimination in the workplace by prohibiting discrimination in employment on the basis of race, colour, sex, sexual orientation, breastfeeding, gender identity, intersex status, age, physical or mental disability, marital status, family or carer’s responsibilities, pregnancy, religion, political opinion, national extraction or social origin.
- The *Privacy Act 1988* (Cth), which gives effect to the right to privacy recognised in the ICCPR (Article 17), with respect to the protection of personal information collected and held by regulated entities, such as Australian Government agencies and certain private sector organisations.

State and territory legislation

149. Three jurisdictions have enacted statutory human rights instruments which identify a number of basic rights and freedoms, based on the ICCPR. These statutory instruments require the Executive to act and make decisions in a manner consistent with human rights, and the judiciary to interpret legislation in a manner consistent with human rights.

- The ACT *Human Rights Act 2004* (ACT) articulates the rights that are protected and how they may be limited, and explains the application of human rights to ACT law. The ACT Human Rights Act also establishes a scrutiny mechanism for bills presented to the Legislative Assembly, sets out the obligations of public authorities in relation to human rights and creates the direct right of action for individuals to bring proceedings before the Supreme Court for alleged breaches of human rights by public authorities.
- The Victorian *Charter of Human Rights and Responsibilities Act 2006* (Vic) closely mirrors the ACT Human Rights Act in many of its functions, including the ability to declare legislation incompatible and the establishment of a bill scrutiny mechanism. The Victorian Charter Act seeks to protect and promote certain civil and political rights, including recognition and equality before the law and the right to life. It recognises that Aboriginal persons hold distinct cultural rights.”
- The Queensland *Human Rights Act 2019* (Qld) protects 23 human rights, and requires public entities to make decisions and act compatibly with human rights, and parliament to consider human rights when passing new legislation or amending current laws. As well as rights drawn from the ICCPR, the Queensland Human Rights Act protects two rights drawn from the ICESCR (the right to education and the right to health services) and one drawn from the Universal Declaration of Human Rights (property rights). The Queensland Human Rights Act also recognises and protects the distinct cultural rights of Aboriginal and Torres Strait Islander peoples.

150. All states and territories have anti-discrimination legislation and a board or commission that oversees human rights and anti-discrimination. Although the functions of each body vary, functions include the determination or conciliation of complaints of discrimination brought under legislation operating in the particular jurisdiction, and human rights education and awareness-raising.

C. Framework within which human rights are promoted at the national level

1. Implementing and promoting human rights domestically

National Human Rights Institution

151. The Australian Human Rights Commission (AHRC) is Australia's national human rights institution (NHRI). The AHRC has been accredited as an 'A' status NHRI in accordance with the Principles relating to the Status of National Institutions (The Paris Principles). The AHRC has maintained this status since 1999.

152. The AHRC is an independent statutory body, with functions including:

- Education and awareness raising;
- Investigating and conciliating complaints of unlawful discrimination and human rights;
- Conducting national inquiries and reporting on issues of human rights concern.

153. The AHRC reports to the federal Parliament through the Australian Government Attorney-General. In 2023–24 the Australian Government is providing \$26.7 million (a forward estimate) to the Commission for its operation and to deliver programs and services. The AHRC is currently comprised of a President and seven special-purpose Commissioners:

- Human Rights Commissioner;
- Aboriginal and Torres Strait Islander Social Justice Commissioner;
- Age Discrimination Commissioner;
- Disability Discrimination Commissioner;
- Race Discrimination Commissioner;
- Sex Discrimination Commissioner;
- National Children's Commissioner.

154. The public inquiries conducted by the AHRC place major human rights issues in Australia on the political and public agenda. Notable inquiries conducted by the AHRC have focused on the separation of Aboriginal and Torres Strait Islander children from their families (1997), children in immigration detention (2014), employment discrimination against older Australians and Australians with disability (2016), sexual harassment in Australian workplaces (2020), and Aboriginal and Torres Strait Islander women and girls (2020). Further information is at www.humanrights.gov.au.

155. Key projects undertaken by the AHRC in recent years include:

- In 2022, the Race Discrimination Commissioner relaunched the Racism. It Stops with Me campaign to advance partnerships, research, and data to address racism in Australia. The National Anti-Racism Framework has also been launched to develop a long-term, central reference point to guide actions on anti-racism by government, NGOs, business, educators, health professionals, police, other justice authorities, civil society, and the community.
- In 2022, the Aboriginal and Torres Strait Islander Social Justice Commissioner released the Wiyi Yani U Thangani (Women's Voices) - Implementation Framework for a national approach to advancing the rights of Aboriginal and Torres Strait Islander women and girls.
- In 2021, the Disability Discrimination Commissioner launched IncludeAbility, an initiative to increase the employment opportunities of persons with disability.
- The National Children's Commissioner contributed to the introduction in 2021 of Safe and Supported: The National Framework for Protecting Australia's Children 2021–2031 which provides a national framework to reform systems to improve child

wellbeing and ensure the ‘voices’ of children and families inform the design of policy that is meant to help them, including those related to domestic and family violence, disability, child sexual abuse, and Aboriginal and Torres Strait Islander early years development.

- In 2018, the then Sex Discrimination Commissioner commenced an inquiry into sexual harassment in Australian workplaces resulting in the *Respect@Work: Sexual Harassment National Inquiry Report (2020)*, which recommended significant reform to ensure sexual harassment is more effectively prevented and addressed through education, research, support services and the legislative and regulatory frameworks.
- In 2021, the then Sex Discrimination Commissioner led an inquiry into Commonwealth parliamentary workplaces resulting in recommendations to ensure that Commonwealth parliamentary workplaces are safe and respectful and that the nation’s Parliament reflects best practice in prevention and response to bullying, sexual harassment and sexual assault.

Other national institutions and authorities

156. The *Ombudsman Act 1976* (Cth) establishes the Commonwealth Ombudsman who has oversight of Commonwealth Government departments and agencies, including conducting complaints handling and investigations into unfair treatment. The Commonwealth Ombudsman can also investigate matters on their own motion. The Commonwealth Ombudsman is also the National Preventive Mechanism (NPM) Coordinator and NPM for Commonwealth places of detention under OPCAT. Further information is at www.ombudsman.gov.au.

157. The *Freedom of Information Act 1982* (Cth) gives the public a right to access to government documents, subject to some exemptions, and sets out a range of obligations on government for the public to exercise this right. The Office of the Australian Information Commissioner is an independent statutory agency with functions relating to privacy, freedom of information and government information management under the *Privacy Act 1988* (Cth), *Freedom of Information Act 1982* (Cth), and *Australian Information Commissioner Act 2010* (Cth). Further information is at www.oaic.gov.au.

158. There are two independent national authorities that act in relation to rights within the workplace.

- The Fair Work Ombudsman as the national workplace relations regulator provides education, assistance and advice about Australian workplace laws as prescribed by the *Fair Work Act 2009* (Cth) and, where appropriate, impartially enforces those laws.
- The Fair Work Commission (Commission) is Australia’s national workplace relations tribunal and the independent regulator of registered organisations. The Commission exercises its functions and powers in accordance with the *Fair Work Act 2009* and have responsibilities in relation to the registration, recognition and accountability of registered organisations under the *Fair Work (Registered Organisations) Act 2009*. The Commission supports simple, fair and flexible workplace relations for employees and employers through the exercise of powers to set and vary minimum wages and modern awards, facilitate collective bargaining, approve agreements, deal with disputes and promote the financial transparency and effective governance of registered employee and employer organisations.

159. The Australian Law Reform Commission (ALRC) is an independent statutory body operating under the *Australian Law Reform Commission Act 1996* (Cth). The ALRC undertakes research on topics referred by the Attorney-General and provides recommendations to modernise or update the law, remove defects in the law, simplify the law and provide improved access to justice. ALRC reports are tabled in Parliament. The Australian Government can then decide whether to implement any recommendations that are directed to it, in whole or in part. Implementation of recommendations is monitored by the ALRC. Significant recent inquiries addressing human rights issues have examined: family law; elder abuse; Aboriginal and Torres Strait Islander incarceration; equality, capacity and disability in Commonwealth laws; encroachment of Commonwealth laws upon traditional

rights and freedoms; and freedom of religion or belief. Further information is at www.alrc.gov.au.

160. In July 2023, the Australian Government introduced the National Anti-Corruption Commission (NACC), which was established through the *National Anti-Corruption Commission Act 2022*. The NACC is an independent Commonwealth agency that will detect, investigate and report on serious or systemic corrupt conduct in the Commonwealth public sector. It will also educate the public service, and the public, about corruption risks and prevention.

161. The Australian National Contact Point for Responsible Business Conduct (AusNCP) promotes responsible business conduct standards under the *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (OECD Guidelines) and related OECD due diligence guidance. The AusNCP also provides a non-judicial grievance mechanism to help resolve complaints against multinational enterprises relating to implementation of the OECD Guidelines. Information about the AusNCP and complaints are available at <https://ausncp.gov.au/>.

- The OECD Guidelines are an internationally recognised comprehensive set of responsible business conduct standards that cover disclosure, human rights, bribery and extortion, employment and industrial relations, environment, consumer interests, science and technology, competition and taxation and are consistent with the UN Guiding Principles on Business and Human Rights and provide mutually reinforcing frameworks.

Civil society and non-government organisations.

162. NGOs provide vital information to the Australian Government about human rights issues which affect people at the grassroots level and educate the public about the human rights programs and protections which are available to them. Australia actively seeks to engage civil society and NGOs during the preparation of all human rights treaty reports and values the role they play in ensuring transparency and accountability in this process.

Educational institutions

163. The Australian curriculum includes human rights education through teaching about the legal and justice system, freedoms and responsibilities of Australian citizens and the Australian Government's domestic and international roles and responsibilities.

164. The National Judicial College of Australia, Australasian Institute of Judicial Administration and jurisdictional judicial organisations provide education to members of the judiciary and lawyers on issues relevant to the work of the judiciary including equality before the law. Lawyers in each state and territory are required to complete continuing legal education annually, including mandatory education on legal ethics, and law enforcement officers undertake diversity education and training.

Dissemination of human rights instruments

165. DFAT maintains the Australian Treaties Database, an online resource for researching treaties to which Australia is a signatory, or where Australia has taken other treaty action.

166. The AHRC website provides a wealth of information on human rights and anti-discrimination legislation, including information developed for younger Australians, resources for Aboriginal and Torres Strait Islander people and information about making human rights complaints in 24 different languages.

2. Promoting human rights internationally

167. Human rights are an inseparable part of Australia's overall foreign policy approach, because the treatment of individuals is of itself a matter of concern to Australians, and because promoting and protecting human rights underpins Australia's broader security and economic interests.

168. Australia's human rights policies are very strongly oriented towards achieving practical outcomes that improve the rights of individuals. The Australian Government considers that constructive engagement combined with technical assistance, capacity building and development of institutions that protect human rights are the most effective way of advancing human rights.

International engagement and collaboration

169. Australia has long been an active, collaborative and practical advocate of human rights on the international stage and was instrumental in creating many of the core human rights treaties that exist today. Australia was elected to the UN Human Rights Council for the first time, for the term 2018–2020. Australia's candidacy was based on five pillars: gender equality, good governance, freedom of expression, the rights of indigenous peoples, and strong national human rights institutions and capacity building.

170. Australia actively participates in the Human Rights Council Universal Periodic Review (UPR) process, which involves a review of the human rights records of all UN Member States every five years. Australia's third UPR national report was submitted to the UN in 2021 and responds to the recommendations Australia received during its second-cycle UPR in 2015.

171. In 2023, Australia appointed an inaugural Ambassador for Human Rights to elevate Australia's leadership on human rights globally. The creation of this role is part of Australia's commitment to employ every strategy at our disposal towards upholding human rights, consistent with Australia's values and interests. It will help bolster Australia's support for the UN human rights architecture and international law.

172. Australia's world-first Ambassador for First Nations People will help bring First Nations perspectives into Australia's foreign policy and diplomacy, and progress Indigenous Peoples' rights globally. The Ambassador for Gender Equality is a lead advocate for Australia's work on gender equality and the human rights of women and girls. Australia has stepped up its advocacy on human rights and modern slavery, led by a dedicated Ambassador to Counter Modern Slavery, People Smuggling and Human Trafficking.

173. Australia respects multilateral cooperation as an effective tool in the protection and promotion of human rights globally. Australia continues to engage in constructive exchanges on human rights issues with other countries through bilateral dialogues and to provide capacity building initiatives that support long-term tangible improvements on human rights. Australia conducts formal human rights dialogues with Vietnam, and Laos and continues to raise with other governments, on a case-by-case basis, individual cases of concern and thematic concerns.

174. Australia's human rights obligations are embedded in the frameworks that govern the provision of crime cooperation assistance to other countries – including police-to-police assistance, other agency-to-agency assistance, extradition and mutual legal assistance.

175. The Australian Federal Police (AFP) has guidelines that govern the provision of police-to-police international assistance in death penalty cases. These guidelines are graduated to take into account the various circumstances in which assistance may be provided. In particular these guidelines restrict the ability of the AFP to provide assistance where charges have been laid in the foreign country and the offences carry the death penalty unless, taking into account all the circumstances of the case, the Attorney-General consents to the assistance being provided. Police-to-police assistance does not include the use of coercive powers on behalf of a foreign country.

176. Extradition is the process by which one country apprehends and sends a person to another country for the purposes of criminal prosecution or the imposition or service of a prison sentence. Australia's extradition regime is governed by the *Extradition Act 1988* (Extradition Act), which contains a number of core human rights protections and safeguards. For example, the Extradition Act provides that a person may only be surrendered in relation to a death penalty offence if the requesting country provides an undertaking that the person will not be tried for the offence; or if tried for the offence, that death penalty will not be imposed; or if imposed, will not be carried out. The Extradition Act also contains safeguards

in line with Australia's international obligations, including mandatory grounds of refusal where, amongst other things, there are substantial grounds for believing that the person would be in danger of being subjected to torture if surrendered, where the request was made for the purpose of discrimination on the basis of protected attributes (including race, sex, sexual orientation, religion, nationality and political opinions), or in instances of double jeopardy.

177. Mutual assistance is the formal process countries use to obtain government-to-government assistance in criminal investigations and prosecutions and to recover the proceeds of crime. The mutual assistance process is required where an incoming request involves the use of coercive powers on behalf of a foreign country. Australia's *Mutual Assistance in Criminal Matters Act 1987* (Mutual Assistance Act) provides a number of core human rights protections and safeguards. For example, where a foreign country requests assistance to investigate an offence which carries the death penalty, Australian legislation provides discretion to refuse the assistance. Where a foreign country requests assistance relating to the investigation, prosecution or punishment of a person who is arrested or detained on suspicion of, or charged with or convicted of, an offence which carries the death penalty, the Mutual Assistance Act provides the request must be refused unless the Attorney-General is of the opinion, having regard to the special circumstances of the case, that assistance should be provided (e.g. where the evidence would assist the defence or where a death penalty undertaking is provided).

178. Other examples of safeguards in the Mutual Assistance Act include mandatory grounds of refusal where there are substantial grounds to believe that the person would be in danger of being subjected to torture, or where the request was made for the purpose of discrimination on the basis of protected attributes (including race, sex, sexual orientation, religion, nationality and political opinions).

International aid

179. Australia's development program contributes to the advancement of human rights through its focus on poverty reduction and sustainable development through effective partnerships with developing countries. Development Partnership Plans are jointly developed with all major partner countries and form the basis for our assistance. In 2023–24 Australia budgeted to provide \$4.768 billion in Official Development Assistance, approximately 0.19% of GNI and 0.70% of 2023–24 Australian Government spending.¹¹³ More detail on Australia's development activities and budget can be found at <https://www.dfat.gov.au/development/australias-development-program>.

D. Reporting process at the national level

180. In order to produce comprehensive reports under UN human rights instruments, information is collated from responsible agencies from Australia's eight jurisdictions and at the Commonwealth level.

181. The Australian Government's Standing National Human Rights Mechanism was established in 2016 to strengthen Australia's reporting and engagement with the UN on human rights, by improving coordination across federal, state and territory governments. It includes:

- An Australian Government inter-departmental committee that provides a coordinated, consistent and efficient approach to UN human rights reporting;
- A Commonwealth, state and territory Standing Committee on Treaties which consists of representatives from the Departments of the Premier or Department of the Chief Minister in every state and territory and facilitates consultation and collaboration across governments;

¹¹³ Australian National University Development Policy Centre, *Australian Aid Tracker*, www.devpolicy.org/aidtracker.

- A mechanism for consultation with the AHRC and NGOs;
- Publicly available information on Australia’s human rights reporting processes.¹¹⁴

182. Preparation of reports provides each jurisdiction with an opportunity to consider the measures it has taken to ensure that Australia’s international obligations are implemented.

183. Responsibility for report preparation is shared across three different agencies, as shown below.

| <i>Treaty</i> | <i>Responsible agency</i> |
|--|---|
| International Covenant on Civil and Political Rights | Attorney-General’s Department |
| International Covenant on Economic, Social and Cultural Rights | Department of Foreign Affairs and Trade |
| Convention on the Elimination of All Forms of Racial Discrimination | Department of Foreign Affairs and Trade |
| Convention on the Elimination of Discrimination Against Women | Department of the Prime Minister and Cabinet (Office for Women) |
| Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment | Attorney-General’s Department |
| Convention on the Rights of the Child | Attorney-General’s Department |
| Convention on the Rights of Persons with Disabilities | Attorney-General’s Department |

184. Australia reviews and carefully considers in good faith recommendations received from all human rights mechanisms including Concluding Observations of Committees and special procedures mandate holders. These recommendations are raised with the departments, Ministers and/or jurisdictions that are responsible for relevant policy and programmes for consideration and implementation of recommendations as appropriate.

185. Information on recommendations is also disseminated to the general public through NGOs and government websites.

186. The Australian Government has also established a UPR monitoring process, which includes a website that serves as a central hub for all reporting work.¹¹⁵

¹¹⁴ Australian Government, Attorney-General’s Department, Treaty body reporting, <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/united-nations-human-rights-reporting/treaty-body-reporting>.

¹¹⁵ Australian Government, Attorney-General’s Department, Universal Periodic Review monitoring, <https://www.ag.gov.au/RightsAndProtections/HumanRights/United-Nations-Human-Rights-Reporting/upr-recommendations/Pages/default.aspx>.

III. Information on Non-discrimination and Equality and effective remedies

A. Non-discrimination and equality

1. General information

Legal structure

187. The general approach to human rights treaties taken in Australia is to ensure that domestic legislation, policies and practice comply with a treaty prior to its ratification. Australian legal frameworks comply with and give effect to the obligations under the human rights instruments Australia is a party to. This includes the obligations of non-discrimination, equality before the law and equal protection of the law for all (see Part 2, Sections A and B above).

188. Australia's anti-discrimination legislation allows for special measures to foster greater equality by supporting groups that face or have faced entrenched discrimination and by promoting equal access to opportunities. For example, targeted recruitment strategies for Aboriginal and Torres Strait Islander peoples, such as reserving certain positions or work placement schemes for Aboriginal Torres Strait Islander peoples, are generally not unlawful.

General measures to eliminate discrimination and promote equality

189. The Australian Government is committed to promoting equality before the law. The Australian Government administers funding to a range of programs to provide legal assistance to the most vulnerable members of the community, including the National Legal Assistance Partnership 2020–25, which delivers funding to each state and territory government who, in turn, distribute these funds to legal aid commissions, community legal centres and Aboriginal and Torres Strait Islander Legal Services (ATSILS), to provide legal help to vulnerable people facing disadvantage. The Australian Government also administers financial assistance schemes which can assist individuals with certain Commonwealth law matters or overseas legal matters.

190. The Australian Government engages in promotional campaigns and awareness-raising events to acknowledge international days of significance, for example, International Women's Day, International Day of People with Disability and Harmony Week (which includes 21 March, the United Nations International Day for the Elimination of Racial Discrimination).

191. Recently, the Australian Government ratified the International Labour Organisation (ILO) Violence and Harassment Convention (Convention 190) on 9 June 2023. The Convention obliges member states that ratify to ensure their laws provide a framework prohibiting all forms of violence and harassment in the world of work, including gender-based violence. This ratification signals Australia's commitment to safe and respectful workplaces for all.

192. National and jurisdictional human rights institutions and agencies, civil society and NGO actors all contribute to the elimination of discrimination and promotion of equality through their activities (see Part 2, Section C), for example, through the development of good practice tools and guidelines to promote non-discrimination in the workplace.

General measures to reduce economic, social and geographical disparities

193. The Australian Government places a high priority on ensuring the economic empowerment of all Australians, through policies that support economic growth and provision of direct payments and services to support specific community groups, including seniors, the unemployed, parents and families, carers, persons with disabilities, students, and Aboriginal and Torres Strait Islander peoples. In addition to social security payments, a range of Commonwealth and state concessions and allowances are available to income support

recipients to help with medical services, pharmaceuticals, transport, rent and other living expenses.

194. Australia is committed to addressing disproportionate disadvantage in rural and remote Australia, particularly in the areas of education, employment and community safety. A range of measures to reduce disparities are delivered through the Indigenous Advancement Strategies, Remote Australia Strategies Programme funding stream,¹¹⁶ the National Strategic Framework for Rural and Remote Health,¹¹⁷ the National Disability Insurance Agency Rural and Remote Strategy,¹¹⁸ and the National Regional, Rural and Remote Education Strategy.¹¹⁹

2. Measures to eliminate discrimination and promote equality for specific groups that may be disadvantaged or marginalised

Aboriginal and Torres Strait Islander peoples

195. The Australian Government is committed to the ongoing process of reconciliation with Aboriginal and Torres Strait Islander peoples, protecting Aboriginal and Torres Strait Islander arts, culture and languages, and addressing social and economic disadvantage.

196. Since the High Court's decision in *Mabo v Queensland (No 2)* (1992) HCA 23, the Australian common law recognises a form of native title that reflects the entitlement of Aboriginal and Torres Strait Islander peoples to their traditional lands and waters, in accordance with their traditional laws and customs. Formally recognising native title rights enables Traditional Owners to access and be involved in determining the use of their land, waters, and resources. The Native Title Act 1993 (Cth) provides statutory processes through which native title rights to land and waters can be recognised and protected, including through determinations of native title and voluntary agreements. Since the establishment of the native title system, successive Governments have implemented a range of initiatives to support or recognise Aboriginal and Torres Strait Islander land rights based on continuity of connection with the land or waters in accordance with traditional laws and customs. Aboriginal and Torres Strait Islander peoples' rights and interests in land are formally recognised over around 50% of Australia's land mass.¹²⁰

197. Under two key strategies, the Australian Government is undertaking a broad range of initiatives to address Aboriginal and Torres Strait Islander disadvantage and promote equality:

- The National Agreement on Closing the Gap (the National Agreement) enables Aboriginal and Torres Strait Islander peoples and governments to work together to overcome the inequality experienced by Aboriginal and Torres Strait Islander peoples, and achieve life outcomes equal to all Australians. Closing the Gap was established in 2008 and the National Agreement on Closing the Gap, developed in partnership with Aboriginal and Torres Strait Islander peoples, was released in July 2020. Closing the Gap acknowledges the ongoing strength and resilience of Aboriginal and Torres Strait Islander people in sustaining their cultures, which are amongst the oldest living cultures in the world. At the centre of the National Agreement are four Priority Reforms that focus on changing the way governments work with Aboriginal and Torres Strait Islander peoples and underpin 17 socio-economic outcomes. The Priority Reforms will:
 - Strengthen and establish formal partnerships and shared decision-making;
 - Build the Aboriginal and Torres Strait Islander community-controlled sector;
 - Transform government organisations so they work better for Aboriginal and Torres Strait Islander peoples;

¹¹⁶ www.indigenous.gov.au/remote-australia-strategies.

¹¹⁷ www.health.gov.au/internet/main/publishing.nsf/Content/national-strategic-framework-rural-remote-health.

¹¹⁸ www.ndis.gov.au/about-us/strategies/rural-and-remote-strategy.

¹¹⁹ www.education.gov.au/national-regional-rural-and-remote-education-strategy.

¹²⁰ National Indigenous Australians Agency, Land and Housing, <https://www.niaa.gov.au/indigenous-affairs/land-and-housing>.

- Improve and share access to data and information at a regional level to enable Aboriginal and Torres Strait Islander communities make informed decisions.
 - The Indigenous Advancement Strategy funds and delivers programs to address barriers to Aboriginal and Torres Strait Islander participation in employment and to improve social and economic participation.
198. Other general measures to promote non-discrimination and equality for Aboriginal and Torres Strait Islander peoples include:
- The Commonwealth's Indigenous Procurement Policy, which stimulates Indigenous entrepreneurship and business development, providing Aboriginal and/or Torres Strait Islander peoples with more opportunities to participate in the economy.
 - The provision of funding for specialised justice, legal and health services for Aboriginal and Torres Strait Islander peoples.
 - A range of prevention, diversion and rehabilitation measures to address the overrepresentation of Aboriginal and Torres Strait Islander peoples in the criminal justice system and achieve substantive, not just formal, equality before the law.

Children

199. The Australian Government has a range of programs, policies and strategies aimed at promoting children and young people's rights, including:
- The National Office for Child Safety was established in 2018 and provides national leadership across governments and sectors to deliver national policies and strategies to enhance children's safety and reduce future harm to children. This includes leading the implementation of the 10-year National Strategy to Prevent and Respond to Child Sexual Abuse 2021–2030 which provides a long-term, consistent and coordinated approach to preventing child sexual abuse in all settings, including institutional, familial and online;
 - The National Principles for Child Safe Organisations were agreed by all Australian governments in 2019, and set out a nationally consistent approach to promoting a culture of child safety and wellbeing within organisations. The National Office for Child Safety leads the development of resources to assist organisations to implement the National Principles;
 - The Commonwealth Child Safe Framework is a whole-of-government policy that sets minimum standards for Australian Government entities to create and maintain behaviours and practices that are safe for children;
 - The Australian Centre to Counter Child Exploitation is led by the AFP and brings together key stakeholders to drive a collective effort to counter child exploitation;
 - Safe and Supported: National Framework for Protecting Australia's Children 2021–2031 provides a framework for a long-term approach to ensuring the safety and wellbeing of children and reducing child abuse and neglect;
 - The Child Safeguarding Framework which promotes safety and wellbeing of children receiving immigration services;
 - The National Plan to End Violence against Women and Children 2022–2032, the overarching national policy framework that will guide actions towards ending violence against women and children.
200. Independent children's lawyers may be appointed to represent a child's best interests in family law proceedings and ensure that those interests are the focus of decisions about parenting arrangements. Although they do not take instructions from children, they must form an independent view of what is in the best interests of the child. An independent children's lawyer may meet with children and the child's counsellors and teachers to determine these best interests.
201. The age of criminal responsibility in most states and territories of Australia is 10 years (see paragraph 118). Children's courts deal with most crimes committed by people under the

age of 18 years and act to promote children's rights through practices such as closed courts, protection of children's identities, and a focus on rehabilitation, including through restorative justice processes.

Culturally and linguistically diverse Australians

202. Australia is a successful and proud multicultural society. Australia is committed to maintaining a culturally-diverse, tolerant and inclusive society.

203. Under the October 2022 Budget measure, A Government that works for multicultural Australia, the Australian Government committed to implement a Multicultural Framework Review (the Review). The Review aims to confirm that the Australian Government's multicultural policy settings and institutional arrangements are fit for purpose to further advance Australia's multicultural society, noting that immigration will continue to drive increasing diversity across Australian society and the role racism and discrimination plays as a key systemic barrier to our shared aspirations for an inclusive and equitable multicultural society. The Review represents an important opportunity to capture and reflect on the lessons learned from the pandemic about how government supports and works with diverse communities in crises.

204. The October 2022 Budget also provided funding of \$7.5 million to the Australian Human Rights Commission (AHRC) to lead development of a national anti-racism strategy, providing a coordinated, shared vision to address racism in Australia. In developing the strategy, the AHRC is conducting community-led consultation, prioritising cultural safety and accessibility.

205. The Australian Government funds a range of grants programs and initiatives which support our multicultural society, such as Fostering Integration Grants. The Australian Government also delivers a number of other programs to support social inclusion, such as Community Hubs Programs for migrants and a Community Liaison Officer network which drives community engagement to understand community sentiment, improve community understanding of Government programs and policies, and provide a feedback loop to the Government on challenges to social inclusion and barriers to participation to engage with Australia's diverse communities.

206. The Australian Government provides free translating and interpreting services. This service aims to provide equitable access to key services such as health care settings, emergency services and court services, where it acts as an important mechanism in promoting equality before the law. The Australian Government provides funding to support the delivery of Aboriginal language interpreting services in jurisdictions where a high demand for these services exists. The most recent Census (conducted in 2021), reported that over 150 Aboriginal and Torres Strait Islander languages are spoken throughout Australia.¹²¹ The Australian Government also funds Aboriginal and Torres Strait Islander language training and credentialing activities to increase the number of language services, and to increase the accessibility of interpreting resources.

Lesbian, Gay, Bisexual, Transgender/gender diverse, Intersex, Queer, Asexual and other sexually or gender diverse (LGBTIQ+) Australians

207. In 2013, the Sex Discrimination Act 1984 was amended to prohibit discrimination on the basis of sexual orientation, gender identity and intersex status. State and territory anti-discrimination legislation also prohibit discrimination against lesbian, gay, bisexual, transgender and intersex people.

208. In 2013, the Australian Government developed Guidelines on the Recognition of Sex and Gender to provide guidance to Australian Government agencies that maintain personal records.¹²² In 2021, the Australian Bureau of Statistics introduced the Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables 2020, to

¹²¹ Australian Bureau of Statistics, Language Statistics for Aboriginal and Torres Strait Islander Peoples, <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/language-statistics-aboriginal-and-torres-strait-islander-peoples/latest-release>.

¹²² www.ag.gov.au/Publications/Pages/AustralianGovernmentGuidelinesontheRecognitionofSexandGender.aspx.

standardise the collection and dissemination of data relating to sex, gender, variations of sex characteristics and sexual orientation.¹²³

209. The Marriage Amendment (Definition and Religious Freedoms) Act 2017 commenced on 9 December 2017, legalising same-sex marriage. This amended the Marriage Act 1961 to redefine marriage as ‘the union of 2 people to the exclusion of all others, voluntarily entered into for life’. The amendments also enable recognition of existing and future same-sex marriages solemnised overseas under the law of a foreign country, and same-sex marriages solemnised in Australia by a diplomatic or consular officer under the law of a foreign country before commencement.

210. Legislation regarding the registration of births, deaths and marriages is the responsibility of states and territories. The majority of Australian states and territories have amended Births, Deaths and Marriages Registration laws to allow transgender and gender-diverse people in those jurisdictions to change their sex on their birth certificate without having to undergo sex affirmation surgery.

Older Australians

211. The Australian Government is committed to changing negative attitudes and removing barriers that prevent older Australians from participating fully in our society.

212. Most Australian jurisdictions have strategies or policies that support healthy ageing and age-friendly communities and promote older Australians’ social and economic participation.

213. On 19 March 2019, the first National Plan to Respond to the Abuse of Older Australians (Elder Abuse) 2019–2023 was released. The National Plan identifies key policy and action areas which, over the longer term, should encourage raised community awareness of the effects of ageism and its role in elder abuse and empower older Australians to live with autonomy. The National Plan complements, but does not replace, federal, state and territory policies about ageing and elder abuse. The safety and wellbeing of senior Australians is of utmost importance to the Australian Government. Abuse of older people is a complex issue which is often caused by someone who is trusted by the older person, such as a family member, friend, professional, or paid caregiver. *In April 2023, the Australian Government agreed to develop a successor to the National Plan to Respond to the Abuse of Older Australians (2019–2023).*

214. In 2023, the Age Discrimination Commissioner released the report ‘Changing perspectives: testing an ageism intervention’ which provides support for brief and targeted interventions to alter negative perceptions of ageing and reduce ageist attitudes among workers in aged care and community settings.

215. In 2021, the AHRC released its report *What’s age got to do with it?* on ageism across the Australian lifespan. A supplementary report, *Talking about my generation*, was published in April 2023, which provided insights about how young people in Australia perceive their age and generational identity.

Persons with disability

216. Australia’s *Disability Strategy 2021–31* outlines a vision for a more inclusive and accessible Australian society where all people with disability can fulfil their potential as equal members of the community.¹²⁴ Its purpose is to:

- Provide national leadership towards greater inclusion of people with disability;
- Guide activity across all areas of public policy to be inclusive and responsive to people with disability;

¹²³ <https://www.abs.gov.au/statistics/standards/standard-sex-gender-variations-sex-characteristics-and-sexual-orientation-variables/latest-release>.

¹²⁴ Australian Government Department of Social Services, *Disability and Australia’s Disability Strategy 2021–2031*, <https://www.dss.gov.au/disability-and-australias-disability-strategy-2021-2031>.

- Drive mainstream services and systems to improve outcomes for people with disability;
- Engage, inform and involve the whole community in achieving a more inclusive society.

217. Through the endorsement of the *Australia's Disability Strategy 2021–31* and the *National Agreement on Closing the Gap* (CTG), the Australian Government has committed to ensuring policies, programs and services are designed to reflect the lived experience, unique needs and inherent strengths and capacities of First Nations people with disability, their families and broader communities. Both frameworks provide opportunities to prioritise First Nations people with disability through operationalising disability as a cross cutting priority in *Closing the Gap*, or focusing on intersectionality and diversity in the *Australia's Disability Strategy 2021–31*.

218. The *National Disability Insurance Scheme* (NDIS) was established in July 2013 to provide a single, national approach to fund support for people with disability, their families and carers. It provides all eligible Australians under the age of 65 years who have a permanent and significant disability with the reasonable and necessary supports they need. The NDIS is designed to support participants to use their reasonable and necessary supports to reach their individual goals and live more independent and full lives, including having opportunities to experience greater social and economic participation. The NDIS has been available nationally since July 2020.

219. The *NDIS Quality and Safeguarding Framework* provides a nationally consistent approach to quality and safeguarding of the supports and services delivered to people with disability, including placing obligations on service providers to develop better ways to prevent, detect and address violence, abuse and neglect of persons with disabilities. The NDIS Quality and Safeguards Commission is responsible for overseeing quality and safeguards for the full implementation of the framework.

220. In 2019 a cross-jurisdictional working group from federal and state governments developed a *National Statement of Principles Relating to Persons Unfit to Plead or Found Not Guilty by Reason of Cognitive or Mental Health Impairment*. The Principles seek to identify safeguards throughout legal processes and when the individual is subject to orders. They are best practice principles to ensure that treatment is tailored, inclusive and recovery oriented, with agencies and service providers collaborating to provide coordinated care.

221. The Federal Courts have a range of measures to improve access for persons with disability, including accommodating practical needs, providing accessible information and resources online for people with disability and their carers, providing information for potential jurors on relevant services that may be used during proceedings and providing training for judicial officers and staff within the federal courts.

222. Consistent with the Australian Public Service Commission's *As One: Making it Happen, APS Disability Employment Strategy 2020–25*, the Federal Courts also support persons with disability to work within the justice system, improving the ability of the justice system to respond more capably to the needs of the community.

Women

223. The Australian Government prioritises advancing gender equality, achieving women's economic equality, ending violence against women, increasing women's representation in leadership and decision-making, and improving women's health and wellbeing. Key measures are delivered under:

- The *Women's Budget Statement*, a budget paper which details budget measures that will drive gender equality. Australia is committed to gender responsive budgeting, which embeds gender equality into the design of policy proposals and strengthens gender equality outcomes through the allocation of public resources;
- The *National Plan to End Violence against Women and Children 2022–32*, released on 17 October 2022, is the overarching national policy framework that will guide actions towards ending violence against women and children. It highlights how all

parts of society, including governments, businesses and workplaces, media, schools and educational institutions, the family, domestic and sexual violence sector, communities and all individuals, must work together to achieve the shared vision of ending gender-based violence in one generation. The Australian Government has also committed to delivering Australia's first standalone *First Nations National Plan to End Violence against Women and Children*;

- The *National Women's Health Strategy 2020–2030*, which outlines Australia's national approach to improving the health of women and girls – particularly those at the greatest risk of poor health – and to reducing inequities between different groups of women and girls;
- The *National Action Plan to Combat Modern Slavery 2020–25*, implements initiatives and practices to prevent human trafficking, slavery and slavery-like practices (including forced marriage) and provide protection and support for affected people. One of the nine underpinning principles of the National Action Plan is to address the unique needs of women and children, who are disproportionately affected by modern slavery. More broadly, Australia's modern slavery response also includes comprehensive offences in the *Criminal Code Act 1995* (Cth) for human trafficking, slavery and slavery-like practices with penalties of up to 25 years' imprisonment, specialist Australian Federal Police investigative teams, a dedicated support program for victims, and Australia's supply chains transparency framework under the *Modern Slavery Act 2018* (Cth).

224. Activities to promote non-discrimination and equality for women in relation to legal and criminal justice issues include:

- Implementing legislative amendments to the *Family Law Act 1975* to enhance the courts' ability to protect victims of family violence, prohibit personal cross-examination in family law proceedings involving allegations of family violence in certain circumstances, and to streamline legal processes;
- Enhancing the sharing of family violence, child abuse and neglect risk information between the family courts and the child protection and criminal justice systems through the co-location of state and territory child protection and policing officials in federal family law courts, and the implementation of *National Strategic Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems*;
- Providing access to legal assistance under the *National Legal Assistance Partnership 2020–2025 (NLAP)*, with people experiencing or at risk of family violence identified as priority clients, and through a national program to provide specialised family violence legal assistance;
- Maintaining the *National Domestic and Family Violence Bench Book*, which provides a central resource for judicial officers considering legal issues relevant to domestic and family violence related cases to support harmonisation of the treatment of such cases across jurisdictions and assist with decision-making and funding training for all federal, state and territory judicial officers to strengthen competency in respect of family violence.

225. The Workplace Gender Equality Agency (WGEA) is an Australian Government statutory agency that promotes gender equality in Australian workplaces. WGEA's primary functions include provision of advice, practical tools and education for employers, as well as monitoring and reporting of gender equality outcomes. Large employers are required to report to WGEA against gender equality indicators, including gender composition of the workforce, gender pay gap (difference between women and men's average full-time earnings), and sexual harassment and sex-based discrimination.

226. In 2022, the fourth phase of the national primary prevention campaign to reduce violence against women, *Stop it at the Start*, was in market.¹²⁵ The campaign uses a broad

¹²⁵ Australian Government, *Stop it at the Start*, 2023, www.respect.gov.au.

media approach supported by online tools and resources to promote the importance of conversations addressing attitudes of disrespect and gender inequality with young people and break the cycle of violence against women.

227. The then Sex Discrimination Commissioner led an inquiry into the culture of Australian parliamentary workplaces and made recommendations in the *2021 Set the Standard Report* aimed at making these workplaces safe and respectful. The Commissioner also launched a process of significant cultural reform in Australian workplaces in response to the *Respect@Work Report 2020*, to ensure sexual harassment can be more effectively tackled through law and cultural reform initiatives.

B. Effective remedies

228. Australia's main mechanisms for seeking remedy in relation to human rights breaches are described in Part 2 Sections B and C and include the AHRC and federal, state and territory courts in addition to various other bodies including Ombudsmen, commissions and tribunals.

229. To facilitate effective access to such mechanisms, Legal Aid Commissions and Community Legal Centres may provide free advice or assistance regarding the making of complaints under anti-discrimination law. They are funded by Commonwealth and state and territory governments, but are independent to government and carry out their functions independent of government.

230. Most complaints investigated by the AHRC are resolved through conciliation. In 2021–22, the AHRC received 3,736 complaints and, conducted approximately 1,819 complaints conciliation processes, of which 1,128 (62%) were successfully resolved.¹²⁶ Complaints can be resolved in different ways including, for example, by an apology, a change of policy or compensation. Complainants and respondents do not pay any fees in order to access conciliation. Complaints and the outcomes of conciliation are confidential.

231. If a complaint under federal anti-discrimination law cannot be conciliated, in some circumstances, a complainant may pursue the complaint through the federal courts. Courts are empowered to consider whether certain applications have sufficient merit to proceed to a hearing, and to make orders where satisfied that there has been unlawful discrimination. Remedies that may be awarded by a court include orders to not repeat or continue unlawful discrimination, express an apology, pay the applicant compensation, employ or re-employ an applicant, or perform any reasonable act or course of conduct to redress any loss or damages.

Remedies for detainees

232. Prisoners in Australia have access to complaints mechanisms through state and territory anti-discrimination bodies and ombudsmen. Additionally, prisoners convicted under federal legislation may also complain to the AHRC.

233. People in immigration detention are entitled to make complaints about Department of Home Affairs (including the Australian Border Force) policies, conditions in detention or services provided. These may be made through service providers, the Department of Home Affairs, the Office of the Commonwealth Ombudsman, the AHRC, the Australian Red Cross, the International Committee for the Red Cross, or the United Nations High Commissioner for Refugees.

234. Australia ratified OPCAT on 21 December 2017.

- OPCAT requires the creation of a preventive system of regular visits to places of detention by appropriate domestic and international oversight bodies, with all the necessary powers, resourcing and independence to operate effectively;
- Under OPCAT, Australia is required to establish one or several NPMs, and to facilitate visits from the Subcommittee on the Prevention of Torture (SPT). Both NPMs and the SPT undertake visits for the purposes of ensuring the prevention of

¹²⁶ Australian Human Rights Commission, *AHRC 2018–19 Complaint Statistics*, https://humanrights.gov.au/sites/default/files/ahrc_ar_2021-2022_complaint_stats_0.pdf.

torture and other cruel, inhuman or degrading treatment or punishment in places of detention;

- Upon ratification in 2017, Australia made a declaration under Article 24 of OPCAT to postpone NPM obligations for up to three years, in order to work with its state and territory governments on the establishment of Australia's NPM. In 2022, the Committee against Torture accepted Australia's further 12-month extension request, postponing commencement of its NPM obligations until 20 January 2023;
- Australia's NPM consists of a cooperative network of federal, state and territory bodies responsible for visiting places of detention and is facilitated by an NPM Coordinator, the Commonwealth Ombudsman. Overall, six out of eight state and territory governments have nominated one or more NPM;
- By establishing independent bodies that carry out visits to places of detention, OPCAT aims to prevent harm through the early detection and remediation of issues, leading to better outcomes for people in detention – including those people in detention who experience additional vulnerability, such as people with disability, including people experiencing psychiatric conditions, First Nations people and youth;
- Visits by NPMs and the SPT are preventive and observational, and recommendations can be made to relevant authorities including federal, state and territory governments following these visits.

Annex I

Additional statistical data

Table A1
Population by five-year age group, Australia, 2018 and 2022

| Age | 2018 | | 2022 | |
|-------|-----------|---------|-----------|---------|
| | Number | Percent | Number | Percent |
| 0–4 | 1 464 779 | 6.33 | 1 510 519 | 6.0 |
| 5–9 | 1 502 646 | 6.42 | 1 612 017 | 6.4 |
| 10–14 | 1 397 183 | 6.06 | 1 638 721 | 6.5 |
| 15–19 | 1 421 595 | 5.97 | 1 533 583 | 6.1 |
| 20–24 | 1 566 793 | 6.96 | 1 637 036 | 6.6 |
| 25–29 | 1 664 602 | 7.51 | 1 824 957 | 7.2 |
| 30–34 | 1 703 847 | 7.45 | 1 914 394 | 7.3 |
| 35–39 | 1 561 679 | 6.89 | 1 894 010 | 7.3 |
| 40–44 | 1 583 257 | 6.38 | 1 704 611 | 6.5 |
| 45–49 | 1 581 455 | 6.68 | 1 621 720 | 6.2 |
| 50–54 | 1 523 551 | 6.12 | 1 653 384 | 6.3 |
| 55–59 | 1 454 332 | 6.12 | 1 533 577 | 5.8 |
| 60–64 | 1 299 397 | 5.44 | 1 491 748 | 5.6 |
| 65–69 | 1 188 999 | 4.83 | 1 302 214 | 4.9 |
| 70–74 | 887 716 | 4.07 | 1 143 727 | 4.3 |
| 75–79 | 652 657 | 2.80 | 874 264 | 3.3 |
| 80–84 | 460 549 | 1.94 | 566 069 | 2.0 |
| ≥85 | 486 842 | 2.02 | 217 336 | 1.7 |

Source: Australian Bureau of Statistics, 3101.0 – Australian Demographic Statistics, 2022.

Table A2
Births and deaths, Australia, 2013–2019

| Measure | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|--|---------|---------|---------|---------|---------|---------|---------|
| Number of births | 305 377 | 311 104 | 309 142 | 315 147 | 305 832 | 294 369 | 309 996 |
| Total fertility rate ¹ (live births per woman) | 1.8 | 1.8 | 1.7 | 1.74 | 1.66 | 1.59 | 1.70 |
| Number of deaths | 159 052 | 158 504 | 160 909 | 158 493 | 169 301 | 161 300 | 171 469 |
| Crude death rate (deaths per 1,000 persons) | 6.7 | 6.6 | 6.5 | 6.3 | 6.7 | 6.3 | 6.7 |
| Standardised death rate ² (deaths per 1,000 persons) | 5.5 | 5.4 | 5.3 | 5.1 | 5.3 | 4.9 | 5.1 |
| Number of infant deaths ³ | 991 | 970 | 1 019 | 988 | 1 009 | 943 | 1 009 |
| Infant mortality rate (deaths per 1,000 live births) | 3.2 | 3.1 | 3.3 | 3.1 | 3.3 | 3.2 | 3.3 |

¹ Sum of age-specific fertility rates, represents the number of children a female would bear during her lifetime if she experienced current age-specific fertility rates at each age of her reproductive life (ages 15–49).

² Accounting for age structure of the population.

³ Defined as the death of a live-born child before their first birthday.

Source: Australian Bureau of Statistics, 3301.0 – Births, Australia; Australian Bureau of Statistics, 3302.0 – Deaths, Australia.

Table A3
Household income and wealth, Australia, 2009–10 and 2019–20

| <i>Indicator</i> | <i>2009–10</i> | <i>2019–20</i> |
|---|-----------------|----------------|
| Main source of household income | | |
| Employee income | 60.8% | 61.9% |
| Government pension or allowance | 25.2% | 22.3% |
| Other | 8.7% | 12.1% |
| Median weekly gross household income | \$2 058 | \$2 329 |
| Median weekly equivalised disposable household income ¹ | \$1 034 | \$1 124 |
| Gini coefficient for equivalised disposable household income ² | 0.329 | 0.324 |
| Gini coefficient for household net worth | 0.428 (2005–06) | 0.436 |
| Proportion of households with debt | 72.2% (2005–06) | 74.6% |
| Proportion of households with debt \geq 3 times income | 23.4% (2005–06) | 30.3% |

¹ Equivalised disposable household income adjusted for variations in household size and composition, while taking into account the economies of scale that arise from the sharing of dwellings.

² Internationally accepted summary measure of inequality – values range between 0 and 1, with values closer to 0 representing higher equality.

Source: Australian Bureau of Statistics, 6523.0 – Household Income and Wealth.

Table A4
Household expenditure and economic wellbeing, Australia, 2009–10 and 2015–16

| <i>Indicator</i> | <i>2009–10</i> | <i>2015–16</i> |
|--|----------------|----------------|
| Median household expenditure per week | \$1 034 | \$1 185 |
| Mean household expenditure per week | \$1 236 | \$1 422 |
| Goods and services expenditure | | |
| Housing costs ¹ | 28.0% | 29.8% |
| Food and non-alcoholic beverages | 16.5% | 16.6% |
| Medical care and health expenses | 5.3% | 5.8% |
| Transport | 15.6% | 14.5% |
| Education | 2.5% | 3.1% |
| Other ² | 32.0% | 30.4% |
| Experienced financial stress in past 12-months | 16.4 | 14.9% |
| Lowest equivalised disposable income quintile | 32.5 | 30.7% |
| Second equivalised disposable income quintile | 21.3 | 18.3% |
| Third equivalised disposable income quintile | 13.8 | 13.8% |

¹ Including rent/mortgage, insurance and tax costs, household services and operation costs, domestic fuel and power, and household furnishings and equipment. *Source:* Australian Bureau of Statistics, 6530.0 – Household Expenditure Survey, 2017.

² Including Alcoholic beverages, Tobacco products, Clothing and footwear, Communication, Recreation, Personal care, and Miscellaneous goods and services. *Source:* Australian Bureau of Statistics, 6530.0 - Household Expenditure Survey, 2017.

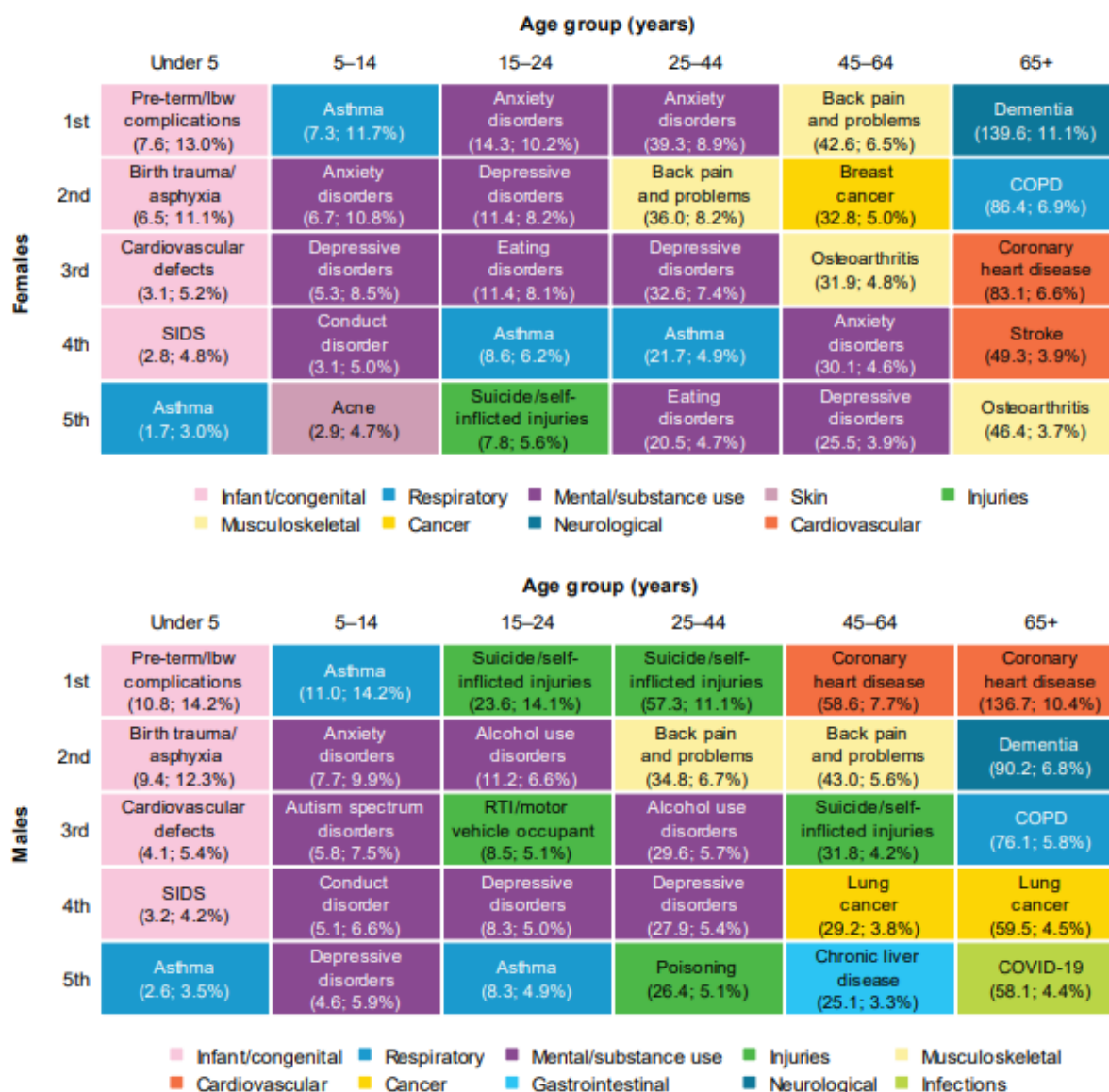
| <i>Indicator</i> | <i>2009–10</i> | <i>2015–16</i> |
|--|----------------|----------------|
| Fourth equivalised disposable income quintile | 9.0 | 6.4% |
| Highest equivalised disposable income quintile | 2.1 | 1.8% |

Source: Australian Bureau of Statistics, 6530.0 – Household Expenditure Survey, 2017.

| Rank | Males Total deaths in 2019: 89,401 | | | Females Total deaths in 2021: 82,068 | | |
|------|--|--------|------------------|---|--------|------------------|
| | Cause of death | Number | Percent of total | Cause of death | Number | Percent of total |
| 1 | Coronary heart disease | 10 371 | 11.6% | Dementia & Alzheimer disease | 10 276 | 12.5% |
| 2 | Dementia & Alzheimer disease | 5 664 | 6.3% | Coronary heart disease | 6 960 | 8.4% |
| 3 | Lung cancer | 4 968 | 5.5% | Cerebrovascular disease | 5 620 | 6.8% |
| 4 | Cerebrovascular disease | 4 180 | 4.6% | Chronic Lower Respiratory Disease | 3 854 | 4.7% |
| 5 | Chronic Lower Respiratory Disease | 3 951 | 4.4% | Lung cancer | 3 706 | 4.5% |
| 6 | Prostate cancer | 3 620 | 4.0% | Breast cancer | 3 129 | 3.8% |
| 7 | Blood, Bone Marrow and Lymphatic cancers | 3 083 | 3.4% | Colorectal cancer | 2 580 | 3.1% |
| 8 | Diabetes | 2 953 | 3.3% | Diabetes | 2 451 | 2.9% |
| 9 | Colorectal cancer | 2 893 | 3.2% | Diseases of the urinary system | 2 319 | 2.8% |
| 10 | Suicide | 2 358 | 2.6% | Heart Disease | 2 022 | 2.5% |

Source: Australian Bureau of Statistics, 3303.0 – Causes of deaths, Australia, 2021.

Figure A1
Leading causes of disease burden (disability-adjusted life-years '000s, % of age group), by sex and age group, Australia, 2022



LBW: Low birthweight; RTI: Road traffic accident; COPD: Chronic obstructive pulmonary disease
 SIDS: sudden infant death syndrome

Disease rankings exclude 'other' residual conditions from each disease group; for example, 'other musculoskeletal conditions'.

Source: 22 Summary report. Australian Burden of Disease Study. BOD 37, 2022.

B. Constitutional, political and legal structure

Table B1
Federal election summary statistics, Australia, 2010–2022

| <i>Year</i> | <i>House of Representatives</i> | | <i>Senate</i> | |
|-------------|---------------------------------|--------------------------|----------------|--------------------------|
| | <i>Turnout</i> | <i>Informality rate*</i> | <i>Turnout</i> | <i>Informality rate*</i> |
| 2010 | 93.2% | 5.6% | 93.8% | 3.8% |
| 2013 | 93.2% | 5.9% | 93.9% | 3.0% |
| 2016 | 91.0% | 5.1% | 91.9% | 3.9% |
| 2019 | 91.9% | 5.5% | 92.5% | 3.8% |
| 2022 | 89.82% | 5.2% | 90.5% | 3.4% |

* Turnout does not indicate effective participation. A vote is regarded as informal if the ballot paper has not been completed properly (e.g. not marked, has writing on it which identifies the voter). Informal ballot papers are not counted towards any candidate.

Source: Australian Electoral Commission, 2022.

Annex II

Additional information on the protection and promotion of human rights

Acceptance of international human rights norms

Table A1

Text of Australia's reservations and declarations to the core international human rights treaties and their optional protocols¹

International Covenant on Civil and Political Rights (ICCPR)

Reservations

Article 10

In relation to paragraph 2(a) the principle of segregation is accepted as an objective to be achieved progressively. In relation to paragraph 2(b) and 3 (second sentence) the obligation to segregate is accepted only to the extent that such segregation is considered by the responsible authorities to be beneficial to the juveniles or adults concerned.

Article 14

Australia makes the reservation that the provision of compensation for miscarriage of justice in the circumstances contemplated in paragraph 6 of article 14 may be by administrative procedures rather than pursuant to specific legal provision.

Article 20

Australia interprets the rights provided for by articles 19, 21 and 22 as consistent with article 20; accordingly, the Commonwealth and the constituent States, having legislated with respect to the subject matter of the article in matters of practical concern in the interest of public order (order public), the right is reserved not to introduce any further legislative provision on these matters.

Declarations

Australia has a federal constitutional system in which legislative, executive and judicial powers are shared or distributed between the Commonwealth and the constituent States. The implementation of the treaty throughout Australia will be effected by the Commonwealth, State and Territory authorities having regard to their respective constitutional powers and arrangements concerning their exercise – 28 January 1993

The Government of Australia declares that it recognizes, for and on behalf of Australia, the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the aforesaid Convention – 28 January 1993

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Declaration

The Government of Australia hereby declares that it recognises, for and on behalf of Australia, the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the aforesaid Convention; and

The Government of Australia hereby declares that it recognises, for and on behalf of Australia, the competence of the Committee to receive and consider communications from or on behalf of individuals subject to Australia's jurisdiction who claim to be victims of a violation by a State Party of the provisions of the aforesaid Convention – 28 January 1993

Amendments

Amendments to Articles 17(7) and 18(5), accepted 15 October 1993

Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT)

Declaration

In accordance with Article 24 of the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Australia declares the postponement of the implementation of Australia's obligations under Part IV of the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, for three years.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Reservations

Article 11(2)

The Government of Australia states that maternity leave with pay is provided in respect of most women employed by the Commonwealth Government and the Governments of New South Wales and Victoria. Unpaid maternity leave is provided in respect of all other women employed in the State of New South Wales and elsewhere to women employed under Federal and some State industrial awards. Social Security benefits subject to income tests are available to women who are sole parents. The Government of Australia advises that it is not at present in a position to take the measures required by article 11(2) to introduce maternity leave with pay or with comparable social benefits throughout Australia.

Declaration

Australia has a Federal Constitutional System in which Legislative, Executive and Judicial Powers are shared or distributed between the Commonwealth and the Constituent States. The implementation of the Treaty throughout Australia will be effected by the Commonwealth State and Territory Authorities having regard to their respective constitutional powers and arrangements concerning their exercise.

Amendments

Amendment to Article 20(1), accepted 4 June 1998

Combat duties reservation

Australia ratified the Convention subject to a reservation that "the Government of Australia advises that it does not accept the application of the Convention in so far as it would require alteration of Defence Force policy which excludes women from combat and combat-related duties. The Government of Australia is reviewing this policy so as to more closely define 'combat' and 'combat-related duties.'"

On 30 August 2000, Australia withdrew that part of the reservation and deposited the following reservation: "The Government of Australia advises that it does not accept the application of the Convention in so far as it would require alteration of Defence Force policy which excludes women from combat duties."

On 14 December 2018, with effect from same date, Australia withdrew that reservation.²

International Convention on the Elimination of all Forms of Racial Discrimination (CERD)

Reservation

Article 4(a)

The Government of Australia ... declares that Australia is not at present in a position specifically to treat as offences all the matters covered by Article 4(a) of the Convention. Acts of the kind there mentioned are punishable only to the extent provided by the existing criminal law dealing with such matters as the maintenance of public order, public mischief, assault, riot, criminal libel, conspiracy and attempts. It is the intention of the Australian Government, at the first suitable moment, to seek from Parliament legislation specifically implementing the terms of Article 4(a).

Declaration

The Government of Australia hereby declares that it recognises, for and on behalf of Australia, the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by Australia of any of the rights set forth in the aforesaid Convention – 28 January 1993

Amendment

Amendment to Article 8, accepted 15 October 1993

Convention on the Rights of the Child (CRC)

Reservation

Article 37(c)

Australia accepts the general principles of article 37. In relation to the second sentence of paragraph (c), the obligation to separate children from adults in prison is accepted only to the extent that such imprisonment is considered by the responsible authorities to be feasible and consistent with the obligation that children be able to maintain contact with their families, having regard to the geography and demography of Australia. Australia, therefore, ratifies the Convention to the extent that it is unable to comply with the obligation imposed by article 37(c).

Amendments

Amendment to Article 43(2), not accepted

Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict (OP-CRC-AC)

Declaration

The Australian Defence Force (ADF) shall continue to observe a minimum voluntary recruitment age of 17 years.

Pursuant to Article 3(5) of the Optional Protocol, age limitations do not apply to military schools. A list of authorised establishments, both military and civilian (including those used to train apprentices), to which this age exemption applies is held by the Service Director-General Career Management. Age limitations also do not apply to cadet schemes, members of which are not recruited into, and are therefore not members of, the ADF.

Persons wishing to join the ADF must present an original certified copy of their birth certificate to their recruiting officer. Before their enlistment or appointment, all ADF applicants who are less than 18 years of age must present the written informed consent of their parents or guardians.

All applicants wishing to join the ADF must be fully informed of the nature of their future duties and responsibilities. Recruiting officers must be satisfied that an application for membership by a person less than 18 years of age is made on a genuinely voluntary basis.

Convention on the Rights of Persons with Disabilities (CRPD)

Declaration

Australia recognizes that persons with disability enjoy legal capacity on an equal basis with others in all aspects of life. Australia declares its understanding that the Convention allows for fully supported or substituted decision-making arrangements, which provide for decisions to be made on behalf of a person, only where such arrangements are necessary, as a last resort and subject to safeguards;

Australia recognizes that every person with disability has a right to respect for his or her physical and mental integrity on an equal basis with others. Australia further declares its understanding that the Convention allows for compulsory assistance or treatment of persons, including measures taken for the treatment of mental disability, where such treatment is necessary, as a last resort and subject to safeguards;

Australia recognizes the rights of persons with disability to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others. Australia further declares its understanding that the Convention does not create a right for a person to enter or remain in a country of which he or she is not a national, nor impact on Australia's health requirements for non-nationals seeking to enter or remain in Australia, where these requirements are based on legitimate, objective and reasonable criteria.

¹ Australia has no reservations, declarations or amendments to ICESCR.

² On 25 October 2018, the federal Parliament passed the *Civil Law and Justice Legislation Amendment Act 2018*, repealing section 43 of the *Sex Discrimination Act 1984*, which exempted discrimination against women in connection with combat duties, and removing all barriers preventing women from performing combat roles. This allowed Australia to withdraw its reservation to CEDAW as Australia is now compliant with the obligations under Articles 11(1)(b) and 11(1)(c).

Table A2

Other international instruments to which Australia is a party*UN human rights and related conventions*

- Convention on the Prevention and Punishment of the Crime of Genocide 1948
- Slavery Convention 1926, as amended 1955
- Convention relating to the Status of Refugees 1951, and its 1967 Protocol
- Convention on the Political Rights of Women 1954
- Convention relating to the Status of Stateless Persons 1954
- Convention on the Reduction of Statelessness 1961
- Rome Statute of the International Criminal Court 1998
- United Nations Convention against Transnational Organized Crime 2000, and its Protocols against the smuggling of migrants by land, sea and air, and to prevent, suppress and punish trafficking in persons, especially women and children
- Marrakesh Treaty to Facilitate Access to Published Works for People who are Blind, Visually Impaired or otherwise Print Disabled 2016

Selected conventions of the International Labour Organization Australia is party to

- Forced or Compulsory Labour Convention 1930 (No. 29)
- Labour Inspection Convention 1947 (No. 81)
- Freedom of Association and Protection of the Right to Organise Convention 1948 (No. 87)
- Right to Organize and Collective Bargaining Convention 1949 (No. 98)
- Equal Remuneration Convention 1951 (No. 100)
- Abolition of Forced Labour Convention 1957 (No. 105)
- Discrimination (Employment and Occupation) Convention 1958 (No. 111)
- Employment Policy Convention 1964 (No. 122)
- Minimum Wage-Fixing Convention 1970 (No. 131)
- Occupational Safety and Health Convention 1981 (No. 155)
- Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities Convention 1981 (No. 156)
- Minimum Age Convention 1973 (No. 138)
- Worst Forms of Child Labour Convention 1999 (No. 182)
- Violence and Harassment Convention 2019 (No. 190)

Conventions of the UN Educational, Scientific and Cultural Organization

- Convention against Discrimination in Education 1960

Conventions of the Hague Conference on Private International Law

- Convention on the Recognition of Divorces and Legal Separations 1970
- Convention on the Recognition and Enforcement of Decisions relating to Maintenance Obligations 1973
- Convention on the Civil Aspects of International Child Abduction 1980
- Convention on Celebration and Recognition of the Validity of Marriages 1978
- Convention on Protection of Children and Co-operation in respect of Intercountry Adoption 1993
- Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children 1996

Geneva Conventions and other treaties on international humanitarian law

- Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field 1949
 - Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea 1949
 - Geneva Convention (III) relative to the Treatment of Prisoners of War 1949
 - Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War 1949
 - Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) 1977
 - Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) 1977
-