

AUSTRALIA 2014 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Australia is a constitutional democracy with a freely elected federal parliamentary government. In free and fair federal parliamentary elections held in September 2013, the Liberal Party and National Party coalition won a majority in the 150-seat House of Representatives and formed a government with Tony Abbott as prime minister. Authorities maintained effective control over the security forces.

The main human rights challenges reported were domestic violence against women and children, particularly in indigenous communities; discrimination against indigenous people; and policies affecting asylum seekers, including lengthy detention and austere detention center conditions for some attempting to reach the country by sea.

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

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

a. Arbitrary or Unlawful Deprivation of Life

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

b. Disappearance

There were no reports of politically motivated disappearances, abductions, or kidnappings.

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

The law prohibits such practices, and the government generally respected these provisions. There were occasional reports police and prison officials mistreated suspects in custody. Some indigenous groups asserted that harassment of indigenous persons and racial discrimination by some police and prison custodians persisted.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards.

Physical Conditions: According to the Australian Bureau of Statistics (ABS), from March to June the average number of inmates in prison countrywide (excluding persons in community-based and other minimum-security facilities) was 34,034, including 2,644 women and 8,744 unsentenced inmates. Unsentenced inmates included pretrial detainees, convicted prisoners awaiting sentencing, and persons awaiting deportation. According to the Productivity Commission's *Report on Government Services 2014*, in 2012-13 prison utilization was 96 percent of prison design capacity. In April the Western Australian Inspector of Custodial Services described conditions at the Roebourne Regional Prison in Western Australia as "intolerable and inhumane." The Department of Corrective Services stated it would review climate control measures, including air conditioning.

In May 2013 the Australian Institute of Criminology reported 58 deaths in prison from July 2010 through June 2011, including 12 of indigenous persons. The annual rate of death for indigenous prisoners was 0.16 per 100 compared with 0.22 per 100 for nonindigenous prisoners. Of the 12 indigenous deaths, eight were from natural causes, three from suicide, and one from other causes. On August 4, an indigenous woman, whom authorities detained for unpaid fines, died in a Western Australian police watch house after complaining of feeling ill. Police stated that on August 2 and August 3, she received a certificate of her medical fitness to be held in custody. A police internal affairs unit was to conduct an investigation and report to the state coroner. On October 23, the Department of Corrective Services stated an indigenous man died in a Perth prison and the coroner would investigate. The media reported the man committed suicide.

Administration: Recordkeeping on prisoners was adequate. Both federal and state governments funded "juvenile diversion" programs to keep young persons out of the court and prison systems. Federal, state, and territorial government ombudsmen can serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders; addressing the status and circumstances of confinement of juvenile offenders; and improving pretrial detention, bail, and recordkeeping procedures. Prisoners and detainees had access to visitors and could observe religious practices. They could submit complaints to government-funded legal aid offices; federal, state, and territorial ombudsmen; and judicial authorities without censorship. Authorities investigated

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

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

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

The armed forces, under the minister for defense, are responsible for external security. The Australian Federal Police (AFP), under the minister for justice, and state and territorial police forces are responsible for internal security. The AFP enforces national laws, and state and territorial police forces enforce state and territorial laws. Civilian authorities maintained effective control over the armed forces and police, and the government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment of Detainees

Police officers may seek an arrest warrant from a magistrate when a suspect cannot be located or fails to appear, but they also may arrest a person without a warrant if there are reasonable grounds to believe the person committed an offense. Police must inform arrested persons immediately of their legal rights and the grounds for their arrest, and arrested persons must be brought before a magistrate for a bail hearing at the next sitting of the court. The law permits police to hold individuals in preventive detention for up to 48 hours under federal law and up to 14 days under state and territory laws, without charge, if a senior police official finds it is “reasonably necessary to prevent a terrorist act or preserve evidence of such an act.” Individuals may be detained for an additional 24 hours under court order. Authorities detained 15 persons during September counterterrorism raids in Sydney and used preventive detention orders for the first time to hold three suspects for approximately 36 hours.

The law states 24 hours is the maximum investigation period for which a person may be held and questioned without charge, unless extended by court order. In the case of a terrorism suspect, however, the law establishes a seven-day limit on the total time the suspect can be held if the questioning is spread over several days.

A separate provision of law permits the attorney general to grant the Australian Security Intelligence Organization (ASIO) authority to detain a person for a continuous period of up to 168 hours (seven days) in special circumstances, such as “reasonable grounds for believing that issuing the warrant to be requested will substantially assist the collection of intelligence that is important in relation to a terrorism offense.” The ASIO, however, had not used this authority.

The law permits a judge to authorize “control orders” on individuals suspected of involvement with terrorism-related activities. These orders may include a range of measures, such as monitoring of suspects and house arrest, and may be in effect for up to one year without filing criminal charges. If a control order remains warranted after one year, a new court order must be sought.

By law the Independent National Security Legislation Monitor helps ensure that counterterrorism laws strike an appropriate balance between protecting the community and protecting human rights. The AFP, the Australian Crime Commission, and intelligence agencies are subject to parliamentary oversight.

Bail generally is available to persons facing criminal charges unless the person is considered a flight risk or charged with an offense carrying a penalty of 12 months’ imprisonment or more. Attorneys and families were granted prompt access to detainees. Government-provided attorneys are available to give legal advice to detainees who cannot afford counsel. Arrested persons enjoy additional legal protections, such as the ability to challenge the lawfulness of a detention and apply for compensation if unlawfully detained.

Detention of Rejected Asylum Seekers or Stateless Persons: A small number of asylum seekers remained in long-term detention despite having exhausted the appeal process. They could not be returned to their home country because they lacked travel documents or could not obtain necessary transit visas.

e. Denial of Fair Public Trial

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

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. In state district and county courts, and in state and territorial supreme courts, a judge and jury try serious offenses. Defendants enjoy a presumption of innocence and cannot be compelled to testify or confess guilt. They have the right to be informed promptly and in detail of the charges, with free interpretation as necessary, the right to an attorney, and adequate time and facilities to prepare a defense. Government-funded attorneys are available to low-income persons. The defendant's attorney can question witnesses, present witnesses and evidence, access relevant government-held evidence, and appeal the court's decision or the sentence imposed.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

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

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

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

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Although the constitution does not explicitly provide for freedom of speech or press, the High Court has held that a right to freedom of expression is implied in the constitution, and the government generally respected these rights. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of speech and press.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. The internet was widely available to and used by citizens. According to the ABS, 83 percent of households had access to the internet at home.

Law enforcement agencies require a warrant to intercept telecommunications, including internet communications. In emergency situations the director general of the ASIO may issue a warrant for this purpose without prior judicial authorization, but the attorney general must be informed.

The Australian Communications and Media Authority (ACMA) maintained a list of “refused classification” website content, primarily pertaining to child pornography, sexual violence, and other activities illegal in the country, compiled as a result of a consumer complaints process. The ACMA may issue a notice to the internet service provider to remove domestically hosted “refused classification” material, or links to such material, that is the subject of a complaint if an investigation concludes the complaint is justified. The list is available to providers of filtering software. An owner or operator of such a website can appeal an ACMA decision to the Administrative Appeals Tribunal (AAT), an executive body that reviews administrative decisions by government entities. Since 2010 three major telecommunications providers voluntarily blocked websites on Interpol’s list of child-abuse links.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

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

c. Freedom of Religion

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

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

Protection of Refugees

The government maintains a humanitarian refugee program that includes several types of visas available to refugees for resettlement in Australia. The UNHCR identifies and refers the majority of applicants considered under the program. The government announced that for the fiscal year that began on July 1, the country would have a humanitarian refugee intake of 13,750 persons. This number includes a minimum of 2,200 places for Syrian refugees, 2,200 places for Iraqi refugees, and at least 1,000 places reserved for women at risk and their dependents.

Access to Asylum: The law provides for granting of asylum or refugee status, and the government has a system for providing protection to refugees.

The number of asylum seekers arriving by sea significantly increased between 2008 and 2013, putting pressure on detention center capacity, processing times, and the capacity of the humanitarian refugee program. In the 2012-13 fiscal year, the government recorded 25,750 such arrivals, compared with 25 in 2007-08. In September 2013 the government launched the multi-agency Operation Sovereign Borders, aimed at preventing the arrival of asylum seekers by boat. Since the OSB's inception, 23 boats carrying 1,200 asylum seekers arrived in the country. Only one boat has arrived since December 2013 when the government instituted a boat turn-back policy. The country retained third-party processing of asylum seekers in Nauru or in Papua New Guinea for asylum seekers that arrived after July 19, 2013. Authorities continued their policy of not settling those arrivals in

Australia and forced intercepted boats carrying smuggled persons back into the territorial waters of their country of embarkation.

The law authorizes the immigration minister to designate a country as a regional offshore processing center, if the minister determines it is in the national interest to do so, and requires the minister to notify parliament, which may then disapprove the proposed designation within five working days of notification. The law states that such a designation “need not be limited by reference to the international obligations or domestic law of that country.” Under the government’s policy on asylum processing for unauthorized maritime arrivals, asylum seekers transferred to third countries for regional processing have their asylum claims assessed by the country in which the claim is processed.

In July 2013 the former government entered into a Regional Resettlement Arrangement with Papua New Guinea to send all unauthorized maritime arrivals to Papua New Guinea for assessment and to resettle those found to be refugees in Papua New Guinea. In August 2013 Nauru became part of the arrangement. The government then began transferring all unauthorized maritime asylum seeker arrivals to Papua New Guinea and Nauru for processing. In April the government announced that those found to be refugees in Nauru would be granted resettlement on the island for an initial period of five years. As of November Papua New Guinea had not approved any permanent resettlement arrangements but had begun granting refugee status to individuals for release into the local community to receive support services at an open facility, including language training, cultural orientation, and case support. In September the government reached agreement with Cambodia to resettle refugees on a voluntary basis from the processing center in Nauru. The UNHCR has consistently advocated for asylum seekers to have their claims assessed and to benefit from protection in the territory of the country where they arrive or that has jurisdiction over them.

In July a Customs Department vessel detained at sea for four weeks a group of 157 Tamil asylum seekers from a boat smuggling persons that originated in India while the government discussed their status with Indian government officials. Australian authorities eventually transferred the asylum seekers to an onshore processing facility in Western Australia. After the asylum seekers refused to meet with Indian consular officials to determine their nationality and claims, authorities sent them to the offshore processing facility in Nauru.

In his inaugural speech in September, the UN high commissioner for refugees stated that the country’s asylum policies were “leading to a chain of human rights

violations, including arbitrary detention and possible torture following return to home countries.” He also called the Cambodia resettlement arrangement “a worrying departure from international norms.”

There is a statutory obligation for the government to facilitate access to legal representation for persons in immigration detention.

In May 2013 the Commonwealth Ombudsman Office, which safeguards the community in its dealings with government agencies, reported there were 11 deaths in immigration detention between July 2010 and April 2013: four suicides, two deaths due to natural causes; four deaths under coroner investigation; and one death in April 2013 under police investigation. The ombudsman found “a strong correlation between the rise in the average time in detention and the increase in self-harming behavior during 2011” and a significant decrease in the rate of self-harm after October 2011, when asylum seekers received bridging visas to reside in the community while authorities processed their asylum claims.

Delays in processing asylum applications resulted in protracted detention of some asylum seekers. The commonwealth ombudsman reviews all cases of persons in detention for two years or more. As of August a total of 85 persons remained in immigration detention after two or more years, compared with 399 in June 2013. The former government stated that asylum seekers in Nauru could wait up to five years for their applications to be processed, based on the “no advantage” principle that those arriving by boat be processed according to the same timeline as other asylum seekers. In a February riot at the Manus Island detention center in Papua New Guinea, one asylum seeker was beaten to death, another lost an eye, and a third had gunshot injuries. Medical staff treated 69 injured asylum seekers. In May, following an independent review of the incident commissioned by the Australian government, the government began to implement comprehensive and continuing training for Papua New Guinea staff. In August Papua New Guinea police arrested and charged two staff members with murder in the February death of an asylum seeker. In September an Iranian asylum seeker died in a Brisbane hospital from septicemia stemming from a foot injury he sustained at the Manus Island center. The immigration minister stated the Queensland coroner would be advised of the death and the Department of Immigration’s chief medical officer would conduct a review.

As of August the number of minors in immigration detention fell from 1,392 in September 2013 to 876. On August 19, the government announced arrangements

to enable more minors to be released into the community while their applications were processed.

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

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens the ability to change their government through free and fair elections, which citizens exercised through elections based on universal suffrage and mandatory voting.

Elections and Political Participation

Recent Elections: The country held free and fair federal parliamentary elections in September 2013. The Liberal-National Party Coalition defeated the Labor government, and Tony Abbott replaced Kevin Rudd as prime minister. The coalition won 90 seats in the 150-seat House of Representatives, the Labor Party 55, and others five.

Participation of Women and Minorities: There are no legal impediments to voting or holding public office for women or minorities. There were 68 women in the 226-seat federal parliament (39 in the House of Representatives and 29 in the Senate). The speaker of the house and three judges of the seven-member High Court were women. There was one female minister--the foreign minister and also deputy leader of the Liberal Party--in the 19-member federal cabinet, four women among the 11 ministers outside the cabinet, and one woman among the 12 parliamentary secretaries. There was one woman among the eight premiers and chief ministers of the six states and two territories.

Indigenous persons and other minorities generally were underrepresented among the political leadership relative to their share of the population. In 2010 voters elected an indigenous person to the federal House of Representatives for the first time, and voters elected the first indigenous woman to the Senate in September 2013. There were two indigenous persons in the Western Australia state

parliament and six in the Northern Territory legislative assembly. The Tasmania and New South Wales state parliaments and the Australian Capital Territory legislative assembly each had one indigenous member.

Section 4. Corruption and Lack of Transparency in Government

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

Corruption: In April the premier of New South Wales resigned after admitting he failed to report a gift he received from a company under investigation by the New South Wales Independent Commission Against Corruption. In May the New South Wales police minister resigned after being implicated in an alleged scheme involving illegal political donations.

Queensland, Western Australia, and New South Wales states have anticorruption bodies that investigate alleged government corruption, and every jurisdiction has an ombudsman who investigates and makes recommendations in response to complaints about government decisions. These bodies actively collaborated with civil society, operated independently and effectively, and had adequate resources.

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

Public Access to Information: Federal, state, and territorial governments have freedom-of-information (FOI) laws that provide the public with access to government information; some charge application and processing fees. The federal government does not charge application fees. Government information may be exempted from disclosure to protect essential public interests or the private or business affairs of others. An applicant, including foreign media, may appeal a government decision to deny a request for information to the quasi-legal AAT. An adverse AAT decision may be appealed to the Federal Court. FOI laws, including appeal mechanisms, generally functioned effectively. A FOI commissioner is responsible for promoting and protecting information rights.

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

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

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

In addition to the HRC at the federal level, each state and territory has a human rights ombudsman.

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

Federal laws prohibit discrimination based on disability, race, color, descent or national or ethnic origin, marital status, age, gender, gender identity, sexual orientation, religion, political opinion, family or caregiver responsibilities, pregnancy, and intersex status. An independent judiciary and a network of federal, state, and territorial equal opportunity offices effectively enforced antidiscrimination laws.

Women

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and the government enforced the law effectively when cases were reported to authorities. The laws of the individual states and territories prescribe the penalties for rape.

The law prohibits violence against women, including domestic abuse, and the government enforced the law. Violence against women remained a problem, particularly in indigenous communities.

According to the 2012 ABS Personal Safety Survey (the latest available), an estimated 41 percent of women who were 18 and older (3,560,600) had experienced violence after the age of 15, and 19 percent had experienced sexual violence after the age of 15. The ABS reported that during 2013 police recorded 19,907 victims of sexual assault, 84 percent of whom were women.

Observers believed domestic violence was substantially underreported, particularly in indigenous communities, due to cultural factors and the isolation of many indigenous communities. Federal and state governments funded programs to combat domestic violence and support victims, including the funding of numerous women's shelters. Police received training in responding to domestic violence. Federal, state, and territorial governments collaborated on the National Plan to Reduce Violence Against Women and their Children 2010-22, the first effort to coordinate action at all levels of government to reduce violence against women.

Female Genital Mutilation/Cutting (FGM/C): FGM/C is a criminal act in all states and territories of the country, and these laws apply extraterritorially to protect citizens or residents from being subjected to FGM overseas. There were no reports of FGM/C affecting women during the year. In April 2013 the government held a national summit on FGM/C and subsequently announced a National Compact on Female Genital Mutilation. In July 2013 the government announced it would provide A\$1 million (\$874,000) in funding for 15 new projects aimed at ending FGM/C among Australians both domestically and abroad.

Sexual Harassment: The law prohibits sexual harassment. Complaints of sexual harassment can lead to criminal proceedings or disciplinary action against the defendant and compensation claims by the plaintiff. Complaints of sexual harassment as well as sex discrimination may be submitted to the HRC. The HRC received 215 complaints of sexual harassment from July 2012 to June 2013; separate statistics on resolution of harassment complaints were not available.

Reproductive Rights: Couples and individuals have the right to decide freely the number, spacing, and timing of their children and to have the information and means to do so. They have the right to attain the highest standard of reproductive health, free from discrimination, coercion, and violence. State and territorial governments provided comprehensive sex education and sexual health and family planning services. Women had access to contraception and skilled medical care, including essential prenatal, obstetric, and postpartum care. Indigenous persons in isolated communities had more difficulty accessing such services than the

population as a whole. Cultural factors and language barriers also inhibited use of sexual health and family planning services by indigenous persons, and rates of sexually transmitted diseases and teenage pregnancy among the indigenous population were higher than among the general population.

Discrimination: Women enjoy the same legal rights and status as men, and the law provides for pay equity. According to the government's Workplace Gender Equality Agency (WGEA), the gender pay gap was 18.2 percent in May, with the average weekly regular time earnings of women working full-time equal to A\$1,276 (\$1,115) per week, compared with men who earned an average weekly wage of A\$1,559 (\$1,362). According to the WGEA, the gender pay gap had increased by 1.7 percent since 1995. The law requires organizations with 100 or more employees to establish a workplace program to remove barriers to women entering and advancing in their organization. The law also prohibits discrimination against employees on the basis of family responsibilities, including breastfeeding.

The HRC received 417 complaints under the Sex Discrimination Act from July 2012 to June 2013. Of 533 complaints finalized during this period, 461 included claims filed on grounds of sex discrimination and 215 included claims filed on grounds of sexual harassment (some complaints had multiple grounds). Of the finalized complaints, 165 were terminated, 219 were resolved through conciliation, 122 were discontinued or withdrawn, and 27 were administratively closed.

There were highly organized and effective private and public women's rights organizations at the federal, state, and local levels. The federal sex discrimination commissioner, a part of the HRC, undertakes research, formulates policy, and conducts educational work designed to eliminate gender discrimination. The Office for Women, under the Department of the Prime Minister and Cabinet, focuses on reducing violence against women, promoting women's economic security, and enhancing the status of women.

Children

Birth Registration: Citizenship is not derived by birth in the country. Children are citizens if at least one parent is a citizen or permanent resident at the time of the child's birth. Children born in the country to parents who are not citizens or permanent residents acquire citizenship on their 10th birthday if they lived most of their life in the country. Births generally were registered promptly.

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

According to the Australian Institute of Health and Welfare, a national agency that maintains health statistics and information, there were approximately 40,571 children in substantiated abuse or neglect cases during the 2012-13 fiscal year. This represented approximately 7.8 per 1,000 children under age 18.

Early and Forced Marriage: The legal minimum age of marriage is 18 for both boys and girls. A person between the ages of 16 and 18 may apply to a judge or magistrate in a state or territory for an order authorizing marriage to a person who has attained the age of 18, but the marriage of the minor still requires parental or guardian consent. Two persons under age 18 may not marry each other. While no statistics were available, reports of marriages involving a person under age 18 were rare.

Female Genital Mutilation/Cutting (FGM/C): There were no reports of FGM/C affecting children during the year.

Sexual Exploitation of Children: The law provides for penalties of up to 25 years' imprisonment for commercial sexual exploitation of children. There were documented cases of children under the age of 18 engaged in prostitution.

The law prohibits citizens and residents from engaging in, facilitating, or benefiting from sexual activity with children under the age of 16 overseas and provides for a maximum sentence of 17 years' imprisonment for violations. The government continued its awareness campaign to deter child sex tourism through the distribution of pamphlets to citizens and residents traveling overseas.

The legal age for consensual sex is 16 in the Australian Capital Territory, New South Wales, the Northern Territory, Victoria, and Western Australia and 17 in Tasmania and South Australia. In Queensland the age of consent for anal sex is 18, while the age of consent for all other sexual acts is 16. Maximum penalties for violations vary across jurisdictions. Defenses include reasonable grounds for

believing the alleged victim was above the legal age of consent and situations in which the two persons are close in age.

All states and territories criminalize the possession, production, and distribution of child pornography. Maximum penalties for these offenses range from four to 21 years' imprisonment. Federal laws criminalize using a "carriage service" (for example, the internet) for the purpose of possessing, producing, and supplying child pornography. The maximum penalty for these offenses is 10 years' imprisonment, a fine of A\$275,000 (\$240,350), or both. Federal law allows suspected pedophiles to be tried in the country regardless of where the crime was committed. The AFP worked with its international partners to identify and charge persons involved in the online exploitation of children.

The government largely continued federal emergency intervention measures initiated in 2007 to combat child sexual abuse in 73 Aboriginal communities in the Northern Territory. These measures included emergency bans on sales of alcohol and pornography, restrictions on the payment of welfare benefits in cash, linkage of support payments to school attendance, and medical examinations for all indigenous children under the age of 16 in the Northern Territory. Parliament extended most of these interventions through 2022.

While public reaction to the interventions remained generally positive, some Aboriginal activists asserted there was inadequate consultation and the measures were racially discriminatory, since nonindigenous persons in the Northern Territory were not initially subject to such restrictions.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance at travel.state.gov/content/childabduction/english/legal/compliance.html, as well as country-specific information at travel.state.gov/content/childabduction/english/country/australia.html.

Anti-Semitism

According to the 2011 census, the country's Jewish community numbered 97,300 persons. During the 12-month period ending in September, the nongovernmental Executive Council of Australian Jewry reported 312 anti-Semitic incidents logged by it, Jewish community umbrella groups in each state and the Australian Capital Territory, and community security groups, compared with 231 logged by those

same organizations during the previous 12 months. These incidents included physical and verbal assaults, such as pelting Jewish persons walking to and from synagogues with eggs, vandalism, and harassment. In July a Jewish man in Melbourne reported being attacked and injured by several men who shouted anti-Semitic statements. No arrests have been made in the case. In August police arrested five male teenagers between the ages of 15 and 17 for boarding a school bus in Sydney and threatening 30 Jewish school children. The media alleged the perpetrators, who were released into their parents' custody pending further investigation, threatened to slit the children's throats and yelled "Kill the Jews" and "Heil Hitler."

In 2013 five Jewish adults allegedly were assaulted in Sydney during a suspected anti-Semitic confrontation. Authorities arrested and charged two minors and two adults following the incident. The minors were subject to closed proceedings in juvenile court, and the media reported in July they remained in a facility for minors. The magistrate dismissed the case against one adult, and the prosecutor's office withdrew charges against the second adult citing "insufficient evidence."

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment; education; access to premises; access to air travel and other forms of transport; provision of goods, services (including health services) and facilities; accommodation; purchase of land; activities of clubs and associations; sport; and the administration of federal laws and programs. The government effectively enforced the law.

The disability discrimination commissioner, a part of the HRC, promotes compliance with federal laws that prohibit discrimination against persons with disabilities. The commissioner also promotes implementation and enforcement of state laws that require equal access to buildings and otherwise protect the rights of persons with disabilities, including ensuring equal access to communications and information. The law also provides for mediation by the HRC of discrimination complaints, authorizes fines against violators, and awards damages to victims of discrimination.

Schools are required to comply with the Disability Discrimination Act, and children with disabilities generally attended school. The federal government's Better Start for Children with Disability initiative provided up to A\$12,000 (\$10,488) per person for early intervention services and treatment for eligible children with disabilities. The government's More Support for Students with Disabilities initiative allocated A\$300 million (\$262 million) in additional funding for 2012, 2013, and 2014. The government also cooperated with state and territorial governments that ran programs to assist students with disabilities.

The HRC's 2013 annual report stated that 793 complaints, citing 1,843 alleged grounds of discrimination, were filed under the Disability Discrimination Act from July 2012 to June 2013. Of these, 33 percent related to employment and 34 percent involved the provision of goods and services. The HRC resolved 961 complaints during the period, including 424 through conciliation.

In July 2013 the government launched the National Disability Insurance Scheme, a national disability insurance program and allocated A\$14.3 billion (\$12.5 billion) over seven years to the program. A trial stage benefitting 26,000 persons began in July 2013.

In May 2013 the High Court upheld a 2012 ruling by a lower court that found the Business Services Wage Assessment Tool, an instrument used by disability organizations to determine wages, discriminated against workers with mental disabilities. The government subsequently appealed to the HRC for a three-year exemption from the Disability Discrimination Act to continue using the instrument "while alternative wage setting arrangements are considered, devised, and/or established and implemented." On April 19, the HRC granted a one-year exemption. The government instituted changes to the Disability Support Pension to encourage persons with disabilities to enter the workforce when they have a capacity to do so, including compulsory workforce activities for individuals under age 35 who can work for more than eight hours per week.

National/Racial/Ethnic Minorities

According to its 2013 annual report, the HRC received 500 complaints under the Racial Discrimination Act from July 2012 to June 2013, citing 997 alleged grounds of discrimination. Of these, 25 percent involved employment, 29 percent involved provision of goods and services, and 27 percent alleged "racial hatred." The HRC

reported resolution of 453 complaints, including 189 through conciliation (see section 7.d.).

Indigenous People

According to the 2011 census, Aboriginals and Torres Strait Islanders numbered approximately 548,370 persons, or 2.5 percent of the total population.

Indigenous ownership of land was predominantly in nonurban areas. Indigenous-owned or -controlled land constituted approximately 20 percent of the country's area (excluding native title lands) and nearly 50 percent of the land in the Northern Territory. The National Native Title Tribunal resolves native land title applications through mediation and acts as an arbitrator in cases where the parties cannot reach agreement about proposed mining or other development of land. Under a 2002 High Court ruling, native title rights do not extend to mineral or petroleum resources and, in cases where leaseholder rights and native title rights are in conflict, leaseholder rights prevail but do not extinguish native title rights.

The Indigenous Land Corporation is a special account of A\$1 billion (\$874 million) that provides a continuing source of funds for indigenous persons to acquire or manage land for the benefit of indigenous Australians. It receives a minimum annual payment of A\$45 million (\$39.33 million) from the federal government. It is separate from the National Native Title Tribunal and is not for payment of compensation to indigenous persons for loss of land or to titleholders for return of land to indigenous persons.

As part of the intervention to address child sexual abuse in Northern Territory indigenous communities (see section 6, Children), in 2007 the government took control of 64 indigenous communities through five-year land leases. The federal government's Stronger Futures in the Northern Territory plan begun in 2012 repealed the emergency response and provided for negotiation of voluntary long-term leases. The government allocated A\$380.8 million (\$324.8 million) to Stronger Futures from July 2013 to June to address indigenous disadvantage.

In March 2013 the parliament unanimously passed an act of recognition intended to build momentum for a future referendum for constitutional recognition of indigenous people. The new government supported constitutional recognition of indigenous people and was working toward a referendum to achieve this aim. The portfolio of indigenous affairs was granted cabinet-level status, and indigenous policy coordination shifted to the Department of Prime Minister and Cabinet. The

prime minister maintained his commitment to spend time each year living in an indigenous community and spent five days in several remote indigenous communities in Arnhem Land in the Northern Territory in September.

Since 2008 the prime minister has reported to parliament the government's progress on eliminating indigenous inequalities at the beginning of each year. In February the prime minister stated there had been almost no progress in closing the 10-year disparity in life expectancy between indigenous and nonindigenous Australians; that there had been very little improvement towards halving the gap in reading, writing, and numeracy; and that the employment rate of indigenous people had not improved. The government enacted specific measures, such as increasing the number of truancy officers in remote areas, to expand its efforts to address the gap between indigenous and nonindigenous school attendance.

According to the ABS, as of June 2013 the rate of imprisonment for Aboriginal and Torres Strait Islander individuals was 15 times higher than the rate for nonindigenous persons and indigenous prisoners comprised 27 percent of the prison population. According to the Australian Institute of Health and Welfare, life expectancy for indigenous men was an estimated 69.1 years, compared with 79.7 years for nonindigenous men; life expectancy for indigenous women was an estimated 73.7 years, compared with 83.1 years for nonindigenous women; and the indigenous unemployment rate was 16 percent, compared with approximately 5 percent for the nonindigenous population.

The Productivity Commission's *2012 Indigenous Expenditure Report* estimated that total direct indigenous expenditure in 2010-11 was A\$25.4 billion (\$22.2 billion). This resulted in spending of A\$44,128 (\$38,568) per indigenous citizen, compared with A\$19,589 (\$17,121) for other citizens. The report found that the difference was due to "greater intensity of service use" and "additional costs of providing services."

The National Congress of Australia's First Peoples is the national representative body for Aboriginals and Torres Strait Islanders. From July 2012 it was designated to receive A\$29.2 million (\$25.5 million) over five years from the federal government. The HRC has an Aboriginal and Torres Strait Islander social justice commissioner.

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

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

The HRC received 16 complaints of discrimination based on sexual orientation from July 2012 through June 2013. Information on resolution of the complaints was not available.

The law provides protections against discrimination on the basis of sexual orientation, gender identity, and intersex status.

Other Societal Violence or Discrimination

In September there were reports of incidents targeting the Muslim and Christian communities following high-profile counterterrorism raids in Sydney, Brisbane, and Melbourne and the stabbing of two police officers by a Muslim extremist in Melbourne. Reported incidents included the vandalism of a number of mosques and verbal abuse of Muslims. In Sydney police charged a man with “armed intent to commit an indictable offense” after he entered a Muslim school on September 26 armed with a large knife and asked if the school was Islamic. Following a September 16 incident, authorities charged a juvenile in Sydney with intimidating a school staff member and offensive conduct after allegedly threatening a Christian school.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law protects the rights of workers, including public servants, to form and join unions and associate freely domestically and internationally. Labor laws protecting freedom of association apply equally to citizens, permanent residents, and migrant workers.

The law prohibits discrimination against individuals for membership or nonmembership in a union and provides for reinstatement of workers fired for union activity. Union officials have the right to enter workplaces if they hold right-of-entry permits granted by the Fair Work Commission (FWC). Written notice is generally required to enter a workplace and should be provided no less

than 24 hours and no more than 14 days before the proposed visit. A permit holder may enter premises to hold discussions with one or more employees. Eligibility to enter premises is not dependent on whether a union is party to an award or enterprise agreement, but rather on whether a union covers the work of a particular employee.

In September the FWC ruled that a union can represent an employee only if the employee is eligible to become a member of that union.

With regard to collective bargaining, the law requires that employers act in “good faith” when a majority of employees want a collective agreement and enables low-paid workers to engage in multi-employer “good faith bargaining.” A bargaining agent may represent either side in the process.

The law provides for the right to strike, including in essential services, such as law enforcement, air traffic control, and sanitation. The law confines strikes to the period when unions are negotiating a new enterprise agreement and specifies that strikes must concern matters under negotiation. This is known as “protected action.” Protected action provides employers, employees, and unions with legal immunity from claims of losses incurred by industrial action. The deadline to file an unfair dismissal claim is 21 days, and the time to file a general protections claim is 21 days. The law subjects strikers to penalties for taking industrial action during the life of an agreement and contains secondary action (e.g., sympathy strike) provisions. The law permits the government to stop strikes judged to have “significant economic harm” to the employer or third parties, but this provision was not used during the year. Industrial action must be authorized by a secret ballot of employees; unions complained this requirement was unduly time consuming and expensive to implement.

The government effectively enforced applicable laws, including federal, state, and territorial laws, regulations, and statutory instruments. The FWC is the national independent industrial relations management institution. Its functions include determining minimum wages and employment conditions and facilitating dispute resolution. The FWC’s general protections cover disputes over matters other than dismissal, such as freedom of association. If there is a dispute, the FWC will convene a conference between parties to facilitate a resolution. If the conference is unsuccessful, the parties may elect the FWC to arbitrate the dispute, or the applicant may pursue a ruling by a federal court. An applicant may also pursue a court ruling if one or both parties do not agree to participate in the FWC

conference. There were no reports such processes were subject to lengthy delays or appeals.

Freedom of association and collective bargaining were generally respected in practice. Unions carried out their functions free from government or political control. Almost all unions were affiliated with the Australian Council of Trade Unions (ACTU). Workers exercised the right to associate freely with generally few constraints, but some legal obstacles remained. For example, in New South Wales, registration of a union may be canceled if a strike has a substantially adverse effect on public service or defies an order of the New South Wales Industrial Relations Commission. There were no reports of any violations of freedom of association or collective bargaining or of antiunion discrimination.

An enterprise agreement--a collective agreement made at an enterprise level between employers and employees--cannot override relevant laws. For example, an enterprise agreement cannot include “a term that confers an entitlement or remedy in relation to unfair dismissal before the employee has completed the minimum employment period.”

b. Prohibition of Forced or Compulsory Labor

The law explicitly prohibits forced or compulsory labor, but there were some reports of foreign nationals who came to the country for temporary work being subjected to forced labor by employers or labor agencies in such sectors as agriculture, cleaning, construction, hospitality, manufacturing, and domestic service.

The law provides for sufficiently stringent penalties against forced labor that are commensurate with those prescribed for other serious crimes. Federal law includes specific prohibitions of forced labor and prescribed penalties of up to nine years' imprisonment for the offense. The law prohibits exploiting migrant employees through forced labor, sexual servitude, or slavery and prescribes penalties of up to five years' imprisonment and various fines.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

There is no federally mandated minimum age of employment, but state-imposed compulsory educational requirements, enforced by state educational authorities, effectively prevented most children from joining the work force full time until they reached the age of 17. Federal, state, and territorial governments effectively monitored and enforced a network of laws, which varied among jurisdictions, governing the minimum age for leaving school, claiming unemployment benefits, and engaging in specified occupations, including occupations identified as hazardous for workers under 18. The ACTU also monitored adherence to these laws. The Office of the Fair Work Ombudsman (FWO) actively sought to educate young workers about their rights and responsibilities.

The federal government and all states and territories have relevant laws and regulations, as well as effective institutional mechanisms for their enforcement, regarding child labor. Although some violations of these laws occurred, there was no indication of a child labor problem in any specific sector. For example, in February the Perth Industrial Magistrates' Court fined McDonalds Australia A\$15,000 (\$13,110) for employing a 14-year-old youth at unlawful hours. The minor completed five separate shifts after 10 p.m., including one shift of nearly 15 hours.

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

d. Discrimination with Respect to Employment or Occupation

Federal and state and territory laws provide protections against employment discrimination based on race, age, color, gender, gender identity, disability, national or ethnic origin, marital status, religion, political opinion, family or caregiver responsibilities, pregnancy, sexual orientation, and intersex status (see section 6). Federal and various state laws prohibit employment discrimination on the ground of HIV-positive status. The HRC reviews complaints of discrimination on the ground of HIV/AIDS status under the category of disability-related complaints, but a specific breakdown of HIV/AIDS-related cases was not available.

In April a federal court in Brisbane fined a restaurant A\$29,150 (\$25,477) for age discrimination. The FWO initiated the case after a 64-year-old employee of the restaurant informed the FWO he had been notified he would be terminated when he turned 65.

e. Acceptable Conditions of Work

Effective July 1, the FWC increased the national minimum wage for adults working full time (38 hours per week) by 3 percent, from A\$622.20 (\$544) per week to A\$640.90 (\$560), based on a minimum hourly rate of A\$16.87 (\$14.74). There was no official poverty-level income figure, but the minimum wage, combined with welfare payments, was intended to provide a decent standard of living for a worker and family. Although a formal minimum wage exists, most workers received higher wages through enterprise agreements or individual contracts. Above-minimum-wage classifications apply to certain trades and professions. The law requires equal pay for equal work.

A taxpayer-funded paid parental leave program pays the minimum wage rate for up to 18 weeks to workers who have worked for at least 330 hours during at least 10 of the 13 months prior to the birth or adoption of a child.

By law maximum weekly hours are 38 plus “reasonable” additional hours (determined according to the law, taking into account factors such as an employee’s health, family responsibilities, ability to claim overtime, pattern of hours in the industry, and amount of notice given). The law provides for paid annual holidays and premium pay for overtime. Industry standards or awards mandate rest periods and overtime pay. An employee may refuse to work overtime if the request is “unreasonable” considering the aforementioned factors.

There is a national safety net of minimum employment standards. In 2013 the former government lifted the mandatory employer contributions to retirement funds from 9 percent of a worker’s income to 9.25 percent and scheduled a gradual increase in contributions to 12 percent by 2019. In September the government slowed the trajectory to reach 12 percent by 2025. These contributions are not drawn from a worker’s wage. Migrant worker visas require that employers respect these protections and provide bonds to cover health insurance, worker’s compensation insurance, unemployment insurance, and other benefits.

The Fair Work Act, which entered into force on January 1, includes an antibullying provision that enables workers who are bullied at work to apply to the FWC for an order to stop the bullying. Another change made by the act enables workers who are pregnant to transfer to a safe job regardless of their time in employment.

Federal or state occupational health and safety laws apply to every workplace, including in the informal sector. Workers can remove themselves from situations that endangered health or safety without jeopardy to their employment, and authorities effectively protected employees in this situation.

Each state and territory effectively enforced its occupational health and safety laws through dedicated bodies that have powers to obtain information and initiate prosecutions, and unions used right-of-entry permits to investigate concerns. In New South Wales, for example, an individual can be sentenced to up to five years' imprisonment and/or receive a maximum fine of A\$300,000 (\$262,200), and a business can be fined up to A\$3 million (\$2.6 million), for exposing an individual to serious injury or illness. On September 15, following an official New South Wales investigation, a company was fined A\$210,000 (\$183,540) in connection with two deaths and one serious injury caused by a winery vat explosion in 2008. Since 2012 New South Wales, the Northern Territory, Queensland, South Australia, the Australian Capital Territory, and the federal government were part of "harmonized" occupational health and safety laws aimed at making it easier for workers and businesses to understand requirements across different states and territories.

The FWO provides employers and employees advice on their rights and has authority to investigate employers alleged to have exploited employees unlawfully. The ombudsman also has authority to prosecute employers who do not meet their obligations to workers. Employers can be ordered to compensate employees and are sometimes assessed fines. Between July 2013 and June, the FWO recovered more than A\$23 million (\$20.1 million) on behalf of 15,483 employees. Workers exercised their right to a safe workplace and have recourse to state health and safety commissions, which investigate complaints and order remedial action.

FWO inspectors may enter work sites if they reasonably believe it is necessary to ensure compliance with the Fair Work Act. An individual may be liable for a penalty of A\$10,200 (\$8,915) and a corporation A\$51,000 (\$44,575), if they refuse an inspector's request to review records.

During the past two decades, the percentage of the workforce regarded as temporary workers increased. Temporary workers include both part-time and casual employees. Part-time employees have set hours and the same entitlements as full-time employees. As of August the ABS reported that approximately 3.55 million persons (31 percent of the workforce) were employed as part-time workers, of whom 70 percent were women. Casual employees are employed on a daily or

hourly wage basis. They do not receive paid annual or sick leave, but the law mandates they receive additional pay to compensate for this, which employers respected in practice.

There were reports some individuals “457” employer-sponsored, skilled-worker visas were underpaid and used as a less expensive substitute for citizens. In September the immigration minister stated that a government-commissioned review had found no evidence to substantiate claims made by the previous government of widespread fraud in the “457” visa program. In September the FWO initiated legal action against a marine services company for allegedly underpaying a Jamaican citizen more than A\$44,000 (\$38,456) over 10 months. In 2013 parliament passed legislation requiring employers to undertake “labor market testing” before attempting to sponsor “457” visas. The federal government’s Temporary Skilled Migration Income Threshold policy prohibits positions from being nominated under the “457” program when the market rate annual salary is less than A\$53,900 (\$47,109).

In 2010 and 2011, the FWO investigated 4,561 cases regarding pay in the hospitality sector. The FWO subsequently launched a 2012-15 national campaign to assist employers and employees understand their rights and responsibilities.

According to Safe Work Australia, the government agency responsible to develop and coordinate national workplace health and safety policy, as of October 21, a total of 140 workers died while working during the year. The majority of the fatalities were in the transport, postal, and warehousing sector (52 deaths), the agriculture, forestry, and fishing sector (49), and construction (17).