

AMNESTY INTERNATIONAL



FOLLOW UP TO THE PREVIOUS REVIEW

1. Amnesty International is deeply concerned about the lack of progress by Australia with regard to protecting human rights on the ground.
2. Of the 290 recommendations in the previous cycle, Australia accepted 150 and noted 50.¹
3. We welcome the ratification in 2017² of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and the amendments to the Marriage Act 1961 to recognise same-sex marriage³ under Australian law.
4. There were 80 recommendations⁴ in the previous UPR to improve the rights and welfare of Indigenous Peoples. Australia claimed it was on-track to meet three of its 'Closing the Gap' targets for Indigenous Australians⁵. However, according to the most recent 2019 Closing the Gap Report (see below) just two of those targets are on track 12 years after they were first set.
5. Despite 25 states⁶ asking Australia to do more to protect the rights of refugees, more than 370 people are still being held offshore on Papua New Guinea (PNG) and Nauru as part of an agreement that all refugees arriving in Australia by boat be detained in PNG and Nauru in return for Australian Government funding. In the last review, Australia accepted many of the recommendations pertaining to refugee rights both onshore and offshore and yet eight years later, many of these men and women still suffer under very poor conditions, as systematically documented by Amnesty International.⁷
6. Australia accepted five recommendations to uphold religious freedom and to provide protection against religious discrimination.⁸ However, the introduction of the Government's Religious Discrimination Bill to Parliament in 2019, while focused on protecting religious groups, contravenes Australia's obligations under international law on the rights of equality and non-discrimination, including in the International Covenant on Cultural, Economic, and Social Rights (ICESCR) and the International Covenant of Civil and Political Rights (ICCPR).

THE NATIONAL HUMAN RIGHTS FRAMEWORK

DOMESTIC LAW

7. A number of key rights and freedoms have been subject to debate in Australia recently, including religious freedom, freedom of the press, freedom from discrimination, the rights of asylum seekers, and the rights of children and Indigenous Peoples. Australia is a party to those international treaties that protect these rights and freedoms. However domestic laws do not adequately implement these protections in Australia.
8. The Federal Government continues to resist pressure to introduce a Human Rights Act for Australia, which could ensure that the rights to freedom of religion, freedom of speech, right to protest and other fundamental rights are appropriately balanced and aligned across local, State and Federal government.
9. Human rights protections are found in individual pieces of Commonwealth⁹, State and Territory legislation

(aside from protections introduced in Queensland, Victoria and the ACT). As a result, jurisprudence to inform how best to balance human rights when they are in competition is equally piecemeal or underdeveloped. The Federal government should work to ensure equal and consistent human rights protection for all persons in Australia, and a Human Rights Act would be one way to implement this.

10. Australia's existing Human Rights (Parliamentary Scrutiny) Act 2011 does not provide for what must be included in statements of compatibility, for example a lack of detailed and evidence-based assessment of proposed provisions that interfere with rights. Part 3 of the Act with respect to who, or what agency, has responsibility for drafting statements of compatibility, is not clear, leading to a lack of transparency and accountability.

THE HUMAN RIGHTS SITUATION ON THE GROUND

RACIAL DISCRIMINATION AND INDIGENOUS PEOPLES

11. Twelve years ago, the Australian Government published the first 'Closing the Gap' Annual Report, which was designed to eliminate the significant disparity between Indigenous and non-Indigenous people in Australia in life expectancy, health, education and employment indicators.
12. While some gains have been made during this time in areas of Indigenous health and education, Amnesty International maintains that successive governments have failed to effectively provide redress for past discrimination, or address existing inequalities, disadvantage, and discrimination suffered by Aboriginal and Torres Strait Islander Peoples.
13. In the most recent 'Closing the Gap' Report¹⁰, the Prime Minister Scott Morrison acknowledged that only two of the seven targets - early childhood education and Year 12 attainment - are on track to be met.
14. Racism towards Indigenous people remains firmly embedded across Australia¹¹, with many facing discrimination when seeking access to adequate housing, education, health care and in the criminal justice system.
15. The failure of successive Australian governments to implement the recommendations of the Royal Commission into Aboriginal Deaths in Custody¹² in 1987 and the 'Bringing Them Home' Report¹³ in 1997 is an indictment in itself. If implemented, these recommendations would have addressed many of the Closing the Gap targets as well as some of the issues Aboriginal families face today with youth justice.

INDIGENOUS PEOPLES' RIGHTS - RAISING THE AGE OF CRIMINAL RESPONSIBILITY

16. Amnesty International is concerned that the current minimum age of criminal responsibility in Australia of 10 years undermines the "best interests of the child" under Article 3 of Convention on the Rights of the Child (CRC).
17. The median age of criminal responsibility in the international community is 14 years. Australia is clearly lagging behind in protecting the rights of children and has been repeatedly criticised by UN expert bodies, including long-standing criticism from the United Nations Committee on the Rights of the Child.¹⁴
18. The international framework of standards relating to children in contact with the justice system should be informed by an evidence base on the neurobiological impacts of early childhood trauma and knowledge from developmental psychology for child wellbeing.¹⁵
19. Children arrested before the age of 14 are three times more likely to commit offences as adults than children arrested after 14. Many children entering the criminal justice system become trapped by it and are less likely to complete their education and find employment. They are more likely to be stuck in a cycle of poverty and disadvantage.¹⁶
20. Aboriginal and Torres Strait Islander children are hit hardest by these regressive laws – an Amnesty International report¹⁷ found that Indigenous children make up 69%¹⁸ of the children in prison aged 10-13 years

and 50% of the children in prison aged 14 to 17 years. Disproportionate numbers of Aboriginal and Torres Strait Islander children are also held on remand, comprising almost 50% of the population compared with 5% of the Aboriginal and Torres Strait Islander population as a whole.¹⁹

REFUGEES - RIGHT TO SEEK ASYLUM AND NOT BE ARBITRARILY DETAINED

21. Amnesty International is deeply concerned that refugees and people seeking asylum in Australia continue to suffer from many human rights violations. The Australian Government's policies of deterrence and detention, particularly those targeting people arriving by boat, punish people forced to flee persecution who are seeking safety in Australia.
22. Under the Migration Act 1958, asylum seekers who arrive in Australia without a valid visa must be held in immigration detention until they are granted a visa or removed from Australia. There are no limitations in statute or common law on the length of time during which a person may be detained.
23. Responding to recommendations made at the last review to improve its policy on migration, the Australian Government said it was "committed to a managed and equitable system of migration, consistent with our international obligations and respectful of the human rights of migrants, refugees and asylum seekers. Australia respects and complies with its non-refoulement obligations."²⁰
24. Amnesty International believes the Government is utterly failing in this regard,²¹ instead subjecting such individuals to arbitrary detention as they are unable to challenge the lawfulness of their detention in court.²² The United Nations Human Rights Commission regularly criticises Australia's mandatory detention policies, in 2017 calling for "all asylum-seekers regardless of their mode of arrival" to have access to "fair and efficient refugee status determination procedures and non-refoulement determinations."²³

OFFSHORE DETENTION

25. In relation to Australia's treatment of refugees held in offshore detention, there is no question that serious human rights violations have occurred.²⁴ The Federal Government's "Operation Sovereign Borders" was launched in 2013 to stop refugees arriving by boat from being settled in Australia. More than 4,000²⁵ men, women and children have been detained in offshore detention centres since 2012. Today, more than 370 men and women still remain in Papua New Guinea and Nauru – eight years later.²⁶
26. In response to recommendations at the last UPR, Australia said it had "no plans to cease its existing policies of mandatory immigration detention, safely turning back boats or transferring people who arrive illegally by boat to other countries for processing and resettlement" and that it would continue to "promote the safety of migrants and refugees and maintain high standards of health care and other services".²⁷
27. The abysmal conditions and abusive treatment of refugees held in Nauru and PNG have been well documented, including four reports by Amnesty International since the last UPR review.²⁸ Amnesty International representatives most recently visited PNG to meet refugees and asylum seekers in October 2019²⁹. There have been 12 deaths of refugees and asylum-seekers on Nauru and PNG - some from suicide - and legislation (known as Medevac) was passed in early 2019 to ensure that those detained who needed medical assistance were transferred to Australia and given access to adequate healthcare services. At the end of 2019, after approximately 200 refugees were transferred, that law was repealed by the newly elected Federal Government. With this option now unavailable, concern is growing for the mental and physical well-being of the men still stranded offshore for the past eight years.³⁰
28. The men who were transferred to Australia before Medevac was repealed are now in detention in Immigration Detention Centres (IDC) and hotels³¹ (which have been designated Alternative Places of Detention (APODs)) across Australia, which they are unable to leave unless they request a visit to an Immigration Detention Centre (IDC) to access the gym there for a short period of time. Concerns for their mental well-being are mounting.³²

ONSHORE DETENTION

29. Equally disturbing is the detention policy surrounding refugees and asylum seekers who arrived by more conventional means including by air.³³ In 2019, Australian Human Rights Commissioner Edward Santow noted

that despite detention supposedly being administrative rather than punitive, the Australian Government system “continues to result in people being detained when there is no valid justification”.³⁴ This is also mandatory and cannot be challenged in court.

30. Separately³⁵, the Australian Human Rights Commission reported a number of breaches of international treaties by the Federal Government. The Commonwealth Ombudsman in Australia has raised similar concerns this year.³⁶

RIGHTS TO PEACEFUL ASSEMBLY AND FREEDOM OF EXPRESSION

31. In Australia the rise of climate protests in 2019 saw several state Governments take steps to suppress these protests. The Queensland government passed *Summary Offences and Other Legislation Amendment Act* in 2019.
32. The Act criminalises the use of a “dangerous attachment device” to “unreasonably interfere” with the ordinary operation of transport infrastructure, such as roads and rail, stop a person from entering or leaving a place of business, or cause a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person, unless the person has a “reasonable excuse”.³⁷ All these terms are prone to misapplication, and can be used to disrupt actions within the scope of the legitimate exercise of the right to freedom of peaceful assembly.³⁸
33. This legislation³⁹, alongside proposed amendments to existing legislation in Tasmania, illustrates the erosion of Australians’ right to freedom of peaceful assembly by lawmakers.⁴⁰
34. In recent years, various statutes have heavily limited the freedom of the press in Australia. The Australian Law Reform Commission’s *Final Report on Traditional Rights and Freedoms – Encroachments by Commonwealth Laws* identified a number of laws “as being of concern” from a freedom of speech perspective.⁴¹ These include various terrorism-related secrecy offences in the Criminal Code, Crimes Act 1914 and Australian Security Intelligence Organisation Act 1979 (ASIO Act) and, in particular, those relating to ‘special intelligence operations’ (section 35P). When these laws interfere unjustifiably with press freedom, there is no guidance as to how these various rights and freedoms may be balanced. Consequently, press freedom may be limited beyond what is necessary, proportionate and justifiable.
35. Australia’s defamation laws also limit freedom of the press, while secrecy laws provide that anyone who breaches them, including journalists, be imprisoned for up to five years for publishing classified information obtained from a federal public servant. Raids on the media (ABC and News Ltd) occurred in 2019, as did intimidation of journalists reporting on plans to expand government surveillance.^{42, 43} Whistle-blowers⁴⁴ are also being targeted when they expose government wrongdoing and are being prosecuted under the *Intelligence Services Act*.

RELIGIOUS DISCRIMINATION AND FREEDOM

36. Amnesty International is deeply concerned that, under the Religious Discrimination Bill currently before the parliament, people who hold religious beliefs will be able to discriminate against Australians who do not, or whose characteristics fall outside that particular religious belief (particularly the LGBTQIA+ community and women). Amnesty International holds the position that this Bill contravenes Australia’s obligations under international law on the rights of equality and non-discrimination, including the ICESCR and ICCPR.⁴⁵
37. Section 10 of the Religious Discrimination Bill provides that a religious body does not discriminate if they engage ‘in good faith, in conduct that may reasonably be regarded as being in accordance with’ religious doctrine, tenets, beliefs or teachings.’
38. Amnesty International believes that this clause is a license for religious organisations to discriminate. Religious schools, for example, will be able to disadvantage or expel students according to their religious beliefs, or lack of them.
39. An obvious example of those who may be at risk are LGBTQIA+ students. Amnesty International holds the strong position that religious organisations or educational institutions in receipt of public funding or providing services on behalf of the government should not discriminate in the provision of those services in ways that

would otherwise be unlawful.

40. Balancing this need to ensure such groups are protected from discrimination, is the freedom of religion⁴⁶ as recognised in the Australian Constitution.⁴⁷
41. An Act or Charter of human rights would be one way to better protect the rights of all Australians within a framework that ensures that all people's rights are universal and indivisible. In the situation where one person's accessing of their human rights impacts on another person's ability to access their rights, an Act or Charter would fairly balance these rights.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the Federal Government of Australia to:

Human Rights Act

- Enact laws to ensure that Australia's international human rights obligations are reflected in domestic legislation. This must, at a minimum, include the right to recognition and equality before the law, freedom from discrimination, right to life, right to freedom of movement, right to privacy and reputation, right to religion and belief, right to peaceful assembly and freedom of association and expression, cultural rights (right to enjoy culture, declare and practise religion and use their language), rights to education and the rights of children in the criminal process, and their access to healthcare. One way of delivering this objective would be through a Human Rights Act.

Indigenous Peoples' Rights

- Develop, in consultation with Aboriginal and Torres Strait Islander Peak organisations, a national action plan to implement the Declaration on the Rights of Indigenous Peoples.
- Table the 2017 report of the Special Rapporteur on the Rights of Indigenous Peoples on the situation of Australia in Federal Parliament; provide an official substantive response to the report of the Special Rapporteur on the Rights of Indigenous Peoples; and refer the report of the Special Rapporteur on the Rights of Indigenous Peoples to the Parliamentary Joint Committee on Human Rights for further investigation.

Refugees

- End policies of 'offshore processing' and detention for refugees and people seeking asylum who arrive by boat, end mandatory detention for refugees and asylum seekers in Australia, limit period of detention to minimum required for identity, security and health checks and improve standards of care for all those detained.

Right to peaceful assembly and freedom of expression

- Ensure that the right to freedom of peaceful assembly is respected, including through repealing legislation that violates international human rights laws and standards.
- Uphold press freedom including by ending all police investigations against journalists at the ABC.
- Ensure freedom of expression, press freedom, the rights of whistle-blowers and the right to peaceful assembly are protected under legislation both at national and state government levels.

Religious Freedom and Discrimination

- End unlawful discrimination on the grounds of sexual orientation, gender identity and intersex status and amend the Religious Discrimination Bill that would give religious bodies a license to discriminate against LGBTQI+ individuals.

¹ Human Rights Council, Report, A/HRC/31/14, January 13, 2016; A/HRC/31/14/Add.1

² Australian Human Rights Commission, Press Release, *Australia ratifies major anti-torture treaty of OPCAT*, December 15, 2017, <https://www.humanrights.gov.au/about/news/media-releases/australia-ratifies-major-anti-torture-treaty-opcat>

³ Federal Register of Legislation, *Marriage Amendment Act 2017*, <https://www.legislation.gov.au/Details/C2017A00129>

⁴ Human Rights Council, Report, A/HRC/31/14, January 13, 2016, p.16-18

⁵ Australian Government, Attorney-General's Department, Oral Statement to Human Rights Council – 39th Session, September 18th, 2018, p.2 <https://www.ag.gov.au/RightsAndProtections/HumanRights/United-Nations-Human-Rights-Reporting/Documents/upr-mid-term-review-statement.pdf>

⁶ Human Rights Council, Report, A/HRC/31/14, January 13, 2016, p.26-29

⁷ Amnesty International reports: <https://www.amnesty.org.au/wp-content/uploads/2018/06/Amnesty-A-Better-Plan-refugees-May2018.pdf>; Amnesty International and Refugee Council of Australia, *Until When? The forgotten men of Manus Island*, November 2018, https://www.refugeecouncil.org.au/wp-content/uploads/2018/12/Until_When_AIA_RCOA_FINAL.pdf

⁸ Human Rights Council, Report, A/HRC/31/14, January 13, 2016, p.20

⁹ The Government of Australia is the government of the Commonwealth of Australia, a federal parliamentary constitutional monarchy.

¹⁰ Australian Government, *Closing the Gap*, February 2020, <https://ctgreport.niaa.gov.au/content/closing-gap-2020>

¹¹ Beyond Blue, *Invisible Discriminator*, <https://www.beyondblue.org.au/who-does-it-affect/the-invisible-discriminator>

¹² Indigenous Law Resources, *Royal Commission into Aboriginal Deaths in Custody*, April 29, 1998 <http://www.austlii.edu.au/au/other/IndigLRes/rciadic/>

¹³ Australian Human Rights Commission, *Bringing them Home Report, 1997*, <https://www.humanrights.gov.au/our-work/bringing-them-home-report-1997>

¹⁴ Committee on the Rights of the Child, Concluding Observations, CRC/C/AUS/CO/5-6, September 30, 2019 https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/AUS/CRC_C_AUS_CO_5-6_37291_E.pdf

¹⁵ Youth Justice, *The Minimum Age of Criminal Responsibility in Victoria (Australia): Examining Stakeholders' Views and the Need for Principled Reform*, August 1 2017, Vol.17, No.2, pp.135

¹⁶ Amnesty International Australia, *The Sky Is the Limit*, 2018, p4 <https://www.amnesty.org.au/wp-content/uploads/2018/09/The-Sky-is-the-Limit-FINAL-1.pdf>

¹⁷ Amnesty International Australia, *Australia: Stop Locking Up 10-year-olds in Prison*, 2019, <https://www.amnesty.org.au/wp-content/uploads/2020/05/Raise-the-Age-Kids-Belong-in-Community-2020.pdf>

¹⁹ **Case study:** On 10 May 2019, there were 89 children in the Brisbane City Watch House, a facility designed to hold adults. At least half of these children are Indigenous and at least three were just ten years of age. One of the boys had been there for 43 days, despite Queensland law dictating no child may stay even one night in the Brisbane watch house. Four young girls were being held in isolation to protect them from other inmates. The cells of the Brisbane City Watch House are very small. There is no direct sunlight. All a child has inside their cell is a wafer-thin mattress, and often no pillow. Each cell is designed for one person, but overcrowding means that children are often locked up with another person, sometimes much older than they are. Of the children in Queensland prisons, approximately 86 per cent are currently 'on remand'. This means they are locked up even though they have not been found guilty or sentenced. The situation is worse for Indigenous children. They spend an average of 71 days in detention on remand, compared with 50 days for non-Indigenous children. An investigation by Amnesty uncovered 2,655 breaches of domestic and international law, including keeping children in watch houses for illegal durations; failing to provide children with adequate clean clothes, underwear and personal hygiene products; the institutional use of violence; the use of isolation as a form of punishment; failure to provide adequate health and mental health care; and failure to provide access to adequate education. The Queensland Government has subsequently sought to redress this situation, which has been welcomed by Amnesty International as a significant and positive step to recognising the unique rights of children in the criminal justice system.

²⁰ Human Rights Council, Report, A/HRC/31/14/Add.1, February 29, 2016, p.7

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- ²¹ Australian Human Rights Commission, *Lives on Hold: Refugees and asylum seekers in the 'Legacy caseload'*, July 17, 2019, <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/lives-hold-refugees-and-asylum-seekers-legacy>
- ²² Supreme Court of Canada ruled that immigration detainees have habeas corpus rights: Canada (Public Safety and Emergency Preparedness) v. China, 2019 SCC 29 (CanLII), <<http://canlii.ca/t/j075t>>, retrieved on 2020-03-00.
- ²³ Human Rights Committee, Concluding Observations, CCPR/C/AUS/CO/6, November 9th, 2017, p.6
- ²⁴ International Criminal Court, Letter, OTP-CR-322/14/001, February 6, 2020, p.2 <https://andrewwilkie.org/wp-content/uploads/2020/02/200213-Andrew-Wilkie-Response-from-International-Criminal-Court-Australian-Government-treatment-of-asylum-seekers.pdf>
- ²⁵ Refugee Council of Australia, Statistics, October 27, 2019
- ²⁶ <https://gameover.org.au/>
- ²⁷ Human Rights Council, Report, A/HRC/31/14/add.1, p.7.
- ²⁸ Amnesty International reports: <https://www.amnesty.org.au/wp-content/uploads/2018/06/Amnesty-A-Better-Plan-refugees-May2018.pdf>; Amnesty International and Refugee Council of Australia, *Until When? The forgotten men of Manus Island*, November 2018, https://www.refugeecouncil.org.au/wp-content/uploads/2018/12/Until_When_AIA_RCOA_FINAL.pdf; <https://www.amnesty.org.au/wp-content/uploads/2018/02/Manus-briefing-FINAL4.pdf>
- ²⁹ <https://action.amnesty.org.au/act-now/get-people-on-nauru-png-to-safety>
- ³⁰ Hospital Healthcare, Press Release, Medevac repeal could have long term health consequences, December 11, 2019 <https://www.hospitalhealth.com.au/content/clinical-services/news/medevac-repeal-could-have-long-term-health-consequences-640841862#axzz6Cr42diBW>
- ³¹ BuzzFeed, *From an Island Prison to a City Hotel*, February 7, 2020 <https://www.buzzfeed.com/hannahryan/brisbane-australia-motel-refugees-locked-up>; ABC, *Refugees and asylum seekers in Australia under medevac laws detained in Melbourne hotel for months*, December 19, 2019, <https://www.abc.net.au/news/2019-12-19/medevac-refugees-locked-in-melbourne-hotel/11813008>
- ³² ABC, *Iranian-Kurdish metal musician among 80 refugees holed up in Brisbane hotel*, 11 February 2020, <https://www.abc.net.au/news/2020-02-11/refugees-in-brisbane-kangaroo-point-hotel-metal-music-among-them/11949086>
- ³³ **Case study:** Sultan and Nasser arrived in Australia with visas after fleeing Saudi Arabia where the two journalists had been publicly 'outed' by authorities as homosexual. In Saudi Arabia homosexuality is punishable by death. After arriving by plane, they handed themselves over to Australian authorities and sought asylum. However, as they had not cleared the airport, their visas were cancelled, and they were mandatorily detained. Speaking to Time magazine shortly after their release last year, one of the men said: "Before coming here I had read about offshore detention centers where people would be held for months and years until their asylum claims are processed. But those are people that attempted to come to Australia by boat; we came with visas. Villawood is a multi-million dollar facility and it does not look like a prison but for us to come here in handcuffs...it was very intimidating. Although I've been threatened, intimidated and bullied in Saudi Arabia, I was never thrown in a jail cell without charge. That didn't happen to us until we came to Australia."
- ³⁴ Australian Human Rights Commission, *Risk Management in immigration detention*, June 18, 2019 <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/risk-management-immigration-detention-2019>
- ³⁵ Australian Human Rights Commission, *Use of force in immigration detention*, October 23, 2019 <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/use-force-immigration-detention>
- ³⁶ Commonwealth Ombudsman, *Immigration Detention Oversight*, February 2020, https://www.ombudsman.gov.au/_data/assets/pdf_file/0017/109700/Immigration-Detention-Oversight-Report-January-to-June-2019.pdf
- ³⁷ Queensland State Government, *Summary Offences and Other Legislation Amendment Act 2019*, <https://www.legislation.qld.gov.au/view/pdf/asmade/act-2019-035>

³⁸ Tasmania State Government, *Workplaces (Protection From Protesters) Amendment Bill 2019, [Bill 54]-XI*,

http://www.parliament.tas.gov.au/bills/pdf/54_of_2019.pdf

³⁹ Queensland State Government, *Summary Offences and Other Legislation Amendment Act 2019*, <https://www.legislation.qld.gov.au/view/pdf/asmade/act-2019-035>; Tasmania State Government, *Workplaces (Protection From Protesters) Amendment Bill 2019, [Bill 54]-XI*, http://www.parliament.tas.gov.au/bills/pdf/54_of_2019.pdf

⁴⁰ **Case study:** On 7 October 2019, Extinction Rebellion held a peaceful climate protest in Sydney that saw 38 arrests. Hundreds took part in the Sydney demonstration, which began at Belmore Park near Central Station and moved to Central Park. Several elderly protesters were led away, including one woman who was placed in handcuffs and had her arms pulled over her head by officers. The elderly woman screamed, "You're hurting me, please stop this," as police dragged her away, after she refused to leave the road. The same day as the Queensland laws were enacted, Queensland police reportedly strip-searched a 17-year-old girl, among 20 other Extinction Rebellion protesters. In Queensland, French journalist, Hugo Clément, was arrested and charged with trespassing while covering a protest against the Adani coal mine. His bail conditions included an unprecedented ban on reporting near Adani's Carmichael mine site. (Source: <https://www.abc.net.au/news/2019-10-07/sydney-protests-extinction-rebellion-marred-by-arrests/11580058>)

⁴¹ Australian Law Reform Commission, March 2016: <https://www.alrc.gov.au/publication/traditional-rights-and-freedoms-encroachments-by-commonwealth-laws-alrc-report-129/>

⁴² Sydney Morning Herald, *Australian Federal Police raid ABC headquarters at Sydney's Ultimo*, June 5, 2019, <https://www.smh.com.au/national/australian-federal-police-raid-abc-headquarters-at-sydney-s-ultimo-20190605-p51uof.html>

⁴³ Investigations into the News Ltd journalist have ended <https://www.abc.net.au/news/2020-05-27/afp-will-not-lay-charges-annika-smethurst-raid/12291238>

⁴⁴ **Case Study:** Michaela Banerji argued she had been unlawfully fired in 2013, from what was then the Department of Immigration and Border Protection, for tweets under a different name that were critical of the Australian Government's immigration policy and treatment of detainees. Ms Banerji took her case to the Administrative Appeals Tribunal, which found her implied right to freedom of political communication had been impeded. However, the High Court then unanimously ruled against the finding.

⁴⁵ Amnesty International, *Submission to the Religious Discrimination Bills, Second Exposure Draft*, January 31, 2020 <https://www.amnesty.org.au/wp-content/uploads/2020/02/Amnesty-International-Australia-Submission-to-the-RELIGIOUS-DISCRIMINATION-BILLS-.pdf>

⁴⁶ There is a clear distinction between the absolute right to hold a religion or belief (including a non-religious belief or a rejection of religious belief) and the right to manifest such a belief. While the right to freedom of thought and belief is absolute, in international law the freedom to manifest one's religion or beliefs may be subject to legitimate limitations where they are "prescribed by law", and necessary to protect "the fundamental rights and freedoms of others."

⁴⁷ *Commonwealth of Australia Constitution Act 1900.*