

Australia 2023 Human Rights Report

Executive Summary

There were no significant changes in the human rights situation in Australia during the year.

There were no reports of significant human rights abuses.

The government took credible steps to identify and punish officials who may have committed human rights abuses.

Section 1. Respect for the Integrity of the Person

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

There were no reports the government or its agents committed arbitrary or unlawful killings, including extrajudicial killings.

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, and Other Related Abuses

The law prohibited such practices, and the government generally respected these provisions. There were occasional claims police and prison officials mistreated suspects in custody.

Prison and Detention Center Conditions

There were reports of harsh conditions at some prisons in rural areas that also held juveniles.

Administration: Authorities investigated allegations of poor conditions and documented the results of such investigations in a publicly accessible manner.

In June the Human Rights Commission released a report finding serious and persistent human rights concerns in the Department of Home Affairs' use of hotels as alternative places of detention within the country's immigration detention system, citing negative effects on detainees' physical and mental health.

Independent Monitoring: The government permitted visits by independent human rights observers.

d. Arbitrary Arrest or Detention

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

Arrest Procedures and Treatment of Detainees

Police officers could seek an arrest warrant from a magistrate when a suspect could not be located or failed to appear. They also could arrest a person without a warrant with reasonable grounds to believe the person committed an offense. The law required police to inform arrested persons immediately of their legal rights and the grounds for their arrest and required an audience before a magistrate for a bail hearing at the next court session. The maximum investigation period police could hold and question a person without charge was 24 hours, unless extended by court order for up to an additional 24 hours or as noted below.

Under limited circumstances in terrorism cases, some federal, state, or territorial laws permitted police to hold individuals in preventive detention without charge or questioning for up to 14 days. These laws contained procedural safeguards, including protection for lawyer-client communications.

Bail generally was available to persons facing criminal charges unless authorities considered the person a flight risk or the

charges carried a penalty of 12 months' imprisonment or more. Authorities granted attorneys and families prompt access to detainees. Government-provided attorneys were available to provide legal advice to and represent detainees who could not afford counsel.

e. Denial of Fair Public Trial

The law provided for an independent judiciary, and the government respected judicial independence and impartiality.

Trial Procedures

The law provided for the right to a fair and timely public trial, and an independent judiciary generally enforced this right.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

f. Transnational Repression

Not applicable.

g. Property Seizure and Restitution

Laws and mechanisms were in place for the resolution of Holocaust-era restitution claims, including by foreign citizens.

The country was a signatory of the Terezin Declaration. Nongovernmental organizations (NGOs) 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 in July 2020, can be found on the Department's website: <https://www.state.gov/reports/just-act-report-to-congress/>.

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

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

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

Although the constitution did not explicitly provide for freedom of speech, including for members of the press and other media, the High Court held that the constitution implied a limited right to freedom of political expression, and the government generally

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

Freedom of Expression: In October Queensland's parliament passed laws against publicly displaying hate symbols, with exceptions for artistic, educational, religious, and historical reasons.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content.

b. Freedoms of Peaceful Assembly and Association

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

Freedom of Peaceful Assembly: Several states passed laws on disruptive protests, increasing fines and jail times. Victoria expanded police powers to search containers, bags, and vehicles for prohibited items in restricted areas.

c. Freedom of Religion

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

d. Freedom of Movement and the Right to Leave the Country

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

e. Protection of Refugees

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, or asylum seekers, as well as other persons of concern. UNHCR and others noted concerns, including regarding access to durable solutions.

Access to Asylum: The law provided for granting asylum or refugee status. The government maintained a humanitarian refugee program that included several types of visas available to refugees and other humanitarian entrants for resettlement in the country. The Department of Home Affairs oversaw refugee

resettlement via the Refugee and Humanitarian Program, which distinguished between “offshore” and “onshore” applications. Individuals residing offshore (outside the country) could apply for a humanitarian visa if they were subject to persecution in their home country; met the “compelling reasons” criterion; and satisfied health, character, and national security requirements. Individuals who arrived in the country legally and later sought protection could apply for a Temporary Protection visa or a Permanent Protection visa.

Persons who sought to enter the country without proper authorization were classified as illegal migrants and subjected to detention in the country or, for unauthorized maritime arrivals, in a third country for offshore processing. Individuals who arrived illegally were permitted to apply for a Temporary Protection visa or a Safe Haven Enterprise visa at the discretion and invitation of the responsible government minister. In February the government announced that refugees holding temporary visas would be eligible for a permanent Resolution of Status visa. The government stated this provided a pathway for permanent protection for up to 20,000 individuals.

UNHCR identified and referred some applicants who were residing offshore to the Department of Home Affairs to be considered under the offshore component of the humanitarian program.

While the law contained family reunification provisions, such requests from unauthorized maritime arrivals were given the lowest visa processing priority.

The law allowed the home affairs minister to designate and enter into an agreement with a third country as a regional processing country for migrants attempting to enter the country as unauthorized maritime arrivals. By law any unauthorized maritime arrival entering the country's waters was liable for transfer to a designated regional processing country for processing of their protection claims and resettlement.

Centers for regional processing in Papua New Guinea and Nauru (based on agreements from 2012 and 2013) were closed in 2017 and 2019, respectively. In July authorities removed the last refugee in Nauru to Australia. The government also moved all detainees from the Christmas Island detention center to the mainland, although the center remained open. Resettlement of unauthorized maritime arrivals progressed through additional arrangements with the United States and New Zealand.

Durable Solutions: The government accepted refugees for resettlement from third countries and funded refugee resettlement services.

Section 3. Freedom to Participate in the Political Process

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

Elections and Political Participation

Abuses or Irregularities in Recent Elections: Elections in the country, including the most recent national elections in 2022, were reported to be fair and free of abuses and irregularities.

Section 4. Corruption in Government

The law provided criminal penalties for corruption by officials, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year.

Corruption: All states and territories had anti-corruption bodies that investigated alleged government corruption, and every state and territory appointed an ombudsman who investigated and made recommendations in response to complaints regarding

government decisions. The government also appointed one commonwealth (federal) ombudsman, as laws differed between states. The National Anti-Corruption Commission commenced operations in July; it was an independent agency of the federal government charged with detecting, investigating, and reporting on corruption in the government.

Section 5. Governmental Posture Towards International and Nongovernmental Monitoring and Investigation of Alleged Abuses of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction to monitor or investigate human rights conditions or cases and publish their findings. Government officials often were cooperative and responsive to the views of these groups.

Government Human Rights Bodies: The Human Rights Commission, an organization established by parliament, investigated complaints of discrimination or breaches of human rights under the federal laws that implemented the country's human rights treaty obligations; it was considered independent and effective. The commission reported to parliament through

the attorney general. Media and NGOs deemed its reports accurate and reported them widely. Parliament had a Joint Committee on Human Rights, and federal law required that a statement of compatibility with international human rights obligations accompany each new bill. Human rights commissions operated at the state and territory level.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law criminalized rape of women and men, including spousal rape, and the government enforced the law effectively. The laws of individual states and territories provided the penalties for rape. Maximum penalties ranged from 12 years to life imprisonment, depending on the jurisdiction and aggravating factors.

The law prohibited gender-based violence, including domestic abuse, and the government enforced the law. The laws of individual states and territories provided the penalties for domestic violence. Federal, state, and territorial government programs provided support for survivors, including funding for numerous women's shelters. Police received training in responding to domestic violence.

Other Forms of Gender-based Violence or Harassment: The law prohibited sexual harassment, and the government effectively enforced it. In a November 2022 report based on its survey, the Human Rights Commission noted that “sexual harassment continues to be an unacceptably common feature of Australian workplaces.” Complaints of sexual harassment could lead to criminal proceedings or disciplinary action against the defendant and compensation claims by the plaintiff. The Human Rights Commission received complaints of sexual harassment and sex discrimination. The Australian Bureau of Statistics in August released a report finding that more than one-third of young women in the country had experienced violence and harassment.

Discrimination: The law provided 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; according to the government’s Workplace Gender Equality Agency, the full-time gender pay gap was 13 percent.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

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. Cultural factors and language barriers also inhibited use of sexual health and family planning services by Indigenous persons. Rates of sexually transmitted diseases and teenage pregnancy among the Indigenous population were higher than among the general population.

Government at national, state, and territory levels provided access to sexual and reproductive health services for survivors of sexual violence, including emergency contraception and postexposure prophylaxis.

Systemic Racial or Ethnic Violence and Discrimination

It was unlawful to discriminate against a person because of race, color, descent, national origin or ethnic origin, or immigrant

status. The law protected individuals from racial discrimination in many areas of public life, including employment, education, getting or using services, renting or buying a dwelling, and accessing public places. The law also made racial hatred unlawful. The government effectively enforced the law.

Indigenous Peoples

Aboriginal persons and Torres Strait Islanders constituted the country's Indigenous population. Despite federal and state government initiatives, Indigenous persons and communities had 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 was responsible for policy and programs related to Indigenous persons and communities.

Indigenous groups held special collective native title rights in limited areas of the country, and federal and state laws enabled Indigenous groups to claim unused government land. Indigenous ownership of land was predominantly in rural areas. Indigenous-owned or -controlled land constituted approximately 20 percent of the country's area (excluding native title lands) and almost half of the land in the Northern Territory. The National Native Title

Tribunal resolved conflicts over native land title applications through mediation and acted as a land-use arbitrator. Native title rights did not extend to mineral or petroleum resources, and in cases where leaseholder rights and native title rights conflicted, leaseholder rights prevailed but did not extinguish native title rights.

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

Children

Child Abuse: There were laws against child abuse; state and territorial governments enforced them effectively. State and territorial child protection agencies investigated and initiated prosecutions for child neglect or abuse. All states and territories had laws or guidelines that required members of certain designated professions to report suspected child abuse or neglect. The federal government's role in the prevention of child abuse included funding research, carrying out education campaigns, developing action plans against the commercial sexual exploitation of children, and funding community-based parenting programs.

Child, Early, and Forced Marriage: The legal minimum age for marriage was 18. Persons ages 16 to 18 could apply to a judge or magistrate for an order authorizing marriage to a person age 18 or older; the marriage of the child also required parental or guardian consent. Persons younger than age 18 could not marry each other; reports of marriages involving a person younger than age 18 were rare. Forced marriage was a criminal offense; the definition of forced marriage covered all marriages involving children younger than age 16. The government investigated reports of forced marriage.

Sexual Exploitation of Children: The law prohibited the commercial sexual exploitation of children, and the law was effectively enforced.

The law prohibited citizens and residents from engaging in, facilitating, or benefiting from sexual activity with children overseas who were younger than age 16 and provided 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 ranged by state and territory from age 16 to 18. Penalties for statutory rape varied across

jurisdictions. Defenses included reasonable grounds for believing the alleged survivor was older than the legal age of consent and situations in which the two persons were close in age.

All states and territories criminalized the possession, production, and distribution of child pornography; authorities enforced the law. Maximum penalties for these offenses ranged from four to 21 years' imprisonment. Federal laws criminalized using a "carriage service" (for example, the internet) for the purpose of possessing, producing, and supplying child pornography. The maximum penalty for these offenses was 15 years' imprisonment. Under federal law, suspected pedophiles could 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 was 25 years' imprisonment.

Antisemitism

According to the 2021 census, the country's Jewish community numbered almost 100,000. The Executive Council of Australian Jewry in December 2022 reported 478 antisemitic incidents, a 7 percent increase over the previous year. Incidents detailed in the report included physical assault, vandalism, verbal abuse, harassment and intimidation, hate messages, graffiti, and

antisemitic propaganda material such as banners, flags, leaflets, posters, and stickers.

Trafficking in Persons

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

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: No laws criminalized consensual same-sex sexual conduct between adults, and no seemingly neutral laws were disproportionately enforced against lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) persons.

Violence and Harassment: There were no reports that authorities condoned or perpetrated violence against LGBTQI+ persons. An August report from the Australian Bureau of Statistics found LGBTQI+ individuals experienced higher rates of sexual and physical violence and harassment than members of other groups.

Discrimination: The law provided protections against discrimination based on sexual orientation, gender identity or expression, and sex characteristics. Such discrimination was

specifically 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 explicitly recognized LGBTQI+ couples and their families and granted them rights equal to those of other persons.

The laws were enforced, although legal protections against discrimination for LGBTQI+ persons generally included exemptions for religious entities. It was lawful for private religious schools in Western Australia, including those receiving taxpayer funding, to fire LGBTQI+ staff, expel LGBTQI+ students, or refuse to enroll children of same-sex parents.

Availability of Legal Gender Recognition: All states and territories required proof of surgery, medical treatment, or psychological counseling as a prerequisite for changing an individual's gender identity on the birth certificate. The federal government recognized that individuals could identify as a gender other than the sex they were assigned at birth, or not identify as exclusively male or female, for the purpose of Federal records.

Involuntary or Coercive Medical or Psychological Practices: So-called conversion therapies were outlawed in Victoria, Queensland, and the Australian Capital Territory, but remained legal elsewhere. The Australian Medical Association called for a

ban on so-called conversion therapy. The Australian Human Rights Commission supported ending medically unnecessary, nonconsensual surgeries on children born with variations in their sex characteristics. The Christian Counsellors Association of Australia opposed “any form of mental health practice that treats homosexuality as a disorder, or seeks to change a person’s sexual orientation.”

Restrictions of Freedom of Expression, Association, or Peaceful Assembly: There were no reports of such restrictions.

Persons with Disabilities

Persons with disabilities could access education, health services, public buildings, and transportation on an equal basis with others. The law prohibited discrimination against persons with disabilities in employment, education, publicly available premises, provision of goods and services, accommodation, clubs and associations, and other contexts. The government effectively enforced the law, although discrimination against persons with disabilities occurred in employment.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provided for the right of workers to form and join unions and associate freely domestically and internationally, to bargain collectively, and to conduct strikes under certain conditions. The law prohibited antiunion discrimination and provided for reinstatement of workers fired for union activity.

The law required that employers act in “good faith” when most employees wanted a collective agreement, although it placed some restrictions on the scope of collective bargaining. A bargaining agent could represent either side in the process. The law restricted strikes to the period when unions were negotiating a new enterprise agreement and specified that strikes needed to concern matters under negotiation. The law provided for “protected action” and granted employers, employees, and unions legal immunity from claims of losses incurred by industrial action. Industrial action could be authorized by a secret ballot of employees; unions raised concerns this requirement was unduly time consuming and expensive to implement. The law imposed penalties on strikers for taking industrial action during the life of

a collective bargaining agreement and prohibited sympathy strikes.

The law permitted the government to stop strikes judged to have caused “significant economic harm” to the employer or third parties. Some jurisdictions had further restrictions.

The government effectively enforced applicable laws protecting freedom of association, collective bargaining, and the right to strike for workers. 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, and were regularly enforced. The Fair Work Commission was the national independent industrial relations management institution. Its functions included facilitating dispute resolution.

In December 2022, parliament passed the Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 with the aim of improving workplace relations, ensuring secure jobs, and increasing pay. The act gave the Fair Work Commission additional powers intended to resolve bargaining disputes more quickly and effectively. The act also aimed to simplify regulatory compliance.

b. Prohibition of Forced or Compulsory Labor

See the Department of State's annual *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 the worst forms of child labor were prohibited. Not all state and territorial jurisdictions prohibited the use, procuring, or offering of a child younger than age 18 for certain illicit activities. There was no federally mandated minimum age of employment. In Victoria the minimum age of employment was 15 (with exceptions for family businesses and the entertainment industry). Children were not permitted to work during school hours. The minimum age for hazardous work in all states and territories was 18.

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, and were regularly applied.

The Office of the Fair Work Ombudsman actively sought to educate young workers regarding their rights and responsibilities.

Compulsory educational requirements effectively prevented most children from joining the workforce full-time until 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 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 (see section 6)

e. Acceptable Conditions of Work

Wage and Hour Laws: For a single adult living alone, the national minimum wage exceeded the poverty line defined as 50 percent of median income. Most workers received higher compensation than the minimum wage through enterprise agreements or individual contracts.

By law maximum weekly hours were 38 plus “reasonable” additional hours, which, by law, had to consider 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 could refuse to work overtime if the request was “unreasonable.”

Temporary workers included both part-time and casual employees. Part-time employees had set hours and the same entitlements as full-time employees. Casual employees were employed on a daily or hourly wage basis. They did not receive paid annual or sick leave, but the law mandated additional pay to compensate for this, which employers generally respected.

Migrant worker visas required employers to make contributions to retirement funds and provide bonds to cover health insurance, worker’s compensation insurance, unemployment insurance, and other benefits.

The Australian Human Rights Commission partnered with the Cleaning Accountability Framework to support decent work conditions and responsible business practices in the cleaning industry.

Occupational Safety and Health: Federal or state occupational safety and health (OSH) laws applied to every workplace, including in the informal economy. By law both employers and workers were responsible for identifying health and safety hazards in the workplace. Workers exercised their right to a safe workplace and had recourse to state health and safety

commissions, which investigated complaints and ordered remedial action. Workers could remove themselves from situations that endangered health or safety without jeopardy to their employment, and authorities effectively protected employees in this situation. The law also enabled workers who were pregnant to transfer to a safe job regardless of their time in employment.

There were reports of employers exploiting immigrant and foreign workers. The Office of the Fair Work Ombudsman operated a system allowing migrant workers to report workplace concerns anonymously in any of 16 languages.

Wage, Hour, and OSH Enforcement: The government effectively enforced laws related to minimum wage, hours of work, and occupational safety and health. Each state and territory effectively enforced its occupational health and safety laws through dedicated bodies with powers to obtain and initiate prosecutions. Unions used right-of-entry permits to investigate concerns. Penalties for violations were commensurate with those for similar crimes and were regularly applied against violators.

The Office of the Fair Work Ombudsman provided employers and employees advice on their rights and had the authority to investigate employers alleged to have exploited employees unlawfully. The ombudsman also had authority to prosecute

employers who did not meet their obligations to workers. Ombudsman inspectors had authority to make unannounced inspections and initiate sanctions. The Fair Work Ombudsman recovered 509 million Australian dollars (\$322 million) in unpaid wages and entitlements for more than 250,000 employees through settlement agreements, employer self-reporting, and on-site enforcement tools. The number of ombudsman inspectors was sufficient to enforce compliance. Inspectors could order employers to compensate employees and assess fines. The Fair Work Commission also enforced labor regulations. From June 2022 to June 2023, the commission received and processed more than 31,500 complaints.

There were some reports of violations in sectors employing primarily migrant workers. The World Bank estimated the country's informal sector at approximately 10 percent of GDP. The Fair Work Ombudsman focused on sectors with the greatest risk for workers, including agriculture, building and construction, healthcare, restaurants and large corporations, and universities.