



Discussion Paper: Potential New Rights

June 2024

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Independent review of the Human Rights Act

About the Review

Professor Susan Harris Rimmer has been appointed by the Attorney-General and Minister for Justice, and Minister for the Prevention of Domestic and Family Violence to undertake an independent review of the operation of the *Human Rights Act 2019* and provide a report by **20 September 2024**.

As part of the Review, we want to hear about any additional human rights the community thinks should be included as human rights under the Act.

About the *Human Rights Act*

Queensland was the third jurisdiction to adopt a human rights legislation, following the *Human Rights Act 2004* (ACT) and the *Charter of Human Rights and Responsibilities 2006* (Vic).

The main objects of the Act are:

- to protect and promote human rights;
- to help build a culture in the Queensland public sector that respects and promotes human rights; and
- to help promote a dialogue about the nature, meaning and scope of human rights.

The Act imposes obligations on all three arms of government:

- the legislature (Parliament must consider human rights when proposing and scrutinising new laws);
- the judiciary (courts and tribunals, must interpret legislation in a way that is compatible with human rights so far as it is possible to do so); and
- the executive (public entities must act and make decisions in a way that is compatible with human rights and in making a decision, must give proper consideration to human rights relevant to the decision).

Discussion Paper: Potential New Rights

The Review Terms of Reference, and section 95(4) of the Act, require that this independent review of the operation of the *Human Rights Act* must specifically consider whether additional human rights should be included as human rights under the Act.

The review team is mindful that rights currently in the *Human Rights Act* are primarily drawn from the International Covenant on Civil and Political Rights (ICCPR) (as the protection of civil and political rights is often the first step in developing new human rights legislation), and that, with the exception of the rights for children in the criminal process and cultural rights for Aboriginal Peoples and Torres Strait Islander Peoples, the *Human Rights Act* does not contain specific rights for groups of people, nor are particular groups of people, such as women, people with a disability, victims of crime or others specifically named.





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The review team is interested in reconsidering this approach, and thinking ambitiously about the challenges faced by Queenslanders, currently and into the future, and what additional rights should be included as human rights under the Act.

This Discussion Paper provides background on several new rights that the review team is interested in exploring. In addition to this selection, the review team is aware of other rights, such as workplace rights to collectively bargain, or the right to take protected industrial action, and procedural rights including the right to public participation in decision making and public access to information, which were proposed by stakeholders during the consultations phases associated with the passage of the *Human Rights Act*. The review team encourages discussion of these and other rights through the submission and consultation processes.

This publication can be found in electronic format on the Review website:

www.humanrightsreview.qld.gov.au

To contact the review team please email admin@humanrightsreview.qld.gov.au

List of abbreviations

CAT	Convention Against Torture and Other Cruel, Inhuman or 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
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
UDHR	Universal Declaration of Human Rights
UNCRC	United Nations Convention on the Rights of the Child
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples





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Existing rights – what human rights are currently protected under the Act?

The *Human Rights Act* protects your rights in Queensland. It protects your rights when you interact with government organisations or use their services, including the police, public hospitals and public schools, and other organisations doing work for the Queensland Government.

The *Human Rights Act* currently protects 23 human rights:

1. Recognition and equality before the law
2. Right to life
3. Protection from torture and cruel, inhuman or degrading treatment
4. Freedom from forced work
5. Freedom of movement
6. Freedom of thought, conscience, religion and belief
7. Freedom of expression
8. Peaceful assembly and freedom of association
9. Taking part in public life
10. Property rights
11. Privacy and reputation
12. Protection of families and children
13. Cultural rights—generally
14. Cultural rights—Aboriginal peoples and Torres Strait Islander peoples
15. Right to liberty and security of person
16. Humane treatment when deprived of liberty
17. Fair hearing
18. Rights in criminal proceedings
19. Children in the criminal process
20. Right not to be tried or punished more than once
21. Retrospective criminal laws
22. Right to education
23. Right to health services

These rights are recognised in international human rights treaties including the:

- [Universal Declaration of Human Rights](#) (UDHR)
- [International Covenant on Civil and Political Rights](#) (ICCPR)
- [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR)
- [United Nations Declaration on the Rights of Indigenous Peoples](#) (UNDRIP)

More information about the rights protected by the *Human Rights Act* is available here:

[A plain language guide to your human rights.](#)





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Potential new rights – which additional rights could be included as human rights under the Act?

Right to self-determination for Aboriginal and Torres Strait Islander peoples

The *Human Rights Act* contains a reference to the right to self-determination for Aboriginal and Torres Strait Islander peoples in the Preamble at 6:

Although human rights belong to all individuals, human rights have a special importance for the Aboriginal peoples and Torres Strait Islander peoples of Queensland, as Australia's first people, with their distinctive and diverse spiritual, material and economic relationship with the lands, territories, waters, coastal seas and other resources with which they have a connection under Aboriginal tradition and Ailan Kastom. Of particular significance to Aboriginal peoples and Torres Strait Islander peoples of Queensland is the right to self-determination.

The question is whether there should be an explicit mention of the right to self-determination in section 28 (Cultural rights—Aboriginal peoples and Torres Strait Islander peoples), or as an interpretative principle more generally in the Act?

The question of how best to promote the rights of Aboriginal and Torres Strait Island peoples was considered by the Parliamentary Joint Committee on Human Rights earlier in 2024 in their report on the *Inquiry into Australia's Human Rights Framework*.¹ The report recommends the Federal Government seek legal advice on the including the right to self-determination and furthermore:

- includes, where appropriate, notes referring to the elaboration of these rights in other United Nations (UN) treaties and the United Nations Declaration on the Rights of Indigenous Peoples, and is accompanied by detailed guidance materials to assist public authorities in interpreting and applying the law;
- consult with Aboriginal and Torres Strait Islander peoples in relation to the framing of Indigenous peoples' right to culture to ensure it adequately captures all applicable rights under international human rights law; and
- further consideration be given to the drafting of the right to a healthy environment, including consultation with Aboriginal and Torres Strait Islander peoples on how best to recognise the relationship between the right to a healthy environment and the rights to culture, health and self-determination for Aboriginal and Torres Strait Islander peoples.²

Additionally, or alternatively, should Queensland consider the inclusion of a general participation right?





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Right to participate in decisions which affect you (participation duty)

The Australian Human Rights Commission has advocated for a participation duty at the federal level in the following terms:

In addition to the positive duty on public authorities to consider and act in accordance with human rights, the Commission proposes that an overarching “participation duty” be introduced into a Human Rights Act. The participation duty would primarily operate as an aspect of the binding positive duty on public authorities’. The participation duty would incorporate a binding procedural obligation to engage in participation processes where a decision disproportionately affects the rights of Aboriginal or Torres Strait Islander people, people with disability, or children.³

Should such a duty also extend to older Queenslanders? Or victims of serious crimes?





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Right to a clean, healthy and sustainable environment

The natural environment – air, biodiversity, oceans, land and freshwater – supports human wellbeing and is a major determinant of the physical and mental health of Australians.⁴ Queensland’s *State of the Environment 2020* report acknowledges that Queensland’s unique environment “not only provides essential life services such as clean air and water, it underpins our general health, wellbeing and happiness.”⁵ Queensland Health’s *Prevention Strategic Framework 2017 to 2026* emphasises the link between “creating healthier environments where we live, learn, work and play to help people make healthier choices.”⁶

In the context of climate change, the increasing severity of natural disasters, loss of biodiversity and pollution, environment-related human rights are gaining prominence internationally. In October 2021, the United Nations Human Rights Council adopted a resolution recognising “the right to a clean, healthy and sustainable environment as a human right that is important for the enjoyment of human rights.”⁷ In July 2022, the United Nations General Assembly reaffirmed the recognition of this human right, the resolution calling upon “States, international organizations, business enterprises and other relevant stakeholders to adopt policies, to enhance international cooperation, strengthen capacity-building and continue to share good practices in order to scale up efforts to ensure a clean, healthy and sustainable environment for all.”⁸ Australia was among the 161 states voting in favour of the resolution.

In 2023, the ACT Government introduced a Bill to amend the ACT’s *Human Rights Act 2004*, to include the right to a healthy environment in the ACT’s human rights framework.⁹ The proposed amendment is expressed in the same terms as the General Assembly resolution, as a broad statement of principle. If adopted, “the right to a healthy environment will ensure that environmental and climate impacts are given proper consideration in the exercise of all public authority functions, including in the development of legislation, policy and decision making.”¹⁰

If a right to a clean, healthy and sustainable environment were added to Queensland’s *Human Rights Act*, it would similarly give rise to obligations on Queensland’s Parliament, Courts and Tribunals and Government departments and agencies.

The Special Rapporteur on Human Rights and the Environment has defined the right to a healthy environment as containing both substantive and procedural elements. The six substantive elements are:

- clean air;
- a safe climate;
- safe and sufficient water;
- healthy and sustainably produced food;
- non-toxic environments; and
- healthy eco-systems and biodiversity.¹¹





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However this list is not exhaustive and will develop as the understanding of State obligations under international human rights law in relation to a healthy environment evolves.

The Special Rapporteur recognises that the substantive elements must be accompanied by corresponding procedural elements, in order to achieve recognition of the substantive rights above.¹² The procedural obligations of the right to a health environment include:

- providing the public with “accessible, timely, affordable and understandable information regarding the causes and consequences of the global climate and environmental crisis”;¹³
- ensuring “meaningful, informed, inclusive and equitable public participation in all climate and environmental decision-making” particularly focused on empowering directly affected and potentially vulnerable populations;¹⁴
- assessing “the potential environmental, social, health, cultural and human rights impacts of all plans, policies, projects and proposals that could foreseeably exacerbate the climate and environmental crisis”;¹⁵ and
- enabling access to justice and effective remedies for environmental harms.

In practice, these procedural obligations may involve:

- legislating to make environmental information publicly accessible;
- assessing environmental impacts in decision making;
- facilitating public participation in decision making;
- providing legal standing to individual citizens or environmental organisations to file lawsuits in the public interest;
- offering access to remedies for environmental harms.¹⁶

Relevant international instruments:

International treaty law does not currently provide for the right to a clean, healthy and sustainable environment as a stand-alone right.

However, the right to a healthy environment is an aspect of rights recognised in international human rights treaties to which Australia is a party, and reflected in several rights already recognised in Queensland’s *Human Rights Act*, such as:

- right to life (HRA, s 16; ICCPR art 16(1))
- right to take part in public life (HRA, s 23; ICCPR art 25)
- cultural rights of Aboriginal and Torres Strait Islander people (HRA, s 28; UNDRIP, arts 8, 25, 29 and 31)

Jurisdictions where right is recognised:

The right to a healthy environment is now legally recognised in 161 out of 193 of UN Member States (more than 80%) through regional human rights treaties and/ or national constitutions or legislation.¹⁷





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Rights of nature

The first laws recognising rights of nature were adopted in local municipalities in the United States from 2006.¹⁸ However, with intensifying concern about the state of the environment, natural entities are increasingly being recognised as the subjects of rights rather than being treated simply as objects or property.

Rights of nature grant legal standing and recognise ecosystems and the environment as independent rights-bearing entities. Under such rights of nature laws, “nature is empowered to defend and enforce its own rights; people are empowered to defend and enforce the rights of nature; and governments are required to implement, defend, and enforce the rights of nature.”¹⁹

Rights of nature laws can be broad defined. For example, in 2008 Ecuador became the first country to recognise rights of nature in its constitution. Article 71 states that nature “has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes” while art 72 provides that “Nature has the right to be restored.”²⁰ In 2010 and 2012, the Bolivian government passed national legislation, *The Law of the Rights of Mother Earth* and the *Framework Law of Mother Earth and Integral Development for Living Well*. These laws recognised that nature has rights to life; to the diversity of life; to water; to clean air; to equilibrium (“The right to maintenance or restoration of the interrelationship, interdependence, complementarity and functionality of the components of Mother Earth in a balanced way for the continuation of their cycles and reproduction of their vital processes”); to restoration; and to pollution-free living.²¹ The legislation also outlines the obligations of the State and the people to these principles and rights as a binding societal duty.²²

Rights of nature have also been created for particular ecosystems. For example, New Zealand has acknowledged the inherent rights of nature by granting legal personhood to selected lands and rivers. In 2014 New Zealand passed the *Te Urewera Act 2014* (NZ), seeking to protect the Urewera Forest (in the Hawkes Bay Region of the North Island) “for its intrinsic worth, its distinctive natural and cultural values, the integrity of those values, and for its national importance.”²³ The statute granted Te Urewera legal personhood, giving it the same rights as any citizen in New Zealand,²⁴ and established a Board to promote or advocate for the interests of Te Urewera, amongst other governance responsibilities.²⁵ New Zealand later passed the *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017* (NZ), in partial response to long-standing negotiations between the Government and Māori around the Treaty of Waitangi.²⁶ The statute granted the Te Urewera National Park and Whanganui River and its tributaries (in the North Island) rights of legal personhood²⁷ and established the role of Te Pou Tupua, to represent and advocate for the interests of the river.²⁸





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The rights of rivers have also been recognised by courts. For example, in March 2017, a state court in northern India ruled that the Ganga and Yamuna Rivers – two rivers considered sacred in the Hindu religion – had the same legal rights as a person²⁹ while in 2019, the High Court of Bangladesh recognised the Turag River as a living entity with legal rights.³⁰

The introduction of rights of nature to Queensland's *Human Rights Act* could be a broadly defined right, recognising ecosystems and the environment as independent rights-bearing entities, or create rights of nature for iconic ecosystems such as the Great Barrier Reef.

Relevant international instruments:

International treaty law does not currently provide for the rights to nature, but there is increasing soft law.

Jurisdictions where right is recognised:

A 2022 investigation created the most comprehensive database of rights of nature initiatives to date, identifying more than 400 legal documents in 39 countries on all continents except Antarctica.³¹





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Right to adequate housing

Access to safe and secure housing is an essential foundation for personal and family wellbeing as well as participation in the community, employment and education.

Australia is currently in the midst of a housing crisis, with an acute lack of affordable housing and homelessness on the rise. A 2023 report found that there were around 150,000 households across Queensland with unmet housing needs.³²

The Queensland government has acknowledged that homelessness is “a vicious cycle” that is particularly challenging for “people who have low income and struggle with complex health challenges, past trauma or family instability.”³³ The lack of secure and affordable housing similarly has compound effects, with many households compromising on other essential spending, such as heating or food, or leaving moving further away from family or community networks to meet employment and education opportunities. According to the National Housing Supply and Affordability Council, deteriorating affordability is “particularly problematic for vulnerable groups, including low-income households, single parents, young people, single pensioners, those fleeing domestic or family violence, people with disability, and First Nations Australians.”³⁴

The right to adequate housing is drawn from the right to an “adequate standard of living, including adequate food, clothing and housing”, as enshrined in article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Australia is a party. The UN Committee on Economic, Social and Cultural Rights (CESCR) has emphasised that the right to adequate housing should not be interpreted narrowly; rather, it should be seen as the right “to live somewhere in security, peace and dignity.”³⁵ In 1991, the CESCR set out seven key elements of the right to adequate housing:

- *Legal security of tenure*, noting that “Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.”
- *Availability of services, materials, facilities and infrastructure*, noting that “the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.”
- *Affordability*, requiring that States parties take steps “to ensure that the percentage of housing-related costs is, in general, commensurate with income levels.”
- *Habitability*, in terms of providing inhabitants with “adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors.





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- *Accessibility*, requiring that housing law and policy should take fully into account the special housing needs of disadvantaged groups, who should be accorded full and sustainable access to adequate housing resources.
- *Location*, noting that housing needs to be accessible to employment opportunities, health-care services, schools, childcare centres and other social facilities, and not located in polluted or dangerous areas.
- *Cultural adequacy*, requiring that “housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing.”³⁶

The *European Social Charter* (revised in 1996) creates, rather than recognises, a right to housing for Council of Europe states. Article 31 imposes three obligations on states:

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

- (1) to promote access to housing of an acceptable standard;
- (2) to prevent and reduce homelessness with a view to its gradual elimination;
- (3) to make the price of housing accessible to those without adequate resources.³⁷

The European Social Committee, which oversees the *Charter*, has defined adequate housing as “a dwelling which is safe from a sanitary and health point of view, that is, possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities and electricity; is structurally secure; not overcrowded; and with secure tenure supported by the law”, subsequently adding access to fresh water.³⁸ In common with the ICESCR, states parties to the *Charter* are required to adopt legal, financial and policy actions to progress toward full realisation of the right to housing.

Beyond these international instruments, the right to housing has been recognised in several countries. South Africa included a right to housing in its 1996 Constitution, section 26 providing:

- (1) Everyone has the right to have access to adequate housing.
- (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.
- (3) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.³⁹

Section 19 of Finland’s constitution provides that “The public authorities shall promote the right of everyone to housing and the opportunity to arrange their own housing.”⁴⁰ In Scotland, the *Housing (Scotland) Act 1987* and the *Homelessness etc. (Scotland) Act 2003* consolidated earlier legislation, clarifying definitions and processes to protect homeless households and those threatened with homelessness.⁴¹ In 2007, the National Assembly of France adopted the DALO law, which translates to ‘Enforceable Right to Housing’. The law provides a procedure to allow individuals to enforce their right to housing against the state if they are homeless or live in substandard housing conditions.⁴²





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In Australia, the three jurisdictions with Human Rights legislation – the ACT, Victoria and Queensland – do not yet provide a positive right to adequate housing. In the ACT, the *Human Rights Act 2004* (ACT) requires public authorities to comply with human rights in their decision making around community housing. In addition, several other rights protected in the Act “have been interpreted to give indirect effect to the right to adequate housing.”⁴³

Section 13 of the *Victorian Charter of Human Rights and Responsibilities Act 2006* (VIC), modelled on art 17 of the ICCPR, protects a person’s right not to have their home unlawfully or arbitrarily interfered with. In addition, in requiring public authorities such as Homes Victoria to act compatibly with human rights in their decision making, the *Charter* has provided protections for public housing tenants. However the *Charter* does not yet provide a positive right to housing. In recent years the Victorian Legislative Council Legal and Social Issues Committee has twice recommended that that the Victorian Government investigate enshrining the right to housing in the *Victorian Charter of Human Rights and Responsibilities Act 2006* (VIC).⁴⁴ The Victorian Ombudsman in 2022 also considered it “appropriate for the Government to consider including a right to housing in the Charter of Rights Act.”⁴⁵

In Queensland, the *Human Rights Act* requires that public entities, including housing services which are funded by a provider or the state government under the *Housing Act 2003*, must consider an individual’s human rights in the delivery of those services.⁴⁶ Tenants in social housing therefore have some existing protections under the Act.

If a right to adequate housing based on the ICESCR were to be introduced in the Queensland *Human Rights Act*, it would not impose an immediate obligation on the Queensland government to build or deliver housing for all Queenslanders who need it. Under the ICESCR, the right to housing is a progressive right; it would therefore require the government to take “deliberate, concrete and targeted” steps towards achieving the full realisation of the right within available resources.⁴⁷ This could involve effectively monitoring the full extent of homelessness and inadequate housing in Queensland, maintaining a state-wide housing strategy, ensuring coordination with local councils, and exploring appropriate public and private sector measures to address housing deficits and progress the realisation of the right.⁴⁸

Relevant international instruments:

ICESCR, art 11(1)

Housing rights are also referred to in:

- CERD, art 5(e)(iii))
- CEDAW, art 14(2)(h))
- CRC, art 27(3)
- CRPD, art 28

Jurisdictions where right is recognised:

- Council of Europe: *European Social Charter*, art 31
- South Africa: 1996 Constitution, s 26
- Finland: 1999 Constitution, s 19





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Right to work

The right to work means that everyone has the right to gain a living by work which they freely choose or accept and that governments must take steps to ensure productive employment conditions to safeguard these individual freedoms. The right to work is recognised in art 6 of the ICESCR.

Like other rights in the ICESCR, such as the right to education, the right to work is aimed at ensuring that people can develop their full potential and have access to economic opportunities. The right to work is often compromised when people are unemployed or underemployed and are unable to find full-time, stable work. In 2018, across Australia, people with a disability were twice as likely to be unemployed compared to those without a disability.⁴⁹ In 2018-19, in Queensland, Aboriginal and Torres Strait Islander people were three times as likely as non-Indigenous people to be unemployed.⁵⁰

The right to work also provides that people can freely choose where to work. This can be compromised when people are unable to find work in their chosen field. In 2018, a report for Multicultural Affairs Queensland found that 49 out of every 100 skilled migrants are not using their skills or experience gained before arriving.⁵¹

Since 2020, the ACT's *Human Rights Act 2004* has protected the right to work and related rights.⁵² The Act largely draws on the art 6(1) of the ICESCR which provides that the right to work includes "the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right." However, the ACT provision is narrower than the full rights protected in art 6 of the ICESCR. Art 6(2) provides that "full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions."

If the right to work was added to Queensland's *Human Rights Act*, it may include a number of elements, such as:

- a) freedom to choose and work where it is available;
- b) the right not to be unfairly deprived of work including on discriminatory grounds;
- c) an implied prohibition on forced labour; and
- d) the obligation to provide for a system of access to employment or employment opportunities progressively over time.

Rights under the ICESCR have aspects which are immediately realisable – which means they have immediate effect and must be respected by public authorities – and aspects which are required to be progressively realised over time.⁵³ Elements (a), (b) and (c) are immediately realisable aspects of the right which would need to be respected and protected by the Queensland Government and public authorities, like other human rights currently included in Queensland's *Human Rights Act*.





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Element (d) would require the Government to put measures in place over time to progressively realise employment opportunities, subject to resources.

The UN Committee on Economic, Social and Cultural Rights has provided guidance on how governments can take steps to progressively realise the right to work through legislation, strategies and policies, indicators and benchmarks, and remedies and accountabilities. Actions include:

- adopting employment strategies and plans of action based on and addressing the concerns of all workers, targeting disadvantaged and marginalised individuals and groups in particular
- collective bargaining as a tool in the formulation of employment policies
- means of ensuring involvement of civil society, including experts on labour issues, the private sector and international organisations
- specific legislative measures to establish mechanisms to monitor implementation of employment strategies and plans of action.⁵⁴

The right to work would not require that the government or employers give work to anyone who wants it; relevant qualifications, skills, experience and availability are still required.⁵⁵

The obligation of progressive realisation in respect of these rights also comes with a corresponding obligation not to take unjustifiable retrogressive measures that would undo protections that are already in place. However, the rights will be subject to reasonable limitations where these can be justified under the *Human Rights Act*. Measures that restrict access to certain forms of employment (through, for example, licences) will already engage equality rights in the *Human Rights Act*, including right to equal and effective protection against discrimination, and will require consideration as to whether limitations are reasonable with respect to the right to work.

Relevant international instruments:

- *ICESCR*, art 6 (ratified by 171 out of 193 of UN Member States through regional human rights treaties and/or national constitutions or legislation)⁵⁶
- European Union *Charter of Fundamental Rights*, art 15 (ratified by all member states)
- The *African Charter of Human and Peoples' Rights*, art 15 (ratified by 54 of 55 member states)
- *American Convention on Human Rights*, art 26 (ratified by 24 of 34 Organisation of American States member states)
- *San Salvador Protocol to the Convention*, art 6(1) (ratified by 18 of 34 Organisation of American States member states)

Jurisdictions where right is recognised:

Human Rights Act 2004 (ACT), s 27B





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Victims' rights

In Queensland, you have rights if you have suffered harm because of a crime. These rights are outlined in the Charter of Victims' Rights,⁵⁷ and all government and government-funded entities that work with victims must uphold these rights as far as practical and appropriate.⁵⁸

The Charter of Victims' Rights is set out in Schedule 1AA of the *Victims of Crime Assistance Act 2009* but will be transferred to Schedule 1 of the *Victims Commissioner and Sexual Review Board Act* once the *Bill* proposing the new laws has passed through Parliament. The rights under the new *Bill* essentially mirror the former rights and include:

- General rights:
 - a victim will be treated with courtesy, compassion, respect and dignity, taking into account the victim's needs.
 - a victim's personal information, including the victim's address and telephone number, will not be disclosed unless authorised by law.
 - a victim will be informed at the earliest practicable opportunity about services and remedies available to the victim.
- Rights relating to the criminal justice system, for example:
 - a victim will be informed about the progress of the investigation of the crime,
 - a victim will be informed of each major decision (including the reasons for the decision) made about the prosecution of a person accused of committing the crime.
 - a victim will be informed about the name of the person charged, issuing of a warrant for arrest, details of relevant court processes and diversionary programs that might be available to the accused, and outcomes of criminal proceedings including the sentence outcome and outcome of any appeals.
 - a victim will be informed about the outcome of a bail application made by the accused and any arrangements made for the release of the accused, including any special bail conditions imposed that may affect the victim's safety or welfare.
 - if a victim is a witness at the accused's trial, the victim will be informed about the trial process and the victim's role as a witness.
 - a victim will be protected from unnecessary contact with, violence or intimidation by the accused, defence witnesses and family/support members of the accused.
 - a victim will be given the opportunity to make a victim impact statement.
 - property held by the state will be returned to the victim as soon as possible.
- The ability to make a complaint about a contravention of victim rights under the Charter of Victims' Rights.





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- Eligible victims have:
 - the right to be kept informed of an offender's period of imprisonment, transfer to another facility or escape from custody.
 - the opportunity to make written submissions to the parole board about granting parole to the offender.

However, the rights included in the Charter of Victims' Rights are not legally enforceable.⁵⁹

Both the Women's Safety and Justice Taskforce in its Report (*Hear Her Voice – Report 2 – Women and girls' experiences across the criminal justice system*)⁶⁰ and the Legal Affairs and Safety Committee Report on the *Inquiry into Support provided to Victims of Crime*⁶¹ recommended that, as part of this Review, we should consider whether the recognition of victims' rights under the Charter of Victims' Rights in the *Victims of Crime Assistance Act 2009* should be incorporated into the *Human Rights Act 2019*.

All state and territory jurisdictions in Australia have a declaration or charter of victims' rights, and all except the Northern Territory have enshrined their declaration in law.⁶² Significantly, these charters do not create legally enforceable rights for victims of crime, although in the ACT, contravention of the *Victims of Crime Act 1994* (ACT) can be the subject of disciplinary proceedings against an official. No Australian jurisdiction has provided penalties for non-compliance with victims' rights. Additionally, in Queensland, confidentiality obligations that apply to government or non-government entities are not affected by a victim's rights, which may create tensions between a victim's right to information versus the rights of an accused to keep certain information confidential.

Right to fair hearing

In contrast to the Queensland and Victorian human rights legislation, which refer to 'a person charged with a criminal offence or a party to a civil proceeding'⁶³ when outlining what is needed for a fair hearing, the ACT human rights statute provides, 'everyone has the right to have criminal charges, and rights and obligations recognised by law, decided by a competent, independent and impartial court or tribunal after a fair and public hearing' (emphasis added).⁶⁴ Other provisions in the Queensland *Human Rights Act 2019* relating to criminal proceedings (such as ensuring a trial occurs without unreasonable delay or the right to legal aid if eligible), and criminal laws (such as not to be tried or punished more than once or not to be found guilty of a criminal offence if the conduct was not considered criminal when it was engaged in) are focused on an accused person rather than the victim.





Independent review of the Human Rights Act

Comparative approach

In 1985, the United Nations General Assembly adopted the *Declaration of Basic Principles of Justice on Victims of Crime and Abuse of Power*,⁶⁵ based on the conviction that ‘victims should be treated with compassion and respect for their dignity’ and that they are entitled to prompt redress for the harm that they have suffered, through access to the criminal justice system, reparation and services to assist their recovery. However, it is a non-binding international declaration.

In 2012, the European Union adopted a *Directive establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime* – the *Victims’ Rights Directive*⁶⁶ – that applies to every EU Member State, except Denmark.⁶⁷ The EU Victims’ Rights Directive establishes minimum standards on the rights, support and protection of victims of crime, which Member States are expected to legally uphold. The Directive ensures that persons who have fallen victim to crime are recognised and treated with respect. They must also receive proper protection, support and access to justice. The Directive considerably strengthens the rights of victims and their family members to information, support and protection, as well as victims’ procedural rights in criminal proceedings. The Directive also requires that EU countries ensure appropriate training on victims’ needs for those officials who are likely to come into contact with victims.

Under the EU *Victims’ Rights Directive*, rights include:

- right to understand and be understood
- right to receive information from the first contact with a competent authority
- right of victims when making a complaint
- right to receive information about their case
- right to interpretation and translation
- right to access victim support services
- right to be heard
- right to safeguards in the context of restorative justice services
- right to legal aid
- right to reimbursement of expenses
- right to the return of property
- right to decision on compensation from the offender in the course of criminal proceedings
- right to protection
- right to avoid contact between victim and offender
- right to protection of victims during criminal investigations
- right to protection of privacy
- right to protection of victims with specific protection needs during criminal proceedings
- right to protection of child victims during criminal proceedings





Independent review of the Human Rights Act

Relevant international instruments:

International treaty law does not currently provide for legally enforceable victims' rights.

However, victims' rights are an aspect of rights recognised in international human rights treaties to which Australia is a party, and reflected in several rights already recognised in Queensland's *Human Rights Act*, such as:

- the right to equality and non-discrimination, including the right to enjoy human rights without discrimination (HRA, s 15; ICCPR art 26)
- right to life (HRA, s 16; ICCPR art 6(1))
- right to fair hearing (HRA 31; ICCPR art 14)
- protection from torture and cruel, inhuman and degrading treatment (HRA s 17; ICCPR art 7)
- freedom of expression, which includes the right to seek out and receive information (HRA s 21; ICCPR art 19)
- the right to privacy and reputation (HRA s 25; ICCPR art 17)
- the protection of families and children (HRA s 26; ICCPR arts 23(1), 24; UNCRC art 3)
- cultural rights generally and the cultural rights of Aboriginal and Torres Strait Islander peoples (HRA ss 27, 28; UNDRIP art 8, 25, 29 and 31)
- the right to liberty and security of person (HRA s29; ICCPR art 9)

Jurisdictions where right is recognised: The European Union





Right to compensation for wrongful conviction

Wrongful convictions can arise due to systemic factors such as eyewitness misidentification, flawed scientific or forensic evidence, outdated expert evidence, misconduct by state officials including police or prosecutors, biased investigations, faulty legal representation or when an individual makes a false confession.⁶⁸

Australia has experienced a number of high-profile wrongful convictions, including the Lindy and Michael Chamberlain case in the Northern Territory, the David Eastman case in the ACT and the Kathleen Folbigg case in New South Wales. In Queensland, the possibility of wrongful convictions arising from the collection, testing and analysis of DNA samples was acknowledged by the 2022 Commission of Inquiry into Forensic DNA testing in Queensland.⁶⁹

With the growing acknowledgement of wrongful conviction at levels previously not contemplated, discussion has arisen around the need for transparent compensation measures for individuals whose wrongful convictions have ultimately been rectified, recognising that those exonerated have usually fought for extended periods to prove their innocence and can experience ongoing trauma and difficulties reintegrating into society.

The right to compensation for wrongful conviction is drawn from article 14(6) of the International Covenant on Civil and Political Rights (ICCPR), which provides a substantive right to compensation in case of miscarriage of justice in criminal cases:

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

However, while Australia signed the ICCPR in 1972 and ratified it in 1980, it maintains a reservation on article 14(6): 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.⁷⁰

In Queensland, other aspects of ICCPR art 14 are covered in sections 31 (Fair hearing), 32 (Rights in criminal proceedings) and 34 (Right not to be tried or punished more than once) of the *Human Rights Act*.





Independent review of the Human Rights Act

Currently, individuals wrongfully convicted do not have a common law or statutory right to compensation in any jurisdiction except the ACT. In other jurisdictions, including Queensland, individuals must seek a discretionary ex gratia payment or file civil claims against those they believe to be responsible for their wrongful convictions (eg police, legal counsel, state officials).

Under section 23 of the ACT's *Human Rights Act 2004* an individual who is wrongfully convicted may seek compensation if they have been convicted by a final decision of a criminal offence; and suffered punishment because of the conviction; and the conviction is reversed (or has been pardoned) on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice. The right to compensation for wrongful convictions is subject to reasonable and justifiable limitations (s 28). The most prominent use of this right was by David Eastman, who in 1995 was wrongfully convicted of the murder of assistant federal police commissioner Colin Winchester. After spending 19 years in gaol, Eastman's conviction was quashed in 2014. Eastman was subsequently acquitted in a retrial in 2018. Eastman was offered an ex-gratia payment of \$3million by the ACT Government but instead made a claim under the ACT's *Human Rights Act* and was subsequently awarded \$7.02million.⁷¹

Relevant international instruments:

ICCPR art 14(6)

Jurisdictions where right is recognised:

- *Human Rights Act 2004* (ACT), s 23
- *Criminal Justice Act 1988* (UK), s 133





The right of a person to live free from gender-based violence

Gender-based violence continues to be one of the most prevalent human rights abuses in Queensland and across Australia.

According to Our Watch, on average one woman is killed every nine days by a current or former partner.⁷² The 2021–22 *Personal Safety Survey* (PSS) conducted by the Australian Bureau of Statistics (ABS) estimated that 42% of women in Queensland had experienced violence since the age of 15, including:

- 24% (479,900) who experienced sexual violence
- 34% (671,500) who experienced physical violence⁷³

The PSS further estimated that 29% of women in Queensland had experienced violence, emotional abuse, or economic abuse by a cohabiting partner since the age of 15, including:

- 20% (398,500) who experienced partner violence (physical and/or sexual)
- 23% (457,200) who experienced partner emotional abuse
- 17% (338,500) who experienced partner economic abuse⁷⁴

The impacts of gender-based violence include physical and sexual injuries as well as psychological and emotional harm that can impact on a woman's potential to flourish and enjoy life. Violence against women and children can also cause economic security: for example, domestic and family violence is a leading driver of homelessness for women.⁷⁵

The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) does not explicitly mention violence against women and girls. However, in 1992 the CEDAW Committee (which monitors implementation of the Convention) clarified that discrimination against women, as defined in article 1 of the Convention, included gender-based violence – that is, “violence which is directed against a woman because she is a woman or that affects women disproportionately” – and asserted that such violence “seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men.”⁷⁶ In 2017, the CEDAW Committee further elaborated, recognising that the prohibition of gender-based violence against women had evolved into a principle of customary international law, binding all States.⁷⁷





Independent review of the Human Rights Act

The Convention is supported by the *Declaration on the Elimination of Violence Against Women*, adopted by the UN General Assembly in December 1993, which provided for three categories of violence against women: violence in the family and in the private sphere (for example, domestic and family violence, incest and selective abortions); violence occurring within the general community (including sexual assault, sexual harassment, trafficking in women and intimidation at work); and violence perpetrated by the State (such as violence against women in in prisons and in institutional settings).⁷⁸ The *Declaration on the Elimination of Violence Against Women* and CEDAW Committee's General Recommendation No. 35 provided for the concept of due diligence, an obligation on States parties to take positive action to prevent gender-based violence, to investigate, prosecute and punish perpetrators of violent acts and provide reparations to victims/survivors of violence.⁷⁹

Gender-based violence engages several rights already protected under Queensland's *Human Rights Act*. For example, relevant protected human rights for victims of sexual assault include the right to life,⁸⁰ freedom from torture and cruel, inhuman or degrading treatment,⁸¹ and the right to equality,⁸² noting that victims of sexual assault are predominantly women. However, the right of a person to live free from gender-based violence is not specifically provided for in the the *Human Rights Act*. Drawing on the CEDAW Convention, the 2011 *Convention on Preventing and Combating Violence against Women and Domestic Violence* (known as the Istanbul Convention) is a legally binding regional instrument that could provide a model for the introduction of a similar right in Queensland's *Human Rights Act*. The Convention requires the 46 states in the Council of Europe to "take the necessary legislative and other measures to promote and protect the right for everyone, particularly women, to live free from violence in both the public and the private sphere."⁸³

Alternatively, or in addition, existing section 26 of the *Human Rights Act* (right to protection of families and children) could be expanded to explicitly reference the right to protection of families from family and domestic violence.

Relevant international instruments:

CEDAW, art 1 (as interpreted by CEDAW Committee's General Comments No.19 and No.35)

CAT, art 1

Rome Statute of the International Criminal Court, art 7g

Jurisdictions where the right is recognised:

Ratified by 27 members of Organization of American States - *Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará)*

Ratified by 38 members of Council of Europe – *Convention on Preventing and Combating Violence against Women and Domestic Violence*





Independent review of the Human Rights Act

The right to access the internet

It has been argued at the international level that access to the internet provides unparalleled opportunities for the promotion and advancement of human rights and redressing of structural disadvantages. The UN Special Rapporteur on the right to freedom of expression has described the internet as a key means by which individuals can exercise their right to freedom of expression, and the right to seek, receive and impart information.⁸⁴ The Special Rapporteur also argues that access to the internet is “critical to combating situations of inequality, by ensuring that marginalized or disadvantaged sections of society can express their grievances effectively and that their voices are heard.” Without internet access, which facilitates economic development and the enjoyment of a range of human rights, marginalised groups can remain trapped in disadvantaged situations.⁸⁵

This has been characterised as the ‘digital divide’, being “the gap between people with effective access to digital and information technologies, in particular the Internet, and those with very limited or no access at all.”⁸⁶ The Australian Digital Inclusion Index shows that while digital inclusion is slowly increasing across Australia, there remains a substantial digital divide in Australia. One in four people in Australia are still digitally excluded. People with low levels of income, education and employment, those living in some regional areas, people aged over 65 and people with a disability are at particular risk of being left behind.⁸⁷

Several countries have formally recognised human rights to access the internet through legislation, including Estonia, Greece, Finland and Spain. Going a step further, Finland and Spain require that internet connection needs to have a speed of at least one Megabit per second. In France and Costa Rica, constitutional court decisions have declared the right to access the internet a fundamental human right.⁸⁸

It has also been argued that full digital inclusion would require governments to take measures beyond mere access rights and would include initiatives to build confidence and security in the use of the internet.⁸⁹ In practice, this could include governments establishing ‘sustainable multi-purpose community public access points’ and providing affordable or free Internet access to their citizens. Practical developments from other countries towards the right to access the internet include:

- the ‘One Laptop Per Child’ project (supported by the United Nations Development Programme), which aims to spread the availability of the Internet into developing countries
- the Indian Government’s ‘public-kiosks’ program
- the Brazilian government’s ‘computers for all’ program offering subsidies for the purchasing of computers.





Independent review of the Human Rights Act

If the right was included in Queensland's *Human Rights Act*, it could require that the government take steps similar steps or implement other policies and legislation to address the digital divide.

Relevant international instruments:

International treaty law does not currently provide for the right to access the internet. However, articles 9 and 21 of the Convention on the Rights of Persons with Disabilities expressly refer to access to the Internet for people with disabilities, including through the use of accessible formats.

The right to access the internet is also an aspect of rights recognised in international human rights instruments including:

- freedom to seek, receive and impart information and ideas through any media (UDHR Art 19, ICCPR Art 19)
- right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits (UDHR Art 27).

Jurisdictions where the right is recognised:

- European Union: Parliament and Council Directive 2002/22/EC of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services [2002] OJ L 108/51, art 4.
- Estonia: *Telecommunications Act*, art 5.
- Greece: *Constitution*, art 5A.
- Finland: *Communications Market Act*, s 60 C.
- Spain: Act 2/11 of March 4, Sustainable Economy





Independent review of the Human Rights Act

Right to be forgotten

The internet has made it easy to access information and media about individuals that may no longer be accurate or relevant. The lingering, adverse consequences of a person's digital footprint have generated calls for individuals to have greater control over third-person access to information to protect their privacy and reputation.

The 'right to be forgotten' is, broadly speaking, the right for individuals to ask an entity which holds personal information about them to delete it so it can no longer be discovered by third parties, particularly through search engines.

The right to be forgotten first received legal recognition by the European Court of Justice in 2014, when a Spanish man who worked as financial adviser brought a case against Google to remove the link to a digitised newspaper article about an auction for his foreclosed home and a debt that he had subsequently paid.⁹⁰ This case set the precedent for the inclusion of a 'right to erasure' in the European Union's General Data Protection Regulations (GDPR).

The GDPR does not give people an unqualified right to have their personal data deleted. Organisations can deny the request for a number of reasons including where keeping information in the public domain is necessary to exercise the right of freedom of expression; comply with a legal obligation; achieve a public interest; or to establish, exercise or defend a legal claim.

Recently, the Australian federal government has considered the 'right to be forgotten' as part of a review of the *Privacy Act 1988* (Cth). In September 2023, the Attorney-General announced agreement in principle to recommendations that Australia adopt a 'right to erasure' (similar to the EU) and a sub-category called the 'right to de-index'.⁹¹ The 'right to de-index' would allow people to ask search engines to 'de-index' their personal information so that it no longer appears in search results (although the content is not actually deleted from the internet). Similar exceptions to the right to erasure are contemplated, including: if it goes against the public interest, is inconsistent with another law, or is technically impossible to do so.

Relevant international instruments:

European Union, *General Data Protection Regulations*, Art 17

Jurisdictions where the right is recognised:

- United Kingdom: *Data Protection Act 2018*, s 47
- Argentina: *Constitution of the Argentine Nation*, Art 43
- China: *Personal Information Protection Law 2021*





Independent review of the Human Rights Act

Right to repair

The right to repair is a consumer rights movement that supports people's freedom to repair their products, instead of simply replacing them. The movement continues to push for laws requiring manufacturers to provide free repair services, diagnostic tools, repair manuals, and replacement parts available to the public. The movement aims to increase competition and reduce waste by promoting sustainable consumption.⁹²

In Australia, the right to repair could have a significant impact for people who buy products such as phones, appliances, or cars – in terms of financial costs and the ability to choose to shop sustainably. Further, there could be significant benefits for purchasers of agricultural equipment. A 2021 investigation by the ACCC found that manufacturer warranty restrictions and access to software, tools, technical information, service manuals and parts, limited the ability of farmers to use third-party repair services.⁹³

In April 2024, the European Parliament voted in favour of the *Right to Repair Directive*, a new law which introduces the right to repair for consumers and creates new obligations for manufactures. The new law applies to a list of products including washing machines, vacuum cleaners and smartphones which may be expanded over time. Manufacturers will be required to provide timely and cost-effective repair services, spare parts and tools. Manufacturers must inform consumers about their rights to repair and are prohibited from using contractual clauses that prohibit repairs. To promote affordable repairs, each EU member state must implement at least one measure to promote repairs such as repair vouchers, information campaigns, offering repair courses or supporting community-led repair spaces.

In the United States, a July 2021 Executive Order on Promoting Competition in the American Economy included initiatives by the Federal Trade Commission to make it easier and cheaper for Americans to repair items by limiting manufacturers from barring self-repairs or third-party repairs of their products, including farmers equipment and cell phones.⁹⁴

In Canada, while the right to repair is not specifically recognised, proposed legislative amendments would allow people to circumvent technological protection measures⁹⁵ for the purposes of maintenance or repairs. The province of Quebec has also introduced legislation which aims to combat planned obsolescence.

If a right to repair was introduced into Queensland's *Human Rights Act*, it could require that the government take steps to improve access to affordable repairs, for example through introducing policies or laws which create obligations for manufacturers, promote competition or incentivise sustainable consumption.





Independent review of the Human Rights Act

Relevant international instruments:

International treaty law does not currently provide for the right to repair.

Jurisdictions where the right is recognised:

- European Union: *Right to Repair Directive*
- United States of America: *Executive Order on Promoting Competition in the American Economy*
- Canada: *An Act to amend the Copyright Act (diagnosis, maintenance and repair)*, Bill C-244
- Quebec: *An Act to protect consumers from planned obsolescence and to promote the durability, repairability, and maintenance of goods*, Bill 29





Independent review of the Human Rights Act

Rights of future generations

Growing concern around intergenerational fairness has placed greater attention on the need to consider the priorities and interests of future generations in government policy and decision-making.

Environmental challenges, such as vegetation loss and degradation and pollution, and climate change are widely recognised as intergenerational issues – with future generations to inherit the more severe impacts of contemporary policy failures.⁹⁶ The widening gap in Australia’s intergenerational income and housing wealth,⁹⁷ coupled with escalating university debts⁹⁸ and concerns that our tax systems favour older, wealthy Australians⁹⁹ have also focused attention on the long term impacts of government decision-making.

The interests of future generations have been contemplated internationally for decades,¹⁰⁰ with the *Maastricht Principles on the Human Rights of Future Generations*, adopted in 2023, recognising that future generations were legally entitled to human rights.¹⁰¹ The United Nations is creating a Special Envoy on Future Generations and planning a Summit of the Future in 2024 to create a UN Declaration for Future Generations.¹⁰²

While future generations are frequently mentioned in general terms in national constitutions and policies, governments are beginning to explore mechanisms to consider future generations within decision-making frameworks.¹⁰³ In Wales, the *Wellbeing of Future Generations Act 2015* (Wales) established a strong political commitment to intergenerational justice through the establishment of the independent statutory role of the Welsh Commissioner for Future Generations, supported by an Office for Future Generations. The Act provides for better decision-making by ensuring that public bodies (including the national government, local government, health boards and other specified public bodies) take account of the long term and consider and involve people of all ages and diversity. The Act includes seven well-being goals for 44 public bodies with national indicators and milestones toward achieving the well-being goals reported on annually.¹⁰⁴

In Queensland, *The Queensland Plan*, launched in 2014, offered a 30 year roadmap for the state’s growth and prosperity.¹⁰⁵ Described as “an aspirational community vision”, *The Queensland Plan* is centred around nine foundational areas, including health and wellbeing, education and the environment, with a focus on future generations. Annual state-wide progress reports detail activities undertaken by all levels of government, business, industry and community organisations across the nine foundational areas.





Independent review of the Human Rights Act

The rights of future generations was a key feature of the *Waratah Coal* case in 2022.¹⁰⁶ The Queensland Land Court recommended to the Resources Minister and the Department of Environment and Science that a mining lease and environmental authority for the Waratah mine coal mine in the Galilee Basin be refused on several grounds, in part because the resulting limitation on human rights caused by climate change was not demonstrably justified.

The Court had determined that it was acting in an administrative manner in making the recommendation and was therefore a public entity under the *Human Rights Act 2019*. In considering whether approval of the mining lease would be consistent with the *Human Rights Act*, the Court assessed the potential limitations the lease could have on different human rights including protecting the rights of children.¹⁰⁷ The Court determined that the right was limited due to “the vulnerability of children to climate change impacts and the disproportionate burden those impacts will have on children today and in the future,”¹⁰⁸ recognising the “intergenerational imbalance in the effects of climate change itself,”¹⁰⁹ and noting that present and future children “will bear both the more extreme effects of climate change and the burden of adaptation and mitigation”¹¹⁰ as well as “be at a disproportionately greater risk of poorer health outcomes and premature mortality.”¹¹¹ The Court also recognised, as an additional dimension, the impacts for First Nations children, noting Queensland’s First Nations population is heavily skewed towards children and young people.¹¹²

The introduction of a human right for future generations in the *Human Rights Act*, by providing a legislative obligation for decision-makers to consider the interests of the next and future generations, could offer an opportunity to address the impacts of short-term policy development and encourage more systemic and longer-term approaches to governance.

Relevant international instruments:

International treaty law does not currently provide for rights of future generations, but a UN process to develop a UN Declaration for Future Generations is progressing.

Jurisdictions where the right is recognised:

Wellbeing of Future Generations Act 2015 (Wales)
The Finland we want by 2050 (Finland)





Independent review of the Human Rights Act

Our Team

Professor Susan Harris Rimmer – Independent Reviewer



Professor Susan Harris Rimmer focuses on international human rights law, climate justice and gender equality in the Griffith Law School and is a member of the Law Futures Centre. Sue leads the Climate Justice theme of the Griffith Climate Action Beacon. She is the founder of the EveryGen coalition (www.everygen.online) which seeks to amplify the voices of current and future generations and highlight the long-term impacts of today's policy decisions. With Professor Sara Davies, Susan is co-convenor of the Griffith Gender Equality Research Network.

Susan was the 2021 winner of the Fulbright Scholarship in Australian-United States Alliance Studies (funded by DFAT) and was hosted by Georgetown University in Washington DC in 2022. She was named a Top Innovator by Uplink World Economic Forum for the Climate Justice Challenge in 2022 for the creation of the Climate Justice Observatory (www.climatejusticeobservatory.com.au). She won the Bertha Lutz Prize for research on women in diplomacy awarded by the Centre for International Studies & Diplomacy and The Diplomatic Studies Section (DPLST) of the International Studies Association (ISA) in 2021. Susan provided the independent Human Rights Assessment for the successful FIFA Women's World Cup Australia and New Zealand 2032 Bid in 2020 and was the Human Rights Adviser to GOLDOC for the 2018 Commonwealth Games.

Susan is the editor of *Climate Politics in Oceania* (MUP 2024 with Caitlin Byrne and Wes Morgan), *Futures of International Criminal Justice* (Routledge 2022, with Emma Palmer, Edwin Bikundo and Martin Clark), the *Research Handbook for Feminist Engagement with International Law* (Edward Elgar 2019, with Kate Ogg); and author of *Gender and Transitional Justice: The Women of Timor Leste* (Routledge, 2010) and over 44 refereed academic works in leading journals. In 2014 she was named one of the Westpac and Australian Financial Review's 100 Women of Influence in the Global category. Sue was named one of 100 global gender experts by Apolitical 2018 for her work on the G20, and one of 20 Queensland Voices Female Leaders in 2019.

Prior to academia, Sue was the Advocacy lead at the Australian Council for International Development (ACFID) and has also worked for the UN High Commissioner for Refugees, the National Council of Churches and the Parliamentary Library. She currently holds voluntary board positions as President of UNAA QLD and Foundations for Tomorrow.





Independent review of the Human Rights Act

Professor Elena Marchetti – Victims of Crime Lead



Professor Elena Marchetti is a co-Director of the Disrupting Violence Beacon and a Professor of Law in the Griffith Law School, Griffith University. She is a member of the Australian Research Council College of Experts and the Deputy Chair of the Queensland Sentencing Advisory Council. She has been the recipient of two highly competitive Australian Research Council Fellowships. The first examined the impact of using Indigenous sentencing courts for partner violence offending. The second, investigated how to better evaluate Indigenous-focused criminal justice programs. Her research focuses sentencing processes, the justice experiences of Aboriginal and Torres people, access to justice for marginalised groups, and legal reform in the area of domestic and family violence.

Professor Janet Ransley – Youth Justice Lead



Professor Janet Ransley is a Professor in the Griffith Criminology Institute (which she led from 2018-2023) and School of Criminology and Criminal Justice (which she led from 2011-2015). Prior to joining Griffith, she held policy positions with the Queensland Legislative Assembly and the Criminal Justice Commission (now the Crime and Corruption Commission) and worked as a solicitor. She researches on criminal justice system policy and reform, equitable and effective policing and justice processes, and integrity in criminal justice, legal and political systems. She also leads the Systems Change Hub within the Transforming Corrections to Transform Lives Centre, an innovative collaboration working to create a transformative system of practice that addresses system gaps, improves pathways, and strengthens supports for imprisoned mothers and their children, so as to reduce the intergenerational transmission of offending and disadvantage.

Dr Allison Henry – Policy Lead



Dr Allison Henry is a Research Fellow and Associate with the Australian Human Rights Institute at UNSW, where her research focuses on institutional responses to campus sexual violence. With more than two decades experience in law, politics, public policy and advocacy, Allison's previous roles include three years as the Managing Editor of the Australian Journal of Human Rights, five years as a Ministerial advisor in the federal parliament and three years as National Director of the Australian Republican Movement. She has also worked at the Australian Human Rights Commission and the Refugee Review Tribunal. Since 2012 Allison has run her own consulting firm, Millwood Consulting, working with a diverse range of not for profit and non-government

organisations on various public policy and campaign projects. In addition to her PhD in Law from UNSW, Allison holds a Masters degree in International Studies (Hons) (University of Sydney), a Masters degree in International Law (with Merit) (Australian National University) and undergraduate degrees in Arts and Law (Macquarie University).





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Melanie Davies – Review Manager

Melanie Davies is the Centre Coordinator of the Law Futures Centre. She previously worked for the Prosecution Project Laureate team as the project administrator. Melanie was with the Australian Research Council Centre of Excellence in Policing and Security (“CEPS”) since shortly after its inception in 2008 in the role of centre coordinator. Prior to joining CEPS, Melanie was a paralegal at a medium sized law firm for over 15 years.

Ellie Conroy – Researcher



Ellie is a lawyer and policy professional, specialising in human rights and anti-discrimination. Through diverse experience across policy, corporate advisory, academia and community legal roles, Ellie has expertise in designing and applying human rights-based frameworks. She is passionate about intersectional and evidence-based policy design and believes in the power of diverse voices and lived experience. Ellie holds a Bachelor of Laws (Honours) and Bachelor of Commerce from the University of Queensland.

Matthew Day – Researcher



Matthew Day is a fifth-year university student, studying a Bachelor of Laws (Honours)/Bachelor of Government and International Relations at Griffith University. He is also a Research Assistant within the Griffith Law School. He has previously been a Research Assistant within Griffith University’s Policy Innovation Hub, as well as for Foundations for Tomorrow.

Matthew won the Griffith Award for Academic Excellence in 2020, 2021, 2022, and 2023. He is a member of the Griffith University Student Academy of Excellence. Matthew is also a

member of the 2024 U.S. Consulate General’s Brisbane Youth Advisory Council.

¹ Parliamentary Joint Committee on Human Rights. Report on the Inquiry in Australia’s Human Rights Framework, 2024. https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/HumanRightsFramework/Report, accessed 20 June 2024.

² Human Rights Framework Report, op cit, Recommendations 2 and 3.

³ See, Australian Human Rights Commission, Revitalising Australia’s Commitment to Human Rights: Free & Equal Final Report, 2023, p. 58. 7.40

⁴ United Nations, *Global Environment Outlook—GEO-6: summary for policymakers*, 2019, 588, <https://www.unep.org/resources/global-environment-outlook-6> accessed 8 May 2024; Australian Institute of Health and Welfare, *Natural environment and health* (Website) <https://www.aihw.gov.au/reports/australias-health/natural-environment-and-health> accessed 8 May 2024.

⁵ State of Queensland (Department of Environment and Science), *Queensland State of the Environment 2020: Summary*, August 2021, 2, <https://www.stateoftheenvironment.des.qld.gov.au/media/documents/Queensland-State-of-the-Environment-2020-Summary.pdf>

⁶ State of Queensland (Queensland Health), *Prevention Strategic Framework 2017 to 2026*, updated June 2018, April 2020 and June 2023, 5, https://www.health.qld.gov.au/data/assets/pdf_file/0036/651798/prevention-strategic-framework.pdf





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⁷ Human Rights Council, *The human right to a clean, healthy and sustainable environment* (8 October 2021) UN Doc A/HRC/RES/48/13.

⁸ United Nations General Assembly, *The human right to a clean, healthy and sustainable environment* (1 August 2022) UN Doc A/RES/76/300, [1] and [4].

⁹ Australian Capital Territory (Legislative Assembly), *Human Rights (Healthy Environment) Amendment Bill 2023*.

¹⁰ Australian Capital Territory (Legislative Assembly), *Explanatory Statement and Human Rights Compatibility Statement: Human Rights (Healthy Environment) Amendment Bill 2023*.

¹¹ David R. Boyd (Special Rapporteur on The Human Right to a Clean, Healthy And Sustainable Environment), *The Right to a Healthy Environment: A User's Guide*, 2024, 17-27,

<https://www.ohchr.org/sites/default/files/documents/issues/environment/srenvironment/activities/2024-04-22-stm-earth-day-sr-env.pdf>

¹² *Ibid*, 15-16.

¹³ *Ibid*, 15.

¹⁴ *Ibid*.

¹⁵ *Ibid*.

¹⁶ *Ibid*, Box 3. Good Practices on the National Level; ACT Government (Justice and Community Safety Directorate), *Right to a Healthy Environment: Discussion Paper - Public consultation to inform consideration of the introduction of a right to a healthy environment in the Human Rights Act 2004*, 2022, 9

https://www.justice.act.gov.au/_data/assets/pdf_file/0007/2072383/Discussion_Paper_-_Right_to_a_Healthy_Environment.pdf

¹⁷ Boyd (n 8) 8.

¹⁸ International Joint Commission, *Rights of Nature FAQ* (Website) <https://www.ijc.org/system/files/commentfiles/2019-10-Nicolette%20Slagle/FAQ.pdf>

¹⁹ Australian Earth Laws Centre, *Rights of Nature* (Website) <https://www.earthlaws.org.au/aclc/rights-of-nature/>

²⁰ Andrea Westall, 'The Ecuadorian Constitution was the first national constitution to give rights to nature', *Foundation for Democracy & Sustainable Development* (Website, 3 April 2015) <https://www.fdsd.org/ideas/ecuadorian-constitution-rights-to-nature/>;

Mihnea Tanasescu, 'The Rights of Nature in Ecuador: The Making of an Idea' (2013) 70(6) *International Journal of Environmental Studies* 846–861. <https://doi.org/wwwproxy1.library.unsw.edu.au/10.1080/00207233.2013.845715>

²¹ The Law of the Rights of Mother Earth, art 7, accessed at

<http://www.worldfuturefund.org/Projects/Indicators/motherearthbolivia.html>; see also Australian Earth Laws Centre, 'Bolivia – national rights of nature legislation' (Website) <https://www.earthlaws.org.au/aclc/rights-of-nature/bolivia/>

²² The Law of the Rights of Mother Earth, arts 8-10.

²³ *Te Urewera Act 2014* (NZ), s 4.

²⁴ *Ibid*, s 11.

²⁵ *Ibid*, Part 2.

²⁶ Toni Collins and Shea Esterling, 'Fluid Personality: Indigenous Rights and the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 in Aotearoa New Zealand' (2019) 20(1) *Melbourne Journal of International Law* 197.

²⁷ *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017* (NZ), s 14.

²⁸ *Ibid*, Part 2 Subpart 3.

²⁹ Anupam Trivedi and Kamal Jagati, 'Uttarakhand HC declares Ganga, Yamuna living entities, gives them legal rights', *Hindustan Times*, 22 March 2017, <https://www.hindustantimes.com/india-news/uttarakhand-hc-says-ganga-is-india-s-first-living-entity-grants-it-rights-equal-to-humans/story-Vol6DOG71fyMDihg5BuGCL.html>. However, the state of Uttarakhand appealed the decision and in July 2017 the Supreme Court of India stayed the order and agreed to hear an appeal against this ruling: 'SC stays HC verdict on Ganga status', *The Hindu*, 7 July 2017, <https://www.thehindu.com/news/national/sc-stays-hc-verdict-on-ganga-status/article19235381.ece>

³⁰ Erin O'Donnell and Julia Talbot-Jones, 'Three rivers are now legally people – but that's just the start of looking after them', *The Conversation*, 24 March 2017, <https://theconversation.com/three-rivers-are-now-legally-people-but-thats-just-the-start-of-looking-after-them-74983?sr=3>; Rónán Kennedy, 'Trees, rivers and mountains are gaining legal status – but it's not been a quick fix for environmental problems', *The Conversation*, 17 August 2023, <https://theconversation.com/trees-rivers-and-mountains-are-gaining-legal-status-but-its-not-been-a-quick-fix-for-environmental-problems-211542>

³¹ Alex Putzer, Tineke Lambooy, Ronald Jeurissen and Eunsu Kim, 'Putting the rights of nature on the map. A quantitative analysis of rights of nature initiatives across the world' *Journal of Maps* (2022) 18(1) 89–96. <https://doi.org/wwwproxy1.library.unsw.edu.au/10.1080/17445647.2022.2079432>. See also the Eco Jurisprudence Monitor (Website); <https://ecojurisprudence.org>.

³² Hal Pawson, Andrew Clarke, Joelle Moore, Ryan van den Nouwelant and Matthew Ng, *A blueprint to tackle Queensland's housing crisis*, 2023, Queensland Council of Social Service, p.5 <https://www.qcross.org.au/wp-content/uploads/2023/03/Hal-Pawson-Report-2023-Final.pdf>

³³ Queensland Government, *Work towards ending homelessness*, <https://www.housing.qld.gov.au/homesforqueenslanders/initiatives/homelessness>

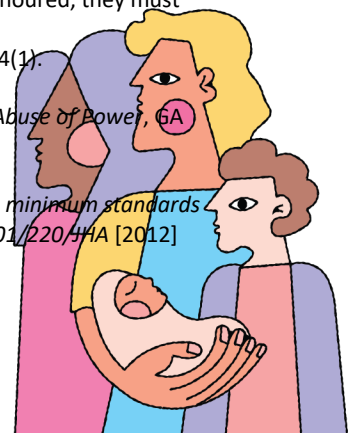
³⁴ National Housing Supply and Affordability Council, *State of the Housing System*, May 2024, p.3, <https://nhsac.gov.au/sites/nhsac.gov.au/files/2024-05/state-of-the-housing-system-2024.pdf>





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- ³⁵ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 4: The right to adequate housing* (art. 11 (1) of the Covenant), 13 December 1991, contained in UN Doc E/1992/23, [7]. See also UN Special Rapporteur on the right to adequate housing, *The human right to adequate housing*, <https://www.ohchr.org/en/special-procedures/sr-housing/human-right-adequate-housing>.
- ³⁶ CESCR, *General Comment No. 4*, [8].
- ³⁷ *European Social Charter* (Revised), opened for signature 3 May 1996, ETS No 163 (entered into force 1 July 1999), art 31.
- ³⁸ *European Federation of National Organisations Working with the Homeless (FEANTSA) v France (Merits)* (European Committee of Social Rights, Complaint No 39/2006, 5 December 2007) 23 [74]; *European Roma Rights Centre v Portugal (Merits)* (European Committee of Social Rights, Complaint No 61/2010, 30 June 2011) 9 [36].
- ³⁹ *Constitution of the Republic of South Africa Act 1996* (South Africa), s 26.
- ⁴⁰ *The Constitution of Finland*, 11 June 1999 (731/1999), s 19.
- ⁴¹ See Fiona King, 'Scotland: Delivering a Right to Housing', *Journal of Law and Social Policy* 24 (2015) 155-161 <https://doi.org/10.60082/0829-3929.1214>
- ⁴² See Claire Lévy-Vroelant, 'The Right to Housing in France: Still a Long Way to Go from Intention to Implementation' *Journal of Law and Social Policy* 24 (2015) 88-108. <https://doi.org/10.60082/0829-3929.1210>
- ⁴³ See Justice and Community Safety (ACT Government), *Economic, Social and Cultural Rights – A good idea for inclusion in the ACT? Background paper for consultation July-August 2011*, p.9.
- ⁴⁴ Legislative Council Legal and Social Issues Committee, *The rental and housing affordability crisis*, November 2023, recommendation 2 <https://www.parliament.vic.gov.au/49873a/contentassets/90eeac3a41ca4c498ca4e1cffe125eb/committee-final-report.pdf>; Legislative Council Legal and Social Issues Committee, *Inquiry into Homelessness in Victoria: Final Report* March 2021, recommendation 32 <https://www.parliament.vic.gov.au/498938/contentassets/0c6d61c7d86d4971bf50c2573cb534b2/inquiry-into-homelessness-in-victoria---final-report.pdf>
- ⁴⁵ Victorian Ombudsman, *Investigation into complaint handling in the Victorian social housing sector*, 7 July 2022, para 308, https://assets.ombudsman.vic.gov.au/assets/VO-PARLIAMENTARY-REPORT_Social-Housing_July-2022_Digital.pdf
- ⁴⁶ *HRA*, s 10(3)(b)(vi).
- ⁴⁷ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 3: The nature of States Parties' Obligations* (art. 2 (1) of the Covenant), 14 December 1990, UN Doc E/1991/23, {1}- [2].
- ⁴⁸ CESCR, *General Comment No. 4*, [12]-[14].
- ⁴⁹ Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Findings* (2018) <https://www.abs.gov.au/statistics/health/disability/disability-ageing-and-carers-australia-summary-findings/latest-release>
- ⁵⁰ Australian Bureau of Statistics, *National Aboriginal and Torres Strait Islander Health Survey* (2019) <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/national-aboriginal-and-torres-strait-islander-health-survey/latest-release>
- ⁵¹ Deloitte Access Economics, 'Seizing the opportunity: Making the most of the skills and experience of migrants and refugees' (Research report, November 2018) <https://www.dcsds.qld.gov.au/resources/dcsyw/multicultural/programs-initiatives/migrant-skills-report.pdf>
- ⁵² *Human Rights Act 2004* (ACT), s 27B(1).
- ⁵³ UN Committee on Economic, Social and Cultural Rights, General Comment 18: the right to work.
- ⁵⁴ *Ibid.*
- ⁵⁵ Ben Saul et al, *International Covenant on Economic, Social and Cultural Rights: Commentary, Cases, Materials* (2014) 280.
- ⁵⁶ United Nations Office of the High Commissioner Human Rights, *Committee on Economic, Social and Cultural Rights* (Webpage) <https://www.ohchr.org/en/treaty-bodies/cescr>
- ⁵⁷ *Victims of Crime Assistance Act 2009* (Qld) Sch 1AA.
- ⁵⁸ *Ibid* s 6B(2).
- ⁵⁹ *Ibid* s 7.
- ⁶⁰ https://www.womenstaskforce.qld.gov.au/_data/assets/pdf_file/0008/723842/Hear-her-voice-Report-2-Volume-1.pdf, accessed 8 May 2024,
- ⁶¹ Report No. 48, 57th Parliament, May 2023
- ⁶² The Northern Territory has a legal provision that authorises the incorporation of a declaration on victims' rights in law, but its declaration is an administrative statement. Whilst victims can complain if their rights are not honoured, they must do so via complaint mechanisms.
- ⁶³ *Human Rights Act 2019* (Qld) s 31(1); *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 24(1).
- ⁶⁴ *Human Rights Act 2004* (ACT) s 21(1).
- ⁶⁵ United Nations General Assembly, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, GA Res 40/34, UN Doc A/RES/40/34 (29 November 1985).
- ⁶⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012L0029>, accessed 8 May 2024.
- ⁶⁷ *Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA* [2012] OJ L 315/57.





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- ⁶⁸ Rachel Dioso-Villa, 'Without Legal Obligation: Compensating the Wrongfully Convicted in Australia' (2012) *Albany Law Review* 75(3) 1329; Rachel Dioso-Villa, 'A Repository of Wrongful Convictions in Australia: First Steps toward Estimating Prevalence and Causal Contributing Factors' (2015) 17 *Flinders Law Journal* 163.
- ⁶⁹ Walter Sofronoff KC, *Commission of Inquiry into Forensic DNA testing in Queensland: Final Report*, 13 December 2022, para 219, https://www.health.qld.gov.au/_data/assets/pdf_file/0036/1196685/final-report-coi-dna-testing-qld-dec-2022.pdf
- ⁷⁰ United Nations Treaty Collection, International Covenant on Civil and Political Rights, status as at 15 May 2024, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=en#EndDec
- ⁷¹ *Eastman v The Australian Capital Territory* [2019] ACTSC 280
- ⁷² Our Watch, *Understanding violence and sexual harassment*, <https://workplace.ourwatch.org.au/understanding-violence-and-sexual-harassment/>
- ⁷³ Australian Bureau of Statistics, *Personal Safety, Australia: 2021-22 financial year*, 15 March 2023, <https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release#about-this-release>
- ⁷⁴ *ibid.*
- ⁷⁵ Department of Social Services (Australian Government), *National Plan to End Violence against Women and Children 2022–2032: Executive Summary*, 25 September 2023, p.13, https://www.dss.gov.au/sites/default/files/documents/12_2023/national-plan-executive-summary.pdf
- ⁷⁶ Committee on the Elimination of Discrimination against Women, *General recommendation No. 19: Violence against women*, 1992, [6], [1], accessed at <https://www.ohchr.org/en/treaty-bodies/cedaw/general-recommendations>
- ⁷⁷ Committee on the Elimination of Discrimination against Women (CEDAW Committee), *General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19*, 26 July 2017, CEDAW/C/GC/35, [2] accessed at <https://www.ohchr.org/en/treaty-bodies/cedaw/general-recommendations>
- ⁷⁸ United Nations General Assembly (UNGA), *Declaration on the Elimination of Violence against Women*, adopted 20 December 1993, GA Res 48/104, A/RES/48/104.
- ⁷⁹ CEDAW Committee, *General recommendation No. 35*, [2]; UNGA, *Declaration on the Elimination of Violence against Women*, art 4(c).
- ⁸⁰ HRA, s 16.
- ⁸¹ HRA, s 17.
- ⁸² HRA, s 15.
- ⁸³ Council of Europe, *Convention on preventing and combating violence against women and domestic violence*, Council of Europe Treaty Series - No. 210, adopted on 7 April 2011, entered into force on 1 August 2014, art 4(1), <https://rm.coe.int/168008482e>
- ⁸⁴ Frank La Rue, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report to the Human Rights Council, 17th session, UN Doc A/HRC/17/27 (2011) <<http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/Annual.aspx>>.
- ⁸⁵ Frank La Rue, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report to the Human Rights Council, 17th session, UN Doc A/HRC/17/27 (2011) <<http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/Annual.aspx>>.
- ⁸⁶ AHRC, 'Human Rights in Cyberspace' (Background Paper, September 2013) <https://humanrights.gov.au/sites/default/files/document/publication/human_rights_cyberspace.pdf>
- ⁸⁷ Julian Thomas et al, *Measuring Australia's Digital Divide: Australian Digital Inclusion Index* (Report, 2023).
- ⁸⁸ France: Decision n 2009-580 of June 10th 2009 https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank_mm/anglais/2009_580dc.pdf; Costa Rica: *Valdelomar and Sibaja v. Costa Rican Superintendence of Telecommunications* Judgment No 10-13141-0007-C, 2010-1279.
- ⁸⁹ *World Summit on the Information Society: Plan of Action*, UN Doc WSIS-03/GENEVA/DOC (12 December 2003), para 25(c) <<http://www.un-documents.net/wsiss-poa.htm>>
- ⁹⁰ *Google Spain and Inc. v Agencia Espanola de Proteccion de Datos (AEPD) and Mario Costeja Gonzalez* ECLI:EU:C:2014:317
- ⁹¹ Government Response to the Privacy Act Review Report <<https://www.ag.gov.au/rights-and-protections/publications/government-response-privacy-act-review-report>>
- ⁹² Selcen Ozturkcan, 'The right-to-repair movement: Sustainability and consumer rights', (2023) *Journal of Information Technology and Teaching Cases*.
- ⁹³ ACCC, *Agricultural Machinery Market Study* (Report, 2021) <https://www.accc.gov.au/system/files/Agricultural%20machinery%20market%20study%20-%20final%20report.pdf>
- ⁹⁴ The White House, *Fact Sheet: Executive Order on Promoting Competition in the American Economy*, 9 July 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/09/fact-sheet-executive-order-on-promoting-competition-in-the-american-economy/>
- ⁹⁵ Devices or software placed on copyright material to prevent unauthorised access or copying e.g. software locks or password protection.
- ⁹⁶ Jodi-Ann Wang and Tiffanie Chan, 'What is meant by intergenerational climate justice?' (Explainer) *The London School of Economics and Political Sciences*, 7 December 2023, <https://www.lse.ac.uk/granthaminstitute/explainers/what-is-meant-by-intergenerational-climate-justice/#:~:text=Climate%20change%20is%20an%20inherently,between%20present%20and%20future%20generations>





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⁹⁷ Rachel Ong Viforj and Christopher Phelps, 'Australia's growing intergenerational housing wealth divide: trends and policy implications', *CEDA*, 5 February 2023, <https://www.ceda.com.au/newsandresources/opinion/built-environment-urban-planning-cities/australia-s-growing-intergenerational-housing-weal>

⁹⁸ Sarah Behenna, HELP! Is your HECS-HELP debt compounding out of control too? Women's Agenda, <https://womensagenda.com.au/latest/help-is-your-hecs-help-debt-compounding-out-of-control-too/>

⁹⁹ Think Forward, *Bridging the Generational Gap: Perspectives on Tax Reform from Gen Z and Millennials*, November 2023, <https://www.thinkforward.org.au/research>

¹⁰⁰ See, for example, the 1997 *UNESCO Declaration on the Responsibilities of the Present Generations Towards Future Generations*: <https://www.unesco.org/en/legal-affairs/declaration-responsibilities-present-generations-towards-future-generations>

¹⁰¹ *Maastricht Principles on the Human Rights of Future Generations*, adopted on 3 February 2023, accessed at <https://www.ohchr.org/sites/default/files/documents/new-york/events/hr75-future-generations/Maastricht-Principles-on-The-Human-Rights-of-Future-Generations.pdf>

¹⁰² United Nations, *Summit of the Future*, 2024, United Nations <https://www.un.org/en/common-agenda/summit-of-the-future>; see also United Nations, *Our Common Agenda Policy Brief 1: To Think and Act for Future Generations*, 2023, United Nations <https://www.un.org/sites/un2.un.org/files/our-common-agenda-policy-brief-future-generations-en.pdf>

¹⁰³ For example, some countries have sought to represent the interests and voice of future generations within their parliamentary system, such as the Finnish Committee for the Future, established in 1993, and the United Kingdom's All-Party Parliamentary Group for Future Generations, established in 2018.

¹⁰⁴ Welsh Government, *Well-being of Future Generations* (Website) <https://www.gov.wales/well-being-of-future-generations-wales>

¹⁰⁵ State of Queensland, *The Queensland Plan: a 30-year vision for Queensland*, 2014, <https://www.queenslandplan.qld.gov.au/assets/images/qld-plan.pdf>

¹⁰⁶ *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors* (No 6) [2022] QLC 21

¹⁰⁷ HRA, s 26(2). The Court also engaged with right to equality (s 15), right to life (HRA, s 16), right to property (s 24), right to privacy (s 25) and cultural rights of First Nations peoples (HRA, s 28).

¹⁰⁸ *Waratah Coal* [1586].

¹⁰⁹ *ibid* [1594].

¹¹⁰ *ibid* [1603].

¹¹¹ *ibid* [1589].

¹¹² *ibid* [1598]-[1601].

