



**Australian Government**  

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**Department of Foreign Affairs and Trade**

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**OHCHR Questionnaire Responses - Australia**

Human Rights Council Resolution 24/16 on the role of prevention in the promotion and protection of human rights.

**Question 1**

- a. Please describe legislative, judicial, administrative and other measures aimed at prevention of human rights violations and abuses in place at the domestic level, both with regard to direct prevention (aiming to prevent violations from occurring by reducing the risk factors that cause violations) and indirect prevention (aimed at ensuring non-recurrence through investigations and addressing causes of violations as well as accountability).**
- b. Please describe any good practices in the implementation of these measures, as well as any challenges which have been faced.**
- c. Please describe how such measures encompass all branches of the State (executive, legislative and judicial) and other public or governmental authorities, at whatever level – national, regional or local.**

Australia is founded on the rule of law and has a strong tradition of respect for the rights and freedoms of every individual. The Australian political system is a constitutional democracy with a parliamentary system of government and a separation of powers between the legislature, executive and judiciary. Human rights in Australia are protected by our constitutional system, strong democratic institutions and specific legal protections.

Australia aims to prevent human rights violations and abuses through a range of measures, for example, through legislation, policies and programs at both the federal and state levels and through the common law. Mechanisms exist at the Commonwealth, state and territory level which seek to ensure that governments act consistently with Australia's international obligations. Those include a requirement under the *Human Rights (Parliamentary Scrutiny) Act 2011*, that all primary, and most secondary, legislation introduced into the federal

parliament be accompanied by a Statement of Compatibility with human rights. The requirement for a Statement of Compatibility encourages early and ongoing consideration of human rights in policy and legislative development. The Act also created the Parliamentary Joint Committee on Human Rights. The role of the Committee is to consider the compatibility of proposed legislation with human rights. It is also able to examine existing laws for compatibility with human rights and inquire into any matter relating to human rights referred to it by the Attorney-General.

The Australian Human Rights Commission (discussed in Question 2) also plays an important national role in promoting awareness of, and respect for, human rights in the community and conciliating anti-discrimination and human rights complaints. Further, each Australian state and territory has its own body dedicated to promoting human rights, anti-discrimination and equal opportunity. Together with the Australian Human Rights Commission, these bodies constitute the Australian Council of Human Rights Agencies.

## **Question 2**

- a. What action-oriented policies, practices and strategies to prevent human rights violations and abuses have been put in place at the national level, including the establishment of independent national institutions, national human rights action plans and any early warning mechanisms?**
- b. Please describe how national human rights institutions contribute to prevention of human rights violations.**
- c. In those States that have established a national preventative mechanism under the Optional Protocol to the Convention against Torture, please provide information on any lessons learnt regarding prevention of torture that may also apply to prevention of other human rights violations.**

The Australian Human Rights Commission is Australia's national human rights institution and plays a central role in protecting and promoting human rights in Australia, and investigating and conciliating human rights complaints. The Commission meets the criteria for A-status human rights institutions set out in the United Nations *Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights*. The Commission's functions are set out in the *Australia Human Rights Commission Act 1986* (Cth). These functions include providing education and raising public awareness about human rights, handling complaints of discrimination and breaches of human rights,

researching human rights issues and contributing to policy developments and legal advocacy on human rights issues.

Domestic legislation further protects human rights. For example, anti-discrimination laws implement rights to non-discrimination and equality, and the *Privacy Act 1988* gives effect to the right to freedom from arbitrary or unlawful interferences with privacy by protecting personal information collected by Government agencies and many private sector organisations.

Other institutions also play a role in protecting and promoting human rights in Australia, including Parliamentary Committees, the Commonwealth Ombudsman, the Australian Law Reform Commission and Royal Commissions.

### **Question 3**

- a. Please describe what policies and processes are in place at the national level to collect, maintain and analyse statistical records on the situation of human rights in the country, in order to monitor the human rights situation and inform the formulation of prevention strategies and programmes; and please describe any good practices and the main challenges in this regard.**
- b. Please describe how statistical collection ensures the inclusion of all persons and groups.**

The Australian Human Rights Commission collects and publishes data, in its annual report, on human rights enquiries and complaints in Australia. This data is disaggregated by a number of factors, including for example, type of complaint, state or territory of origin and country of birth (within or outside of Australia). The Commission also publishes reports annually by the Aboriginal and Torres Strait Islander Social Justice Commissioner and the Children's Commissioner on the status of enjoyment of rights of Indigenous Australians and children. The Australian Bureau of Statistics also collects, analyses and publishes data that is used to inform national policy. This data is available through its website.

### **Question 4**

**What measures have been taken to promote a human rights culture among the population and increase the level of human rights awareness in your country, including among public officials?**

Human rights education remains a key priority for the Australian Government. The Australian Human Rights Commission provides public education and human rights

awareness in Australia, including through targeted resources for teachers, students, public servants, businesses and vocational education and training, and grant and funding programs. The purpose of the *Human Rights (Parliamentary Scrutiny) Act 2011* is also to foster a human rights culture within the public service.

### **Question 5**

- a. How have partnerships with civil society been strengthened to harness their experience and expertise to promote and protect human rights?**
- b. What roles and actions can and do civil society and NGOs take to prevent human rights violations?**

Non-Government Organisations (NGOs) and civil society make an important contribution to the protection and promotion of rights in Australia, including by contributing to public debate and informing government policy.

The Australian Government is committed to working with civil society and NGOs, including through an annual ‘NGO Forum on Human Rights’ which serves as a comprehensive consultation mechanism for discussion about domestic and international human rights issues.

### **Question 6**

**What measures and procedures have been put in place to ensure effective follow-up to recommendations regarding your country issued by international or regional human rights mechanisms, and which may contribute to preventing human rights violations?**

The Australian Government gives serious consideration to recommendations by international and regional human rights mechanisms. The Government has established a public online database of recommendations from the UN human rights system, including recommendations made by UN human rights treaty bodies to Australia, as well as recommendations made to Australia in the Universal Periodic Review.

The Australian Government also follows-up on recommendations in coordination with state and territory governments and across the federal level through such mechanisms as interdepartmental and intergovernmental meetings.

Australia devotes particular attention to strengthening and improving UN human rights bodies including the UN Human Rights Council, the UN General Assembly Third Committee and the Office of the High Commissioner for Human Rights.

### Question 7

- a. **What legislative, judicial, administrative and other measures are in place to provide victims of human rights violations by state actors and abuses by non-State actors with an effective remedy?**
- b. **What measures are in place to ensure that all can access remedies in practice?**

The Australian Human Rights Commission investigates and attempts to conciliate complaints of breach of human rights from all people in Australia. This includes complaints against private individuals and against the Australian Government. If a party cannot resolve their complaint through conciliation, they may seek an effective remedy through the Federal Court. Human rights complaints made to the Commission under the *Australian Human Rights Commission Act*, if not resolved through conciliation, may lead to a finding and recommendation by the Commission, which is tabled in Parliament.

At the Federal level, The *Racial Discrimination Act 1975*, *Sex Discrimination Act 1984*, *Disability Discrimination Act 1992* and *Age Discrimination Act 2004* also provide a suite of protections to all people in Australia.

State and territory governments have similar legislation and complaints mechanisms in place to prevent human rights violations and provide victims with an effective remedy.

Access to these measures is available to all people in Australia.

### Question 8

**What contributions do international and regional organisations make to the prevention of human rights violations? What additional role could they play?**

International and regional organisations join NGOs and Australian civil society in making an important contribution to the protection and promotion of rights in Australia, including by contributing to public debate, informing government policy and making recommendations to the Australian government through processes and mechanisms such as the Universal Periodic Review. Australia adopts a positive and constructive approach to its relationship with UN human rights treaty bodies.