

AUSTRALIA 2020 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Australia is a constitutional democracy with a freely elected federal parliamentary government. In a free and fair federal parliamentary election in May 2019, the Liberal Party and National Party coalition was re-elected with a majority of 77 seats in the 151-seat House of Representatives. The House subsequently reconfirmed Scott Morrison as prime minister.

The Australian Federal Police (federal police), an independent agency of the Department of Home Affairs, and state and territorial police forces are responsible for internal security. The federal police enforces national laws and state and territorial police forces enforce state and territorial laws. The Department of Home Affairs and the Australian Border Force are responsible for migration and border enforcement. Civilian authorities maintained effective control over the security forces. The Inspector General of the Australian Defence Force is conducting an independent inquiry into allegations that members of the Special Forces may have committed abuses in Afghanistan.

Significant human rights issues included credible allegations of deaths related to neglect or abuse in prison and occasional neglect or mistreatment of prisoners, especially Aboriginal or Torres Strait Islander persons or persons with disabilities.

The government took steps to prosecute officials accused of abuses, and ombudsmen, human rights bodies, and internal government mechanisms responded effectively to complaints.

Section 1. Respect for the Integrity of the Person, Including Freedom from

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were credible allegations of deaths due to abuse in custody by government

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agents.

Black Lives Matter protests held in major cities sought to raise awareness of black deaths in custody and high rates of indigenous incarceration. Protesters and multiple media reports highlighted the more than 400 indigenous deaths in custody since a royal commission looking into the issue concluded in 1991, and they complained of a lack of convictions despite claims of excessive force or neglect by police.

Since August 2019, the deaths of two indigenous persons in custody have led to murder charges. In August a Western Australia police officer pleaded not guilty to murder in the shooting of a 29-year-old woman. In November 2019 a Northern Territory police officer was charged with murder after shooting a 19-year-old man.

A series of media reports alleged special forces soldiers carried out unlawful killings while on deployment in Afghanistan between 2005 and 2012. The Inspector General of the Australian Defence Force was investigating possible breaches of the laws of armed conflict by special forces personnel in Afghanistan.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and the government generally respected these provisions. There were occasional claims police and prison officials mistreated suspects in custody; mistreatment of juvenile detainees was a particular concern.

Impunity was not a significant problem in the security forces.

Prison and Detention Center Conditions

There were reports regarding prison or detention center conditions that raised human rights concerns.

Physical Conditions: The most recent data from the Australian Institute of

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Criminology reported 72 prison deaths in 2017-18. Media sources alleged at least seven suspicious deaths occurred since August 2019, two of which occurred in 2020. Death rates for indigenous Australian prisoners continued higher than for others. For example, in June and July, three Aboriginal prisoners died (two by suicide, the third of unknown causes) in Western Australia prisons.

Prison visits in recent years in Western Australia and Queensland showed a high percentage of inmates had a cognitive, mental health, or physical disability and that inmates with such disabilities were more likely to be placed in solitary confinement and may also suffer higher rates of violence or abuse at the hands of other inmates or prison staff than other inmates.

The Disruptive Prisoner Policy of Western Australia's Corrective Services also raised particular concern. In July attorneys for three Aboriginal prisoners filed a complaint before the state supreme court, alleging that the policy led some prisoners at the Hakea and Casuarina Prison to spend more than 23 hours a day in solitary confinement with as little as 30 minutes of fresh air a day. The policy was suspended pending an administrative review.

Administration: Authorities investigated allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The government investigated and monitored prison and detention center conditions.

Independent Monitoring: The government permitted visits by independent human rights observers. There were no reports of intimidation by authorities. A number of domestic and international human rights groups expressed concerns about conditions at domestic immigration detention centers (see section 2.f.).

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Arrest Procedures and Treatment of Detainees

Police officers may seek an arrest warrant from a magistrate when a suspect cannot be located or fails to appear, but they also may arrest a person without a warrant if

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there are reasonable grounds to believe the person committed an offense. Police must inform arrested persons immediately of their legal rights and the grounds for their arrest and must bring arrested persons before a magistrate for a bail hearing at the next session of the court. The maximum investigation period police may hold and question a person without charge is 24 hours, unless extended by court order for up to an additional 24 hours.

Under limited circumstances in terrorism cases, a number of federal and state or territorial laws permit police to hold individuals in preventive detention without charge or questioning for up to 14 days. These laws contain procedural safeguards including on access to information related to lawyer-client communication.

By law the Office of the Independent National Security Legislation Monitor helps ensure that counterterrorism laws strike an appropriate balance between protecting the community and protecting human rights. The federal police, the Australian Crime Commission, and intelligence agencies are subject to parliamentary oversight. The inspector general of intelligence and security is an independent statutory officer who provides oversight of the country's six national intelligence agencies.

Bail generally is available to persons facing criminal charges unless authorities consider the person a flight risk or the charges carry a penalty of 12 months' imprisonment or more. Authorities granted attorneys and families prompt access to detainees. Government-provided attorneys are available to provide legal advice to and represent detainees who cannot afford counsel.

Arbitrary Arrest: The law allows courts to detain convicted terrorists beyond the expiration of their sentence by up to an additional three years for preventive purposes where there is no less restrictive measure available to prevent the risk posed by the offender to the community. Various human rights organizations criticized this law as allowing the government to detain prisoners arbitrarily.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government respected

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judicial independence and impartiality.

Trial Procedures

The law provides for the right to a fair and timely public trial, and an independent judiciary generally enforced this right. In state district and county courts and in state and territorial supreme courts, a judge and jury try serious offenses.

Defendants enjoy a presumption of innocence and cannot be compelled to testify or confess guilt. They have the right to be informed promptly and in detail of the charges, with free interpretation as necessary from the moment charged through all appeals, the right to an attorney, to be present at their trial, and adequate time and facilities to prepare a defense. Government-funded attorneys are available to low-income persons. The defendant's attorney can question witnesses, present witnesses and evidence, and appeal the court's decision or the sentence imposed.

News emerged in late 2019 that a man known as both "Witness J" and Alan Johns (a pseudonym) had been prosecuted by the federal government and imprisoned in secret for crimes not made public. Media reports claimed Witness J is a former "senior military officer involved in intelligence" whose imprisonment in Canberra only came to light following a November 2019 judgment in the Australian Capital Territory Supreme Court arising from a dispute related to his treatment in prison. The Australian Capital Territory's justice minister, Shane Rattenbury, told media in November 2019 he was "deeply disturbed by the extraordinary levels of secrecy surrounding the 'Witness J' case" imposed by the federal government, claiming it showed a "growing disregard for the principles of open justice and a robust democracy." In a statement in December 2019 federal Attorney-General Christian Porter said the matter related to "highly sensitive national security information" that was "of a kind that could endanger the lives or safety of others." Witness J has since been released from prison after serving a 15-month sentence.

The Independent National Security Legislation Monitor, James Renwick, began a review into the Witness J trial in March, stating that "wholly closed criminal proceedings do indeed appear to be unprecedented in Australia, save possibly during the World Wars." In April Renwick abandoned the review, citing limitations imposed by COVID-19. Renwick's term concluded on June 30, and it

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will be up to the new monitor to consider restarting the review of Witness J's trial.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters, and individuals or organizations may seek civil judicial remedies for human rights violations. There is also an administrative process at the state and federal levels to seek redress for alleged wrongs by government departments. Administrative tribunals may review a government decision only if the decision is in a category specified under a law, regulation, or other legislative instrument as subject to a tribunal's review.

Property Restitution

The government has laws and mechanisms in place for the resolution of Holocaust-era restitution claims, including by foreign citizens. The country is a signatory of the Terezin Declaration. Nongovernmental organizations were not aware of any recent restitution cases. The Department of State's Justice for Uncompensated Survivors Today (JUST) Act report to Congress, released publicly on July 9, 2020, can be found on the Department's website: <https://www.state.gov/reports/just-act-report-to-congress/>.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and there were no reports the government failed to respect these prohibitions. Police have authority to enter premises without a warrant in emergency circumstances.

Section 2. Respect for Civil Liberties, Including

a. Freedom of Expression, Including for the Press

Although the constitution does not explicitly provide for freedom of speech or press, the High Court has held that the constitution implies a limited right to

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freedom of political expression, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the press.

National Security: In May, after the highest federal court ruled in April that a warrant used by federal police in a June 2019 raid on the home of News Corp journalist Annika Smethurst was defective, the Australian Federal Police (AFP) announced it would not charge Smethurst for her use of classified information in a 2018 article on surveillance of citizens.

In July the federal police asked the federal director of public prosecutions to consider charging an Australian Broadcasting Corporation (ABC) journalist for publishing classified information in 2017 reports alleging Australian war crimes in Afghanistan. The AFP raided ABC's Sydney headquarters in June 2019.

The News Corp and ABC raids (relating to separate reports but occurring in the same month) sparked a national discussion on press freedom, led by a coalition of media organizations calling for more legal protections for journalists and whistleblowers. In August the Parliamentary Joint Committee on Intelligence and Security released a report into "the impact of the exercise of law enforcement and intelligence powers on the freedom of the press." The committee's inquiry was initiated by the federal attorney general following public concerns about the two federal police raids. The committee recommended the government make changes to the use of warrants that would establish a "public interest advocate" to contest the issuance of warrants against journalists and media organizations. Media organizations including News Corp and the ABC said the report did not go far enough and continued to seek the ability to contest warrants themselves before raids take place.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority. The internet was widely available to and used by citizens.

Law enforcement agencies require a warrant to intercept telecommunications,

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including internet communications.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

Although the freedoms of peaceful assembly and association are not codified in federal law, the government generally respected these rights.

The declarations of states of emergency by state and territory governments in response to the COVID-19 pandemic affected a number of protests and demonstrations.

In June thousands of protesters in major cities and regional centers defied government health orders to protest the killing of George Floyd in the United States and the treatment of Aboriginal persons and Torres Strait Islanders in Australia. The New South Wales Supreme Court upheld a police appeal to ban a march planned for Sydney on July 28 on public health grounds, with media reporting police arrested and imposed significant fines on six attendees. In Melbourne, police imposed similar fines on three protest organizers for breaching health directions in relation to a June 6 rally.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

To control the spread of the COVID-19 pandemic, all state and territory governments, with the exception of Victoria and the Australian Capital Territory, enacted interstate border control measures, either outright prohibiting movement,

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or requiring an enforced mandatory 14-day quarantine period on arrival.

At various times all states and territories also temporarily prohibited or strongly discouraged movement within their borders to reduce the risk of COVID-19 spreading, especially to rural communities with vulnerable populations. For individuals, significant, for some burdensome, fines were the penalty for breaching social distancing and travel restrictions.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

f. Protection of Refugees

The Department of Home Affairs oversees refugee resettlement via the Refugee and Humanitarian Program, which distinguishes between “offshore” and “onshore” individuals. Individuals residing offshore--outside the country--can apply for a refugee visa if they are subject to persecution in their home country; meet the “compelling reasons” criterion; and satisfy health, character, and national security requirements. Individuals who arrived in the country legally (onshore) can apply for a Temporary Protection visa. Persons who seek to enter the country without proper authorization, including preapproval to settle, are considered illegal migrants and subject to detention either in the country or in a third country. Individuals who arrived illegally may apply for a Temporary Protection visa or a Safe Haven Enterprise visa, but it is generally very difficult for them to legalize their status.

Refugee processing centers operated on behalf of Australia in Nauru and Papua New Guinea were closed in March 2019 and October 2017, respectively. As of September 7, approximately 170 refugees or asylum seekers remained in Nauru, housed in community-based facilities funded by the Australian Government. An equivalent number remained in Papua New Guinea.

Abuse of Migrants and Refugees, and Stateless Persons: Domestic and international organizations reported credible allegations of abuse and deteriorating mental health among migrants brought from Nauru and Papua New Guinea for medical treatment and detained in facilities in Brisbane and Melbourne. Alleged

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abuses included harsh conditions, inadequate mental health and other medical services, assault, and sexual abuse; these also contributed to suicide and self-harm. These organizations also reported suspicious deaths. The UN High Commissioner for Refugees reports that in several cases, family members were not allowed to accompany a relative sent to the country for medical treatment. Government policy required such persons to return to Nauru, Papua New Guinea, or their home country at the conclusion of treatment. The government reported that it provided necessary services to refugees. Months-long protests in Brisbane have sought policy changes, including a change to community detention.

Since the repeal of medevac legislation in December 2019, approval of transfers of asylum seekers and refugees from Nauru and Papua New Guinea--under the off-shore agreements with each country--to Australia for medical treatment not available in the regional processing country remains subject to the discretion of federal ministers. The home affairs minister has approved the medical transfer of 71 persons from Nauru and Papua New Guinea to Australia since the December 2019 repeal; the most recent person arrived from Nauru in July.

Access to Asylum: The law provides for granting asylum or refugee status. The government maintains a humanitarian refugee program that includes several types of visas available to refugees for resettlement in the country. The UN High Commissioner for Refugees identifies and refers most applicants considered under the program. The government rejected family reunification as a ground for approval of an asylum request.

The law allows the home affairs minister to enter into agreement with a third country to designate that country as a regional processing country for migrants who attempt to enter the country illegally.

Unauthorized maritime arrivals transferred to a regional processing country have their protection claims assessed by the regional processing country under its domestic laws. Since 2019, persons transferred to these countries were no longer held in camps and resided in community-based accommodation while their claims were processed. Australia has memoranda of understanding on regional processing with Papua New Guinea and Nauru and had such arrangements with Cambodia from 2014-18. The settlement arrangements provide for third-country resettlement

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of unauthorized maritime arrivals that Nauru or Papua New Guinea assess to need international protection.

Australia has another arrangement with Papua New Guinea for the settlement of persons it assesses need international protection. Under this arrangement, any unauthorized maritime arrival entering Australian waters is liable for transfer to Papua New Guinea for processing and resettlement there or in any other participating regional states.

Christmas Island was reopened in August to accommodate overflow in Australia's immigration detention network. The government says it will initially support 250 persons, mostly individuals whose visas were cancelled for character reasons (i.e., persons who served 12 months or more in jail and are pending removal from Australia). The government stated there is no intention to take asylum seekers, including persons from regional processing countries, to Christmas Island.

By law the government must facilitate legal representation when requested (section 256 of the Migration Act). Some government-funded legal assistance remained available for unauthorized maritime arrivals.

Durable Solutions: The government accepted refugees for resettlement from third countries and funded refugee resettlement services. The Humanitarian Settlement Services program provided case-specific assistance that included finding accommodation, employment or job training programs, language training, registering for income support and health care, and connecting with community and recreational programs.

Temporary Protection: The law permits two temporary protection options for individuals who arrived in the country and were not taken to regional processing countries. The Temporary Protection Visa is valid for three years, and visa holders can work, study, and reside anywhere in the country with access to support services. Once expired, Temporary Protection Visa holders are eligible to reapply for another. The Safe Haven Enterprise Visa is valid for five years and is granted on the basis that visa holders intend to work or study in nonmetropolitan areas. Safe Haven Enterprise Visa holders are eligible to apply for certain permanent or

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temporary visas after 42 months.

g. Stateless Persons

Not applicable.

Section 3. Freedom to Participate in the Political Process

The constitution and law provide citizens the ability to change their government through free and fair periodic elections held by secret ballot and based on universal and equal suffrage. Voting is mandatory.

Elections and Political Participation

Recent Elections: The government held a free and fair federal parliamentary election in May 2019. Voters re-elected the Liberal-National Party Coalition government. The coalition won 77 seats in the 151-seat House of Representatives; the opposition Labor Party won 68 seats and others won six seats.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of minority groups in the political process, and they did participate.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented these laws effectively.

Corruption: All states and territories have anticorruption bodies that investigate alleged government corruption, and every state and territory appoints an ombudsman who investigates and makes recommendations in response to complaints about government decisions. The government also appoints one commonwealth (federal) ombudsman as laws differ between states, and one process or policy cannot always be used across jurisdictions.

The law requires persons and entities who have certain arrangements with, or

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undertake certain activities on behalf of, foreign principals to register with the government.

Financial Disclosure: The law requires all federal, state, and territorial elected officials to report their financial interests. Failure to do so could result in a finding of contempt of parliament and a possible fine or jail sentence. Federal officeholders must report their financial interests to a register of pecuniary interests, and the report must be made public within 28 days of the individual's assumption of office. The law prohibits foreign campaign contributions.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Government Human Rights Bodies: The Human Rights Commission, an independent organization established by parliament, investigates complaints of discrimination or breaches of human rights under the federal laws that implement the country's human rights treaty obligations. The commission reports to parliament through the attorney general. Media and nongovernmental organizations deemed its reports accurate and reported them widely. Parliament has a Joint Committee on Human Rights, and federal law requires that a statement of compatibility with international human rights obligations accompany each new bill.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes rape of men and women, including spousal rape, and the government enforced the law effectively. The laws

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of individual states and territories provide the penalties for rape. Maximum penalties range from 12 years to life imprisonment, depending on the jurisdiction and aggravating factors.

The law prohibits violence against women, including domestic abuse, and the government enforced the law. The laws of individual states and territories provide the penalties for domestic violence. In the largest jurisdiction, New South Wales, domestic violence offenses cover acts of personal violence (such as stalking, intimidation, or strangulation) committed against a person with whom the offender has (or had) a domestic relationship. For domestic-violence offenses, courts must impose a full-time prison sentence unless a valid exception applies. In the case of strangulation, an offense associated with domestic violence, the maximum penalty is five years' imprisonment.

Violence against women remained a problem, particularly in indigenous communities. Indigenous women were 32 times as likely to be hospitalized due to family violence as nonindigenous women, according to a 2018 report.

According to a 2019 statement by the Australian Bureau of Statistics, the proportion of women who experienced partner violence in the last decade remained relatively stable. Women were more likely than men to be victims of domestic violence, including homicide, across all states and territories. In July a survey of 15,000 women by the Australian Institute of Criminology revealed more than half of women who had experienced physical or sexual violence before the COVID-19 pandemic said violence had become more frequent. The research found 8.8 percent of women in a relationship experienced physical or sexual violence from a current or former cohabiting partner between February and May.

Federal and state government programs provide support for victims, including funding for numerous women's shelters. Police received training in responding to domestic violence. Federal, state, and territorial governments collaborated on the *National Plan to Reduce Violence against Women and their Children 2010-22*, the first effort to coordinate action at all levels of government to reduce violence against women.

Sexual Harassment: The law prohibits sexual harassment. Complaints of sexual

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harassment can lead to criminal proceedings or disciplinary action against the defendant and compensation claims by the plaintiff. The Human Rights Commission receives complaints of sexual harassment as well as sex discrimination. The penalties vary across states and territories.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children; to manage their reproductive health; and to have the information and means to do so, free from discrimination, coercion, or violence. State and territorial governments provided comprehensive sex education and sexual health and family planning services. Women had access to contraception and skilled medical care, including attendance by skilled health-care workers during pregnancy and childbirth. Indigenous persons in isolated communities had more difficulty accessing such services than the population in general. Cultural factors and language barriers also inhibited use of sexual health and family planning services by indigenous persons, and rates of sexually transmitted diseases and teenage pregnancy among the indigenous population were higher than among the general population. Government, at national and state and territory levels, provided access to sexual and reproductive health services for survivors of sexual violence.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: The law provides the same legal status and rights for women and men, including under laws related to family, religion, personal status, labor, property, nationality, and inheritance, as well as employment, credit, pay, owning or managing businesses, education, and housing. The government enforced the law effectively.

Employment discrimination against women occurred, and there was a much-publicized “gender pay gap” (see section 7.d.).

Children

The Law Council of Australia and other civil society groups campaigned for all

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Australian jurisdictions to raise the age of criminal responsibility from 10 to 14.

Birth Registration: Children are citizens if at least one parent is a citizen or permanent resident at the time of the child's birth. Children born in the country to parents who are not citizens or permanent residents acquire citizenship on their 10th birthday, if they lived the majority of their life within the country. Failure to register does not result in denial of public services. In general births were registered promptly.

Child Abuse: State and territorial child protection agencies investigate and initiate prosecutions for child neglect or abuse. All states and territories have laws or guidelines that require members of certain designated professions to report suspected child abuse or neglect. The federal government's role in the prevention of child abuse includes funding for research, carrying out education campaigns, developing action plans against commercial exploitation of children, and funding community-based parenting programs.

The rate of indigenous children on care and protection orders was nearly seven times greater than the nonindigenous rate.

Child, Early, and Forced Marriage: The legal minimum age of marriage is 18 for both boys and girls. Persons age 16 to 18 may apply to a judge or magistrate for an order authorizing marriage to a person who has attained 18 years; the marriage of the minor also requires parental or guardian consent. Two persons younger than age 18 may not marry each other; reports of marriages involving a person younger than age 18 were rare. Forced marriage is a criminal offense. In 2019 the government expanded the definition of forced marriage explicitly to capture all marriages involving children younger than age 16. The government reported an increase in the number of forced marriage investigations, but the practice remained rare.

Sexual Exploitation of Children: The law provides a maximum penalty of 25 years' imprisonment for commercial sexual exploitation of children and was effectively enforced.

The law prohibits citizens and residents from engaging in, facilitating, or benefiting from sexual activity with children overseas who are younger than age 16

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and provides for a maximum sentence of 17 years' imprisonment for violations. The government continued its awareness campaign to deter child sex tourism through distribution of pamphlets to citizens and residents traveling overseas.

The legal age for consensual sex ranges from ages 16 to 18 by state. Penalties for statutory rape vary across jurisdictions. Defenses include reasonable grounds for believing the alleged victim was older than the legal age of consent and situations in which the two persons are close in age.

All states and territories criminalize the possession, production, and distribution of child pornography. Maximum penalties for these offenses range from four to 21 years' imprisonment. Federal laws criminalize using a "carriage service" (for example, the internet) for the purpose of possessing, producing, and supplying child pornography. The maximum penalty for these offenses is a possibly substantial fine and 15 years' imprisonment. Under federal law, suspected pedophiles can be tried in the country regardless of where the crime was committed, and the maximum penalty for persistent sexual abuse of a child outside the country is 25 years' imprisonment.

The government largely continued federal emergency intervention measures to combat child sexual abuse in indigenous communities in the Northern Territory, following findings of high levels of child sexual abuse and neglect in a 2007 inquiry. These measures included emergency bans on sales of alcohol and pornography, restrictions on the payment of welfare benefits in cash, linkage of support payments to school attendance, and medical examinations for all indigenous children younger than age 16 in the Northern Territory.

Public reaction to the interventions was mixed, with some indigenous activists asserting there was inadequate consultation and that the measures were racially discriminatory, since nonindigenous persons in the Northern Territory were not initially subject to such restrictions.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child->

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[Abduction/for-providers/legal-reports-and-data/reported-cases.html](https://www.dhs.gov/abduction-for-providers/legal-reports-and-data/reported-cases.html).

Anti-Semitism

According to the 2016 census, the country's Jewish community numbered 91,000. The nongovernmental Executive Council of Australian Jewry reported an incremental increase in anti-Semitic incidents every year since 2015. These incidents included vandalism, threats, harassment, and physical and verbal assaults. According to press reports, persons in the country posted comments and shared various images online, portraying the coronavirus as a "Jew," as well as accusing Jews of creating and spreading the virus.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government effectively enforced the law.

The disability discrimination commissioner of the Human Rights Commission promotes compliance with federal and state laws that prohibit discrimination against persons with disabilities. The law also provides for commission mediation of discrimination complaints, authorizes fines against violators, and awards damages to victims of discrimination.

Children with disabilities generally attended school. The government provided funding for early intervention and treatment services and cooperated with state and territorial governments that ran programs to assist students with disabilities.

According to government sources, approximately half of Australians with a disability are employed, compared with approximately 80 percent of all working-

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age persons.

Members of National/Racial/Ethnic Minority Groups

Of total complaints (2,307) received by the Human Rights Commission in 2019-20, 17 percent related to racial discrimination. The plurality of racial discrimination complaints related to the provision of goods and services (37 percent), with the second largest category being discrimination related to employment (19 percent). One percent of racial discrimination complaints related to access to places and facilities.

Indigenous People

Aboriginal persons and Torres Strait Islanders constitute the country's indigenous population. Despite federal and state government initiatives, indigenous peoples and communities continued to have high incarceration rates, high unemployment rates, relatively low levels of education, and high incidences of domestic and family violence, substance abuse, and limited access to health services in comparison with other groups. The National Indigenous Australians Agency has responsibility for policy and programs related to indigenous peoples and communities. The prime minister reports annually to parliament regarding government progress on eliminating indigenous inequalities.

Indigenous groups hold special collective native title rights in limited areas of the country, and federal and state laws enable indigenous groups to claim unused government land. Indigenous ownership of land was predominantly in nonurban areas. Indigenous-owned or -controlled land constituted approximately 20 percent of the country's area (excluding native title lands) and nearly 50 percent of the land in the Northern Territory. The National Native Title Tribunal resolves conflicts over native land title applications through mediation and acts as an arbitrator in cases where the parties cannot reach agreement about proposed mining or other development of land. Native title rights do not extend to mineral or petroleum resources, and in cases where leaseholder rights and native title rights conflict, leaseholder rights prevail but do not extinguish native title rights.

As part of the intervention to address child sexual abuse in Northern Territory

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indigenous communities (see section 6, Children), the national government administered indigenous communities directly and has a number of programs that provide funding for indigenous communities.

According to the Bureau of Statistics, while indigenous peoples make up less than 3 percent of the total population, they constituted 27 percent of the full-time adult prison population. Nearly half of the imprisoned indigenous persons were serving sentences for violent offenses. Figures from parliament note that indigenous youth were significantly overrepresented in the criminal justice system. The data indicates that 68 percent of detained juveniles were from an indigenous background, notably rising to 100 percent of detained juveniles in the Northern Territory in 2019 and 2020, when it was more likely that an indigenous juvenile would be incarcerated than at any other point since 1991, when the Royal Commission into *Aboriginal Deaths in Custody* report was released. An Australian Law Reform Commission study released in March 2018 found that the justice system contributed to entrenching inequalities by not providing enough sentencing options or diversion programs for indigenous offenders.

The Human Rights Commission has an Aboriginal and Torres Strait Islander social justice commissioner.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

No laws criminalize consensual same-sex sexual conduct between adults. Discrimination based on sexual orientation and gender identity is prohibited by law in a wide range of areas, including employment, housing, family law, taxes, child support, immigration, pensions, care of elderly persons, and social security.

The law provides protections against discrimination based on sexual orientation, gender identity, and sex characteristics.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers to form and join unions and associate

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freely domestically and internationally, to bargain collectively, and to conduct strikes. The law prohibits antiunion discrimination and provides for reinstatement of workers fired for union activity.

The law requires that employers act in “good faith” when a majority of employees want a collective agreement, although it places some restrictions on the scope of collective bargaining. Prohibited terms include requiring payment of a bargaining services fee or enabling an employee or employer to “opt out” of coverage of the agreement. Furthermore, the law prohibits multi-enterprise agreements or “pattern bargaining,” although low-paid workers can apply for a “low-paid bargaining stream” to conduct multi-enterprise bargaining.

When deciding whether to grant a low-paid authorization, the Fair Work Commission looks at factors including the terms and conditions of employment, the bargaining strength of employees, and whether employers and employees are bargaining for the first time. A bargaining agent may represent either side in the process. The law designates collective agreements as being between employers and employees directly; trade unions are the default representatives of their members but, with some exceptions, are not official parties to collective agreements.

The law restricts strikes to the period when unions are negotiating a new enterprise agreement and specifies that strikes must concern matters under negotiation, known as “protected action.” Protected action provides employers, employees, and unions with legal immunity from claims of losses incurred by industrial action. Industrial action must be authorized by a secret ballot of employees; unions continued to raise concerns this requirement was unduly time consuming and expensive to implement. The law subjects strikers to penalties for taking industrial action during the life of an agreement and prohibits sympathy strikes. The law permits the government to stop strikes judged to have caused “significant economic harm” to the employer or third parties. Some jurisdictions have further restrictions. For example, in New South Wales, the state government may cancel a union’s registration if the government proclaims a state of emergency concerning an essential service and the “industrial organization whose members are engaged in providing the essential service has, by its executive, members, or otherwise,

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engaged in activities which are contrary to the public interest.”

The government effectively enforced applicable laws. Penalties for violations of freedom of association and collective bargaining protections for individuals and for corporations were commensurate with those for other laws involving denials of civil rights, such as discrimination. The Fair Work Commission is the national independent industrial relations management institution. Its functions include facilitating dispute resolution; if dispute resolution is unsuccessful, the parties may elect the commission to arbitrate the dispute, or the applicant may pursue a ruling by a federal court. Procedures were not subject to lengthy delays or appeals.

Unions reported concerns that the scope of collective bargaining had narrowed in recent years, including through decisions by the Fair Work Commission, which also affected the right to strike.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, including by migrant workers. Penalties were commensurate with those for analogous serious crimes, such as kidnapping. Since 2019, companies of a certain size must file annual statements identifying risks for modern slavery in their supply chains and efforts to address those risks.

The government effectively enforced applicable labor laws. Most forced labor cases were addressed through civil law, resulting in convicted labor traffickers receiving only fines and other civil penalties that were not commensurate with those for analogous serious crimes, such as kidnapping.

Some foreign nationals who came to the country for temporary work were subjected to forced labor in sectors such as agriculture, cleaning, construction, hospitality, and domestic service.

Also see the Department of State’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

Not all of the worst forms of child labor are prohibited. As noted by the

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International Labor Organization, no law prohibits the use, procuring, or offering of a child younger than age 18 for certain illicit activities, in particular for the production and trafficking of drugs, in the Northern Territory.

There is no federally mandated minimum age of employment. In Victoria, the minimum age of employment is 15. States and territories have established 18 years as the minimum age for hazardous work.

There are laws and regulations pertaining to hazardous work across sectors. For example, under the law in Western Australia, an underground worker may not be younger than age 18 unless he or she is an apprentice or a cadet working underground to gain required experience; a person handling, charging, or firing explosives may not be younger than age 18; and a person younger than 21 may not obtain a winding engine driver's certificate.

Federal, state, and territorial governments effectively monitored and enforced the laws. Penalties for violations were commensurate with those for analogous serious crimes, such as kidnapping.

The Office of the Fair Work Ombudsman actively sought to educate young workers about their rights and responsibilities. Compulsory educational requirements effectively prevented most children from joining the workforce full-time until they were age 17. Although some violations of these laws occurred, there was no indication of a child labor problem in any specific sector. There were some reports of commercial sexual exploitation of children (see section 6, Children).

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings> for information on the territories of Christmas Island, Cocos (Keeling) Island, and Norfolk Island.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination on the basis of race, religion, national origin, color, sex, ethnicity, disability, age, sexual orientation or gender identity, HIV/AIDS status, or refugee or stateless status. Federal, state, and territory laws

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provide for protections against employment discrimination.

The law requires organizations with 100 or more employees to establish a workplace program to remove barriers to women entering and advancing in their organization. The law requires equal pay for equal work. The government continued efforts to encourage persons under the Disability Support Pension program to enter the workforce when they have the capacity to do so, including by requiring compulsory workforce activities for its recipients younger than age 35 who can work for more than eight hours per week.

The government enforced laws prohibiting employment discrimination and penalties were commensurate with laws related to civil rights, such as election interference; however, employment discrimination against women, indigenous persons, and persons with disabilities occurred. According to the government's Workplace Gender Equality Agency, the full-time gender pay gap was 14 percent. The International Labor Organization noted its concern that, despite several government initiatives, indigenous peoples continued to be disadvantaged and that employment targets were not met.

In 2017-18, the latest year for which such data were available, approximately 30 percent of the complaints about disability discrimination received by the Human Rights Commission were in the area of employment.

e. Acceptable Conditions of Work

For a single adult living alone, the minimum wage exceeded the poverty line defined as 50 percent of median income.

By law maximum weekly hours are 38 plus “reasonable” additional hours, which, by law, must take into account factors such as an employee's health, family responsibilities, ability to claim overtime, pattern of hours in the industry, and amount of notice given. An employee may refuse to work overtime if the request is “unreasonable.”

Federal or state occupational health and safety laws apply to every workplace, including in the informal economy. By law both employers and workers are responsible for identifying health and safety hazards in the workplace. Workers

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can remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities effectively protected employees in this situation. The law includes an antibullying provision. The law also enables workers who are pregnant to transfer to a safe job regardless of their time in employment.

The government effectively enforced laws related to minimum wage, hours of work, and occupational safety and health. The Office of the Fair Work Ombudsman provides employers and employees advice on their rights and has authority to investigate employers alleged to have exploited employees unlawfully. The ombudsman also has authority to prosecute employers who do not meet their obligations to workers. Ombudsman inspectors may enter work sites unannounced if they reasonably believe it is necessary to ensure compliance with the law. The number of ombudsman inspectors was sufficient to enforce compliance and penalties were commensurate with those for crimes like negligence. Inspectors can order employers to compensate employees and sometimes assess fines. There were some reports violations continued in sectors employing primarily migrant workers.

Workers exercised their right to a safe workplace and had recourse to state health and safety commissions, which investigate complaints and order remedial action. Each state and territory effectively enforced its occupational health and safety laws through dedicated bodies that have powers to obtain and initiate prosecutions, and unions used right-of-entry permits to investigate concerns.

Most workers received higher compensation than the minimum wage through enterprise agreements or individual contracts. Temporary workers include both part-time and casual employees. Part-time employees have set hours and the same entitlements as full-time employees. Casual employees are employed on a daily or hourly wage basis. They do not receive paid annual or sick leave, but the law mandates they receive additional pay to compensate for this, which employers generally respected. Migrant worker visas require that employers respect employer contributions to retirement funds and provide bonds to cover health insurance, worker's compensation insurance, unemployment insurance, and other benefits.

There continued to be reports of employers exploiting immigrant and foreign

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workers (also see section 7.b.). As part of the 2018 Fair Work Ombudsman's Harvest Trail inquiry into the exploitation of overseas workers in the agricultural sector, the ombudsman continued to operate a system for migrant workers to report workplace issues anonymously in 16 languages.

There were reports some individuals under "457" employer-sponsored, skilled worker visas received less pay than the market rate and were used as less expensive substitutes for citizen workers. The government improved monitoring of "457" sponsors and information sharing among government agencies, particularly the Australian Tax Office. Employers must undertake "labor market testing" before attempting to sponsor "457" visas.

Safe Work Australia, the government agency responsible for developing and coordinating national workplace health and safety policy, cited a preliminary estimate that, in the year to November 5, 140 workers died while working. Of these fatalities, 44 were in the transport, postal, and warehousing sectors; 27 in the agriculture, forestry, and fishing sectors; and 27 in construction.