

Turning Rights Into Realities:

Promoting human rights in Australia through a National
Human Rights Indicator Index



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Acknowledgment of Country

The Centre for Law and Social Justice acknowledges the Worimi and Awabakal people of the land on which the University of Newcastle City campus resides.

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Abstract

Australia's human rights framework is piecemeal rather than comprehensive. While it has a strong record of participation in the global human rights system, there are implementation gaps in its domestic human rights performance. The implementation of a National Human Rights Indicator Index, in conjunction with a national Human Rights Act, would transform Australia's human rights system. These reforms would enable the comprehensive incorporation of international human rights obligations into domestic law and translate those obligations into tangible and operational targets for compliance. An improved legal framework and monitoring system would support an unprecedented level of national human rights protection, prioritise the long-term comparative measurement of human rights and establish a robust and living data source to promote government accountability on human rights. Analysis of the UK's Equality and Human Rights Monitor – a comparator national human rights indicator index – demonstrates how an evidence-based approach to law reform could see Australia emerge with a world-class human rights system.

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Introduction

The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly to serve ‘as a common standard of achievement for all peoples and all nations’ (United Nations, 1948). Across thirty articles, the UDHR sets out rights which are inherent to human beings by virtue of their existence and serves as the foundation of international human rights law. Although the UDHR was adopted as a non-binding statement of international human rights law, it has had profound influence on the development of the ‘International Bill of Rights’, which also includes the foundational binding treaties – the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

The nature of the international legal system means that nation states consent to international legal obligations through treaties, but bear responsibility for the implementation and enforcement of those obligations in their jurisdictions and through their domestic legal systems. International monitoring and reporting mechanisms serve to support and guide states in their implementation of human rights obligations which seek to prevent, end, remedy and punish human rights violations (Kälin & Künzli, 2019).

Governments determine how to implement and enforce human rights obligations domestically, for example through legislation that may be interpreted by domestic courts, the work of national human rights institutions, and oversight by administrative authorities. This freedom of choice has produced – at the global level – a disparate web of implementation mechanisms. Indeed, international progress in human rights has been undermined by ineffective implementation strategies, creating a gap between ‘rights in principle’ and ‘rights in practice’ (Landman, 2004).

Despite a long history of commitment to the international human rights framework, Australia has continued to receive persistent criticism for failing to bridge this gap in human rights implementation through its piece-meal approach towards its international obligations (McGaughey et al., 2024, p. 221-222). In response to this lack of governmental accountability and action in addressing human rights on a national level, human rights organisations, academics, and activists have advocated for Australia to implement a stronger measurement and reporting framework to foster governmental accountability in human rights compliance. Significantly, in its 2023 ‘Free & Equal’ Final Report, the Australian Human Rights Commission (AHRC) recommended a major reform; namely, the establishment of a National Human Rights Indicator Index (AHRC, 2023, p. 136).

What is human rights measurement and why is it important?

Since the adoption of the UDHR in 1948, the global protection of human rights has significantly expanded through a proliferation of human rights instruments. Notably, all 193 member states of the United Nations have ratified at least one of the nine core international human rights treaties, with the majority ratifying four or more (United Nations Human Rights Treaty Bodies, n.d.). With the global increase in human rights protections, human rights researchers have had access to a wider range of data to comparatively assess advancements in and obstacles to human rights protection. Human rights measurement is useful in not only monitoring human rights compliance, but also for classifying different types of violations, mapping those violations over space and time and identifying the causal root of those violations (Landman, 2004, p. 909).

Human rights measurement serves the following four functions (Landman, 2004, p. 909):

- (1) Contextual description, monitoring, and documentation of violations;
- (2) classification of different types of violations;
- (3) mapping and pattern recognition of violations over space and time; and
- (4) secondary analysis that provides explanations for violations and policy solutions for reducing them in the future.

Subsequently, human rights measurement is essential in critically evaluating the practical successes of human rights protection, without relying solely on theoretical improvements indicated by treaty signings from member states. The exponential growth of the international human rights framework over recent decades should not be read as a proxy for uniformly improving human rights performance. Indeed, as noted by Human Rights Watch in its World Report 2025, recent times have seen egregious abuses of human rights by some governments, and weak or inconsistent defence of human rights by others (2025, p.1).

Human rights scholars have examined this disparity between the international advancements in global human rights recognition and the lack of advancements in actual human rights protection and identified a gap between 'rights in principle' and 'rights in practice'. Rights in principles refer to the normative standards of rights set out by legal instruments such as treaties, constitutions and national legislation, whereas rights in practice are the rights actually enjoyed, exercised and experienced by groups and individuals regardless of the formal commitments made by a government 'in principle' (Landman, 2004, p. 916).

Measurement of human rights can take the form of coding country participation in regional and international human rights regimes, coding national constitutions according to their rights provisions, qualitative reporting of rights violations and enjoyment, survey data on perceptions of rights conditions and quantitative assessments of human rights experiences.

However, currently available evidence does not deliver an 'objective' definition of human rights protection, performance and violation which can be holistically applied in a cross-cultural, global scale (Gupta et al, 1994, p.134-135). Instead, the forms of measurement currently in frequent use deliver piecemeal and/or surface-level assessments that are inadequate as the foundation for effective goal setting. More effective measurement will support transparency, accountability, comparative value across jurisdictions and different types of measures, and – importantly – the progressive realisation of human rights globally.

What is a human rights indicator index?

The gap in internationally applicable human rights measurement frameworks has been repeatedly acknowledged across human rights literature, and a recommended solution is the implementation of human rights indicator indexes (Landman, 2004; Green, 2001; Gupta et al, 1994). Indicators, in general terms, are ways to measure and monitor a given milestone or outcome. They rely on robust data to determine whether specific goals are met. In relation to human rights, Green (2001, p. 1065) defines indicators as a 'piece of information used in measuring the extent to which a legal right is being fulfilled or enjoyed in a given situation', whereas Beco (2008, p. 24) places more focus on indicators in their ability to 'measure the extent to which duty-bearers [are] fulfilling their obligations and right-holders [are] enjoying their rights'. The UN offers a broader definition of indicators as 'specific information on the state of an event, activity or an outcome that can be related to human rights norms and standards; that monitor promotion and protection of human rights' (Office of the High Commission of Human Rights, 2006).

When synthesised, these definitions suggest two core purposes for a human rights indicator index: (1) To measure the extent of enjoyment of human rights by rights-holders; and (2) to measure the compliance of states with their obligations to ensure that enjoyment. These two purposes can be considered together to evaluate the overall realisation of a given human right and can also be extracted to further elucidate particular rights and what is required for their effective realisation. For example, an indicator that focuses on the existence of legislative measures to remedy poverty could measure compliance, whereas an indicator of the number of children enrolled in and attending school would be focused on enjoyment (Green, 2001).

Human rights indicators are developed through extrapolating characteristic attributes from each human right under assessment to create a bank of normative attributes which can be monitored to evaluate the enjoyment of that right. For example, the right to life can be deconstructed into four normative attributes including arbitrary deprivation of life, disappearances of individuals, health and nutrition, and the imposition of the death penalty (Office of the High Commission of Human Rights, 2006, p. 14-15). Indicators are supported through a methodological framework underpinned by data collection, processing and dissemination, which aims to disaggregate data to evaluate how a particular right is experienced by different protected groups and minorities. Therefore, indicators can strike the balance between acknowledging the indivisibility of human rights through assessing the totality of rights alongside each other, and the need to capture cross-cutting universal rights standards through creating objective measurements of human rights realisation which can be applied across cultures and ideologies (Office of the High Commission of Human Rights, 2006).

Therefore, a human rights indicator index would involve developing an indicator for each human right and then banking those indicators into a collective index for holistic, indivisible assessment and application. A human rights indicator index would allow for the assessments of human rights compliance and enjoyment to be synthesised across all human rights within one central database, where viewers can assess compliance with and enjoyment of all rights within a particular state, as well as the progressive realisation of those rights over time. Therefore, a human rights indicator index would grant public access for scholars, advocates, civil society and government authorities to transparent records of human rights compliance and progress within a state.

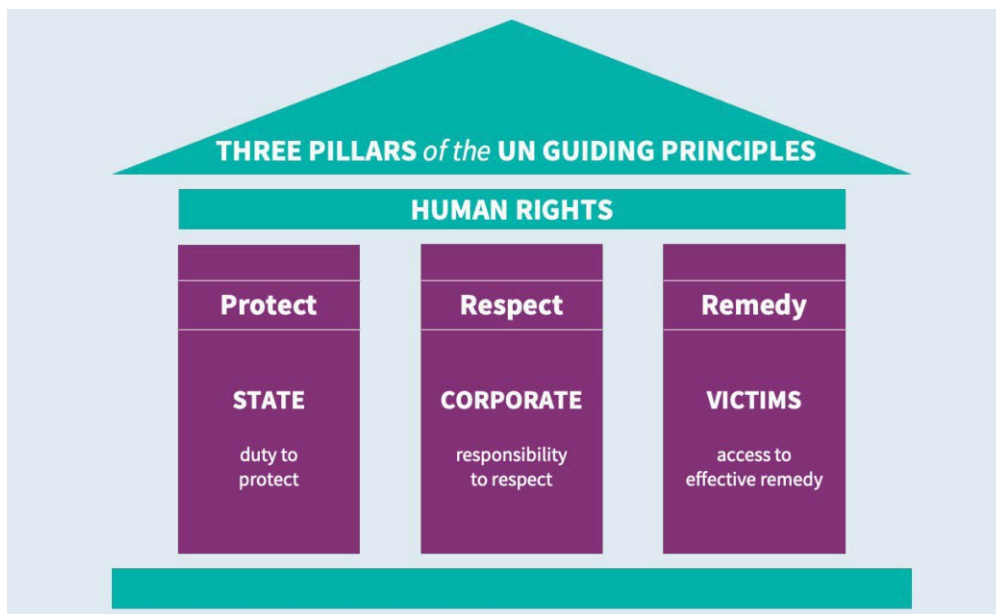
Overall, a human rights indicator index would not only create robust human rights data and measurement practices but would also encourage governmental accountability and transparency in upholding international human rights obligations through easily accessible records of human rights performance. Therefore, the establishment of a human rights indicator index would significantly assist in bridging the gap between 'rights in principle' and 'rights in practice,' demystifying legislative and procedural barriers that impede human rights enjoyment and compliance.

How are human rights indexes used internationally?

Business Models

Indicators have been extensively utilised across both quantitative and qualitative research. The vast preponderance of literature regarding human rights indicators is focused on measuring the protection, respect and remediation of human rights in an international context. However, there is a growing area of literature focused on applying human rights indicators in the corporate responsibility context.

The notion of corporate responsibility to respect human rights was endorsed in 2008 via the UN's 'Protect, Respect and Remedy' framework, which was extended by the UN in 2011 through the introduction of 'The Guiding Principles on Business and Human Rights' (Felice, 2015).



Three Pillars of the Protect, Respect and Remedy Framework - Source: Hogan, Rhodes and Lawlor (2020)

The 31 principles outline the responsibility of companies to manage the risk of having adverse impacts on human rights and offer a set of benchmarks for stakeholders to evaluate corporate respect for human rights (United Nations, 2012, p. 3-4). In response, there have been numerous measurement initiatives proposed to evaluate the compliance of organisations with corporate responsibility obligations, such as the Corporate Human Rights Benchmark. However, many of these initiatives are failing to measure the concrete outcomes of companies' human rights operations, activities, and business relationships. The development of a measurement tool using human rights indicators has been proposed to address this gap in corporate responsibility evaluation and accountability (Veiberg et al., 2019; Felice, 2015).

Business and human rights literature suggests that indicators could be embedded within the structural framework of human rights impact assessments to provide a comprehensive evaluation of the outcomes of businesses' human rights efforts (Veiberg et al., 2019). Indicators would assess outcomes beyond surface-level compliance with company policies and procedures, instead evaluating the actual impact upon human rights enjoyment of those policies and procedures (Felice, 2015). An indicator index adds value beyond other means of human rights measurement as it not only demonstrates performance at a point in time but facilitates specific goal setting for improved performance in future. Human rights indicator indexes present as well-adapted to promote human rights compliance by nation states and by corporate actors.

The Universal Human Rights Index

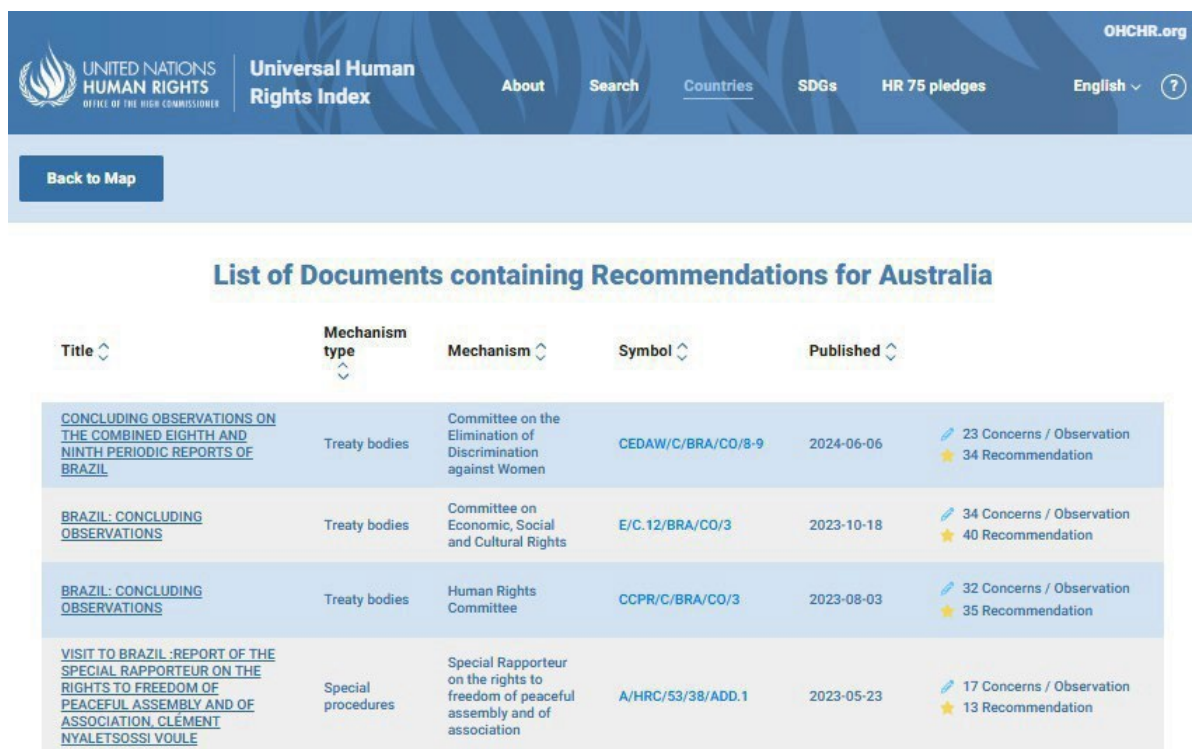
The most prominent global example of an index being implemented in the field of human rights is the Universal Human Rights Index (UHRI), developed by the United Nations Office of the High Commission of Human Rights (Office of the High Commission of Human Rights, n.d.). The UHRI is a publicly available database that offers access to a complete and searchable record of the state-specific recommendations made by UN human rights monitoring mechanisms. The recommendations are derived from the three pillars of the UN human rights monitoring system – Treaty Bodies, Special Procedures, and the Universal Periodic Review undertaken by the Human Rights Council.

Users have access to over 230,000 recommendations and can tailor their search by region, state human rights themes, concerned groups, and by Sustainable Development Goals and targets. By selecting ‘more options’, searchers can further tailor their search to include specific words and categories, as well as limit their search to specific types of documents and the period for which the search should be run. The UHRI also provides a specific searchable database for the pledges delivered by states as part of the ‘Human Rights 75 Initiative’, thereby providing a transparent database for what pledges have been made by states and organisations and the respective deadline assigned to each of them. A complete record of the recommendations made by each monitoring body to a specific state can also be accessed by selecting the relevant state on the interactive world map on the UHRI webpage.



UHRI World Map search page - Source: Office of the High Commission of Human Rights, Universal Human Rights Index Web Page

The UHRI aims to assist states in the implementation of the recommendations documented in the UHRI, as well as facilitate the work of national stakeholders such as National Human Rights Institutions (NHRIs), non-governmental organisations, civil society and academics via a database that maps systematic, recurring and unresolved human rights issues. The UHRI not only provides transparency for the recommendations made to each state and their respective response to implementing those recommendations but also fosters accountability amongst states as they participate together in UN monitoring processes.



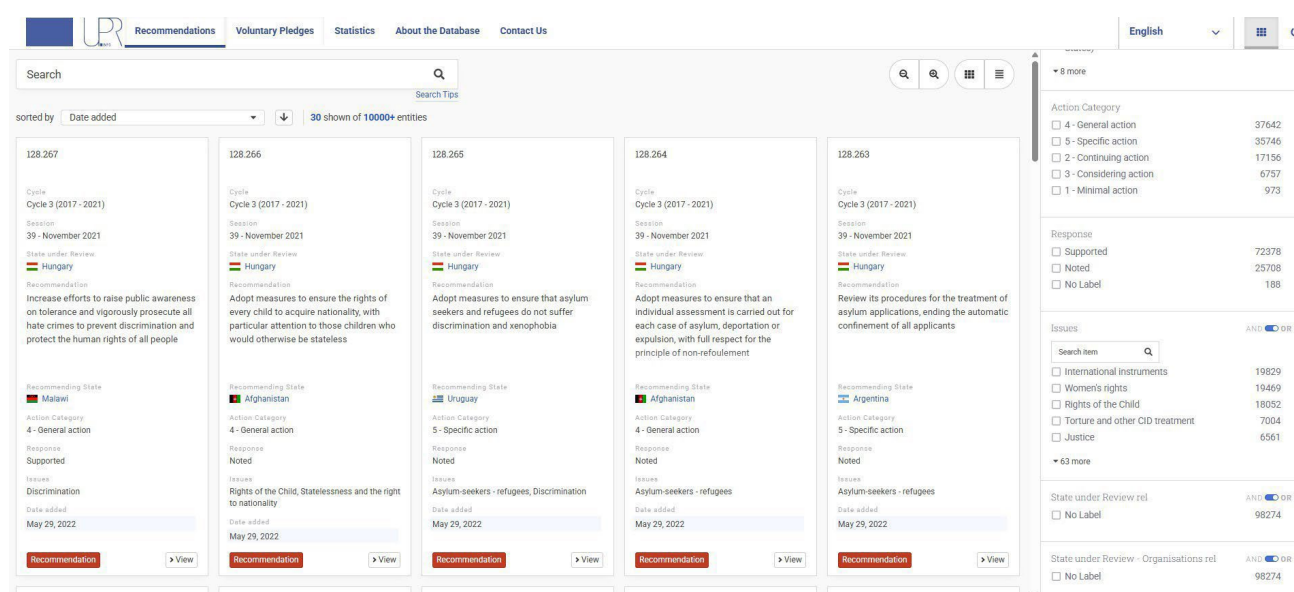
The screenshot shows the UHRI website interface. At the top is a blue header with the United Nations Human Rights Office of the High Commissioner logo, the text 'Universal Human Rights Index', and navigation links: 'About', 'Search', 'Countries', 'SDGs', 'HR 75 pledges', 'English', and a help icon. Below the header is a 'Back to Map' button. The main content area is titled 'List of Documents containing Recommendations for Australia'. It features a table with columns: 'Title', 'Mechanism type', 'Mechanism', 'Symbol', 'Published', and a summary of concerns and recommendations. The table lists four documents related to Brazil.

Title	Mechanism type	Mechanism	Symbol	Published	
CONCLUDING OBSERVATIONS ON THE COMBINED EIGHTH AND NINTH PERIODIC REPORTS OF BRAZIL	Treaty bodies	Committee on the Elimination of Discrimination against Women	CEDAW/C/BRA/CO/8-9	2024-06-06	23 Concerns / Observation 34 Recommendation
BRAZIL: CONCLUDING OBSERVATIONS	Treaty bodies	Committee on Economic, Social and Cultural Rights	E/C.12/BRA/CO/3	2023-10-18	34 Concerns / Observation 40 Recommendation
BRAZIL: CONCLUDING OBSERVATIONS	Treaty bodies	Human Rights Committee	CCPR/C/BRA/CO/3	2023-08-03	32 Concerns / Observation 35 Recommendation
VISIT TO BRAZIL: REPORT OF THE SPECIAL RAPPORTEUR ON THE RIGHTS TO FREEDOM OF PEACEFUL ASSEMBLY AND OF ASSOCIATION, CLÉMENT NYALETSOSSI VOULE	Special procedures	Special Rapporteur on the rights to freedom of peaceful assembly and of association	A/HRC/53/38/ADD.1	2023-05-23	17 Concerns / Observation 13 Recommendation

List of Recommendation documents for Australia - Source: Office of the High Commission of Human Rights, Universal Human Rights Index Web Page

However, the efficacy of the UHRI is limited by its complex interface which may present barriers for civil society in easily accessing recommendation data. For example, the total number of recommendations given to Australia can be accessed on the interactive world map, but for further detail on the specifics of those recommendations users must navigate the list of recommendation documents before downloading the correct document to obtain detailed information. Whilst the index provides a useful global web of comparison between states by presenting the number of recommendations each state has received, it is not a holistic tool for evaluating the actual human rights performance of each state. Users would need specialised knowledge and skills to interrogate the meaning of recommendations and investigate whether and how they are implemented by receiving states.

The Universal Periodic Review (UPR) Info database works similarly to the UHRI in providing a searchable database of UPR recommendations and pledges but appears to be more user-friendly for civil society. The UPR-Info database's interface is more visually accessible for users when compared to the UHRI, as it utilises a large 'filters' tab which clearly displays the various filtering options for users. UPR-Info database users can easily expand filters to view more options and can select checkboxes on several filters at a time during a search, whilst the UHRI requires users to navigate small drop-down boxes of filter options one at a time. Significantly, the UPR-Info database improves its accessibility by including a demonstration video to assist users in conducting their search (UPR-Info, 2021). The results of a UPR-Info database search are also presented under concise headings which disseminate the most important information for a user.



UPR-Info Search Page and Filter Tab - Source: UPR-Info Database Webpage

However, like the UHRI, the efficacy of the UPR-Info database in improving understanding of human rights violations is limited by the assumed knowledge required to apply this information to a state's human rights performance. For example, the UPR-Info database notes whether a state has supported or only noted a recommendation but does not explain how a recommendation has been implemented or assess the effectiveness of its implementation. Databases such as the UHRI and UPR-Info undoubtedly promote transparency and accountability through the data they present, but their limitations demonstrate the need for comprehensive indicator indexes to generate more robust data gathering and holistic evaluation of human rights performance.

The Equality and Human Rights Monitor

The potential of a human rights indicator index to promote governmental accountability and improve state human rights performance has been demonstrated by the 'Equality and Human Rights Monitor' based in the United Kingdom (UK). The EHRM was first known as 'Is Britain Fairer?' (IBF), which was developed after Section 12 of the *Equality Act 2006* (UK) placed a statutory duty upon the UK Equality and Human Rights Commission (EHRC) to monitor and report on the state of equality and human rights in the UK. The EHRC released two progress reports in 2010 and 2012 and then published official IBF reports in 2015 and 2018. Due to the significant social and political upheaval caused by the UK's departure from the European Union and the COVID-19 pandemic, the EHRC amended its most recent progress report to instead be titled the 'Equality and Human Rights Monitor' (EHRM) in 2023. This report utilises the same measurement and reporting structure as IBF used but now reflects the EHRC's move to publish reports every 5 years instead of submitting triennial reports as originally planned (European Union Agency for Fundamental Rights, 2019).

The EHRM (2023) focuses its reporting on the nine characteristics granted legislative protection under the *Equality Act 2006* (UK), including:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation



Source: Kingston and Richmond NHS Foundation Trust

These nine characteristics are then disaggregated across six domains of life within the measurement framework – education, work, living standards, health, justice and personal security, and participation. Each area of life is then further broken down into three core indicators and up to two supplementary indicators including education, work, living standards, health, justice and personal security, and participation. For each indicator, the framework specifies the structural, process and outcome evidence to be drawn upon and contains separate analysis of how each domain is uniquely experienced by specific socio-economic groups and by people at higher risk of harm, abuse, discrimination or disadvantage (Equality and Human Rights Commission, 2023).

The EHRC compiles desk-based research into existing published sources, as well as secondary statistical analysis of datasets from household surveys and administrative data collected from government agencies. Quantitative data serves as the main source of evidence for the EHRC's reports, and qualitative data is drawn upon to reflect outcomes not captured through surveys and administrative data such as observations and conclusions from regulators, inspectorates, parliamentary committees, human rights bodies and NGOs. Other sources such as published research reports, books, grey literature and scholarship also support the EHRC's reporting (Equality and Human Rights Commission, 2023).

The COVID-19 pandemic significantly disrupted data collection for many surveys and has resulted in missing data or the production of data which is no longer comparable with pre-pandemic years due to changes in data collection methodology. Due to the time-consuming process of data gathering, analysis and checking, some data presented in the EHRC reports may be slightly dated by the time of publication. The time lags in the availability of data can also limit the robustness of data available to report on recently emerging issues, for example the post-pandemic cost of living crisis. Further, the EHRC must grapple with data gaps in relation to certain protected groups, particularly where sample size breakdowns are restricted in areas with smaller populations such as Scotland and Wales; in these areas it can be harder to gather reliable data on minority ethnic groups, religions or LGBTQIA+ people (Equality and Human Rights Commission, 2023).

Despite these limitations, the EHRC's adoption of a human rights indicator index has created an unprecedented standard of human rights measurement in its holistic, objective and consistent measurement framework. The disaggregation of core and supplementary indicators allows the EHRM to not only report on human rights concerns, but to also identify the social, economic and political factors causally underpinning the realisation of human rights in each domain of life. Notably, the experiences of minority groups are disaggregated and extracted to help goal setting go beyond surface level concerns and instead target root causes of disadvantage.

Case Study – The Equality and Human Rights Monitor and LGBTQIA+ Rights

This case study will examine the efficacy of the EHRM model in measuring and evaluating the state of LGBTQIA+ human rights in the UK and highlight how these results could be replicated through an Australian adaption of EHRC reporting. This case study also highlights several areas for improvement in the current EHRM reporting model, thereby demonstrating opportunities for Australia to develop a best-practice indicator index. The EHRM identifies the two characteristics of Gender Reassignment and Sexual Orientation as the most relevant to LGBTQIA+ rights. Therefore, these two sections of the EHRM contain the entirety of the analysis, reporting and measurement regarding queer individuals in the indicator index.

Reporting of LGBTQIA+ rights

The 2023 EHRM identified a significant increase in public debate and criticism of transgender individuals since the 2018 IBF report (Equality and Human Rights Commission, 2023, p. 13). In December 2022, the Scottish Parliament passed the Gender Recognition Reform (Scotland) Bill which removed the existing evidence requirements for transgender individuals wishing to be recognised as their acquired gender and lowered the age for when someone can apply for a gender recognition certificate from 18 to 16. Despite this Act making the social transition for transgender individuals easier and more accessible, the UK government prevented the Bill from proceeding to Royal Assent on the basis that it could impact the operation of the *Equality Act* 2010. This decision stemmed from the ongoing legal debate surrounding the definition of ‘sex’ as opposed to ‘gender’ in law, and whether an individual’s gender identity should take precedence over their sex registered at birth.

In April 2025, in a unanimous ruling, the UK Supreme Court firmly defined ‘sex’ as a biological category under the *Equality Act* 2010. The decision aimed to provide clarity in the interpretation and application of the *Equality Act* 2010 by narrowing the definitions of ‘man’ and ‘woman’ to be exclusively based on biological sex assigned at birth and not gender identity (Holt & Melley, 2025). However, this decision has been criticised by human rights activists to disproportionately disadvantage transgender individuals, who already struggle to achieve legal recognition of their gender (Blum & McCarthy, 2025). Whilst transgender individuals still receive protection from discrimination on the grounds of gender reassignment, they lose some protections from sexism under the Act and are excluded from being legally recognised as their gender identity – even if they hold a Gender Recognition Certificate. For example, under the new interpretation of the legislation, a transgender woman would be restricted in pursuing an equal pay claim on the basis of gender discrimination against her. Unlike the previous *Equality Act* where a ‘legitimate aim’ was required to exclude transgender individuals from single-sex spaces, such exclusion is now automatically sanctioned by default of an individual’s biological sex, allowing for the stigmatisation and purposeful discrimination against transgender communities to continue to grow (Blum & McCarthy, 2025).

Gender Reassignment

The 2023 EHRM was able to rely on census data for the first time in reporting the experiences of transgender/non-binary individuals, as the 2021 census included a question regarding gender identity. The census data indicated that around 262,000 people in England and Wales identified with a gender that is different to their sex assigned at birth (Equality and Human Rights Commission, 2023, p. 117). However, the EHRM also highlighted that the availability and quality of robust, representative data on trans people was a continuing issue in Britain. It reported that analysis of large-scale national survey data on the experiences of trans people was not possible because most surveys do not include questions on gender reassignment or gender identity or have base sizes too small for robust analysis. Therefore, much of the evidence collected and reported was taken from self-selecting samples and the number of topics covered under the characteristic of gender reassignment is far fewer than other chapters in the EHRM (Equality and Human Rights Commission, 2023, p. 119).

Despite these limitations, the EHRM provided individual analysis and commentary on the state of trans people's rights across the six domains of life identified above – education, work, living standards, health, justice and personal security, and participation. Within each domain of life, trans people were found to have a lower quality of experience/realisation of their human rights. Notably, the EHRM highlighted that trans people experienced significantly lower wellbeing within the education domain, higher levels of long-term health conditions and poor mental health within the health domain, and higher likelihoods of being unemployed and in overcrowded housing within the work and living standards domain. In line with the increase in public debate and criticism of transgender individuals, it was reported under the justice domain that there has been a significant increase in anti-trans hate crimes but limited progress in terms of legislative protections for trans people against hate crimes.

Within each domain of life, the EHRM also reported specific experiences of how trans people interact with relevant social structures. For example, the EHRM reported that trans people are likely not to disclose their trans identity to co-workers or in healthcare settings out of fear of discrimination. Data analysis of trans people and health also highlighted how trans people are more likely to report negative experiences with healthcare and treatment due to excessive clinic waiting times, ignorance and lack of knowledge among some medical practitioners, and stigmatised use of sexual health services in accordance with their sex registered at birth. The EHRM noted that there is limited evidence on trans-masculine peoples' experiences with maternity care and vaginal/cervical treatment, despite these forms of care operating as known barriers to accessing appropriate sexual health care for trans people.

Overall, the EHRM recommended that governments and health providers should address the poorer physical health, mental health and access to health care experiences reported by trans people. It also recommended that unacceptably long waiting times for gender identity

clinics need to be addressed to increase the accessibility of gender affirming care. Finally, it was recommended that to ensure robust analysis for future reporting, the government and data producers should improve the collection, analysis, and dissemination of data on gender reassignment.



Sexual Orientation

The 2023 EHRM was able to rely on census data regarding sexual orientation for the first time. The 2021 census indicated that around 1.5 million people in England and Wales identified as gay, lesbian, bisexual or another (non-heterosexual) sexual orientation (Equality and Human Rights Commission, 2023, p. 262). Unlike the characteristic of gender reassignment, no comments were made about the unavailability of data regarding sexual orientation. However, there are still limitations on data collection for sexual minorities due to a lack of large sample sizes in rural/conservative areas of England. Overall, the EHRM provided individual analysis and commentary on the state of sexual minorities' rights regarding the six domains of life identified above. The report highlighted that some legal and policy developments have improved the recognition of same sex couples but noted limited progress towards banning conversion practices.

The report distinguished the experiences of different sexual minorities in comparison to each other, thereby preventing the experiences of bisexual, pansexual, and asexual people from being overshadowed by the larger bank of data regarding gay and lesbian individuals. The report found that gay men have reported better experiences within the health domain as their access to sexual health services and PREP medication has increased, whilst bisexual women and lesbians have reported lower experiences due to a lack of sexual health services dedicated to queer women. However, people who were not heterosexual were reported to experience poorer physical and mental health overall, as well as poorer patient experiences when receiving treatment.

Furthermore, it was reported that all sexual minorities experienced higher likelihoods of being bullied at school within the education domain and an increased likelihood of being the victims of sexual assault and domestic violence under the justice domain. However, there was a significant difference between the experience of different minorities regarding work and living standards. Overall, it was reported that gay and lesbian individuals have higher employment rates, earn a higher median wage and were more likely to be in a high-paid occupation than heterosexual individuals. However, when the data was disaggregated between different sexual minority groups, it was found that gay and lesbian individuals reported more positive reactions from coworkers than other orientation groups such as bisexual, asexual and pansexual. Bisexual adults were also reported to be more likely to be living in poverty and were less likely to be homeowners. Sexual orientations outside of gay, lesbian and heterosexual were also more likely to be living in overcrowded shared accommodation and were more likely to have difficulties accessing safe and secure homes.

Overall, the EHRM recommended that the higher rates of poverty amongst bisexual adults and the higher rates of insecure housing amongst sexual minorities needs to be addressed. Furthermore, it was recommended that health providers and the government need to address the higher rates of poorer physical and mental health experienced by sexual minorities. The higher rates of domestic violence and sexual assault experienced by sexual minorities was also highlighted as an important issue to be addressed by government and police. Finally, it was recommended that to ensure robust analysis for future reporting, the government and data producers should improve the collection, analysis, and dissemination of data on sexual orientation.



Evaluating the Equality and Human Rights Monitor

Overall, the EHRM was able to effectively report on several experiences reported by LGBTQIA+ individuals which are often overlooked by other surveys and reporting methods. For example, surveys often focus entirely within domains such as health and education, as they encompass known issues for queer individuals, whereas the EHRM explored various issues affecting the lives of LGBTQIA+ individuals such as living standards, work, and housing, which are often overlooked. However, there is a notable lack of intersectional analysis within this expansive consideration across the domains of life.

Crenshaw (1989, p. 149) defined intersectionality as, ‘a metaphor for understanding the ways that multiple forms of inequality or disadvantage sometimes compound themselves’. When applied to an analytical framework, intersectional analysis serves as a tool for understanding how various social identities such as race, class, gender, sexuality and ability can intersect and overlap to create unique experiences of discrimination or privilege. A holistic, intersectional approach to LGBTQIA+ rights would show that all nine characteristics identified by the *Equality Act* can overlap and intersect within the lives of queer individuals. For example, the lived experiences of queer individuals with a disability, who are people of colour, or who practice a religion would necessarily differ from the experiences of other LGBTQIA+ individuals who do not share those intersectional lived experiences. However, the unique experiences of LGBTQIA+ individuals whose lived experiences are impacted by numerous protected characteristics are not fully explored in the EHRM. This is a limitation of the model, preventing it from reflecting overlaps in different spheres of discrimination experienced by queer communities. A more comprehensive evaluation would see the EHRM attend to specific issues affecting queer demographics, for example the higher likelihood of trans women of colour experiencing discrimination, hate crimes or premature death (Keller, 2023).

Furthermore, although the ECHC must meet its statutory obligation to report to the government on the state of human rights and equality, and uses the EHRM to support this reporting, there is no guarantee that EHRM recommendations will influence government decision making. The EHRM highlighted how the availability of gender affirming care, medication, and clinics remain high priorities for trans individuals and therefore should be addressed by the government and health care providers as soon as possible. Despite this recommendation, the UK government made an ‘emergency’ policy change to ban the use of puberty hormone blockers for transgender youth under the age of 18 from June 2024 (Department of Health and Social Care, 2024). This sudden and unexpected ban significantly disrupted the already insufficient gender affirming care available for trans youth by removing one of the central treatments to relieve gender dysphoria for trans youth during their transition (Webberley, 2024).

Overall, by targeting the rights of LGBTQIA+ individuals across several domains of life, the EHRM provides a broad and insightful analysis of how human rights are experienced by

queer individuals. The statutory obligation for the EHRC to complete progress reports on human rights performance means that EHRM reports go beyond reporting on the current state of human rights to also track progress over time and promote progressive realisation. Therefore, the EHRM has increased the quality of measurement for LGBTQIA+ rights, as well as the quality of understanding of where the UK government has made progress in the realisation of LGBTQIA+ rights. The EHRM also promotes transparent goal setting for improved future human rights performance by the UK government, for example by recommending improved access to gender-affirming care for trans people.

What is the state of human rights protection and measurement in Australia?

Australia purports to be a global leader in human rights performance and has a strong history of commitment to progressing the UN's human rights agenda. Notably, Australia is party to seven of the nine core human rights treaties (Australian Government & Attorney-General's Department, 2024) and recently completed a term as a member of the UN Human Rights Council from 2018-2020 (Maguire et al., 2019). During its membership on the Council, Australia voluntarily pledged five pillars of human rights commitment including: Advancing the rights of women; upholding the democratic rule of law; protecting freedom of expression; advancing the rights of Indigenous peoples; and promoting the global implementation of human rights obligations (Permanent Mission of Australia to the United Nations, 2017). Australia actively participates in the UPR process and is over-represented in its contributions to peer-reviewed state monitoring. As of April 2025, Australia has made 1,613 recommendations to other states out of the 98,274 state recommendations made during all UPR cycles (UPR Info, 2021). However, despite its strong track record of 'protecting civil and political rights' (Human Rights Watch, 2022), Australia continues to receive critique from its global peers on aspects of its human rights performance (Human Rights Watch, 2024).

As Australia is a dualist state, the Australian legal system does not treat international legal obligations as automatically absorbed into domestic law. In practice this limits Australia's capacity to meet its obligations, because many are unenforceable in the domestic legal system. Instead, Australia has built a patchwork human rights system. The Constitution affords only very minimal rights protections, including the right to vote, the freedom of religion and the right to a trial by jury for certain offences. There is no national human rights statute and only three sub-national jurisdictions – Victoria, the Australian Capital Territory and Queensland – have passed human rights legislation. Australia is considered to be an outlier in global human rights performance as 'the only democratic country in the world' without a statutory or constitutional bill of rights (Williams & Reynolds, 2017). A national inquiry in 2009 recommended passage of a national Human Rights Act, but the government of the day rejected that recommendation and instead took a minimalist approach, developing a national human rights action plan and establishing a parliamentary scrutiny regime to assess the human rights compatibility of proposed legislation (Chen, 2024).

Unsurprisingly, given the piecemeal nature of its human rights framework, Australia receives persistent international critique of its human rights performance in important contexts. Most notably, Australia is often criticised for failing to adequately protect and promote the rights of Aboriginal and Torres Strait Islander people and communities, and for violating the rights of refugees, asylum seekers and other forcibly displaced people (Human Rights Watch, 2024; Human Rights Watch, 2022). Recent national inquiries, known as Royal Commissions, identified major human rights failures by Australian government authorities in relation to an automated process that wrongly calculated social security debts (Robodebt),

conditions in aged care facilities, and the care and living conditions of people with disabilities (Croucher, 2023; Commonwealth, 2021, 2023a, 2023b). In addition, variations in human rights performance across Australian jurisdictions during the COVID-19 pandemic demonstrated the risks of inconsistent human rights frameworks across the country (McGaughey et al, 2022, p. 12-13, 15).

Between 2019 and 2023, the AHRC conducted a national conversation on human rights titled 'Free & Equal'. It released its final report, 'Revitalising Australia's commitment to human rights', in 2023, recommending several major reforms including the adoption of a national Human Rights Act (AHRC, 2023). As the AHRC inquiry reached its final stages, the Attorney-General launched a parliamentary inquiry into Australia's human rights framework and the Parliamentary Joint Committee on Human Rights (PJCHR) issued its report on that inquiry in 2024 (PJCHR, 2024). The PJCHR concurred with the AHRC recommendation for a national Human Rights Act and both reports provided model legislation for the parliament's consideration.

The AHRC and PJCHR inquiries concluded that the implementation of a national Human Rights Act would assist in remedying gaps in Australia's compliance through explicitly incorporating human rights obligations into a comprehensive domestic legal framework (AHRC, 2023, p. 47-48; PJCHR, 2024, p. 310-311). The reports also recommended additional measures to track human rights and promote national accountability to maximise the success of a national Human Rights Act (AHRC, 2024, p. 123-124; PJCHR, 2024, p. 330). Specifically, the AHRC and PJCHR recommended the implementation of a National Human Rights Indicator Index to independently measure and track Australia's progress in human rights compliance as a key element of a new national legislative framework.



Recommendations for an Australian Human Rights Indicator Index

Free & Equal Recommendation 7

In its Free & Equal final report (“F&E”), the AHRC recommended that the Government introduce a National Human Rights Indicator Index to measure progress on human rights over time (AHRC, 2023). The AHRC identified gaps in knowledge regarding Australia’s performance against its international human rights obligations due to a lack of quantifiable measurement. The AHRC also noted that attempts to advance human rights progress through national action plans and frameworks, such as the ‘Closing the Gap’ program, are limited in their capacity to boost protection for human rights in Australian law, policy and practice and could be bolstered by the establishment of an indicator index.

F&E concluded that a National Human Rights Indicator Index would effectively translate Australia’s human rights standards and obligations into tangible and operational goals. The AHRC referenced the international success of similar human rights measurement models such as the EHRM and concluded that an Australian model would significantly improve the quality of measurement of human rights, ensure transparency, and promote government accountability. F&E also noted the potential limitations of a National Human Rights Indicator Index, such as the risks of data reductionism, concerns for data quality, and the influence of political factors unjustly shaping the realisation of rights within the index itself. However, the AHRC highlighted how these critiques demonstrate the importance of an Australian model being developed through a robust and inclusive consultation process which promotes transparency in the selection of indicators and sources of data.

The AHRC suggested that the index should be developed by the AHRC as an independent statutory authority, in conjunction with data and policy experts. It is expected that the Human Rights Indicator Index would take approximately 3 to 4 years to fully design and implement. The AHRC suggested that the Index should include the following key elements:

- A legislative basis underpinning the production of the index;
- Operation through a human rights lens in its development and implementation;
- Incorporation of the work of pre-existing national frameworks such as the ‘Closing the Gap’ program, without the duplication of data collection; and
- An intersectional approach which reflects the needs, concerns, values and realities of people from diverse backgrounds and experiences.

PJCHR Recommendation 17

The parliamentary inquiry into Australia's human rights framework commended the AHRC's call for an introduction of a National Human Rights Indicator Index as providing 'concrete and practical ways to measure the realisation of human rights and track progress on implementation in the form of an independent statutory agency' (PJCHR, 2024, p. 283). The Committee particularly affirmed the AHRC's recommendations to implement a statutory obligation within the proposed Human Rights Act which compels an annual statement of the government's key human rights priorities to be delivered to Parliament, as well as annual mandatory reporting duties for any agency or authority subject to the proposed Act.

The Committee's report also highlighted the value of the EHRM in setting an important precedent for Australia when designing a national human rights indicator index. The Committee highlighted the value in adapting the UK's Measurement Framework for Equality and Human Rights which stems from the framework developed by the Office of the UN High Commissioner for Human Rights. Furthermore, the parliamentary committee noted how the UK Equality and Human Rights Commission manages an online Human Rights Tracker tool, which provides a searchable online tool to track the UK's implementation of UN recommendations, thereby providing more specific and relevant information for UK citizens in comparison to what is reported in the Universal Human Rights Index. In conjunction with the AHRC's recommendations, the Committee noted how Australia's adoption of a similar human rights tracking tool alongside the implementation of the proposed human rights indicator index would assist in addressing Australia's lack of overarching mechanisms to monitor the reports, recommendations, or critiques made by UN treaty bodies to Australia.

The PJCHR identified numerous human rights bodies supportive of the AHRC's recommendation for an indicator index, including the Law Council of Australia, Domestic Violence NSW, People with Disability Australia, Economic Justice Australia, Amnesty International Australia, and the Queensland Human Rights Commission. Overall, the Committee concluded that there is a clear need for a rights-based legal framework in the form of a national Human Rights Act, as well as a need to embed a culture of respect, transparency, and accountability for human rights compliance within government through the implementation of a human rights indicator index. The Committee recommended that the government commit to monitoring and improving Australia's progress on human rights, particularly by reference to the AHRC's Free & Equal final report, including by:

- Developing a national human rights indicator index to measure progress on human rights over time;
- Requiring each department and agency to develop human rights action plans detailing how they will respect rights within their portfolio, and make annual reports on compliance with their plan;
- Requiring the Attorney-General to make an annual statement to Parliament identifying areas of progress on human rights and areas of continued focus;

- Establishing a publicly available database setting out all findings and recommendations of United Nations human rights treaty bodies about Australia, and individual communications involving Australia, and any Australian government responses;
- Ensuring regular forums for dialogue with the non-governmental (NGO) sector on human rights and supporting the independent participation of NGOs in the UN human rights processes; and
- Reviewing, with a view to withdrawing, all existing reservations and interpretive declarations under UN human rights treaties.

What difference would a national human rights indicator index make for Australia?

Australia's human rights framework is piecemeal rather than comprehensive. While it has a strong record of participation in the global human rights system, Australia is inconsistent in its domestic incorporation of international human rights obligations. Persistent international critique, particularly in the key areas of the rights of First Nations people and forcibly displaced people, undermines Australia's standing as a good international citizen in the human rights context. Indeed, there is an implementation gap between the 'rights in principle' created by Australia's human rights obligations and the 'rights in practice' enforced by actual laws, policies, and processes of government (Landman, 2004, p. 916).

The implementation of a National Human Rights Indicator Index, in conjunction with a national Human Rights Act, would transform Australia's human rights system. These reforms would enable the comprehensive incorporation of international human rights obligations into domestic law and translate those obligations into tangible and operational targets for compliance. By adopting the recommendations made by the AHRC and PJCHR, Australia could establish an unprecedented level of national human rights protection which would prioritise the long-term comparative measurement of human rights and establish a robust and living data source to promote government accountability on human rights.

The human rights obligations owed by Australia apply to *all* people within its jurisdiction, and therefore a national framework is required to ensure the protection of all those subject to that jurisdiction. The value of human rights indicator indexes has been demonstrated through the UK's statutorily implemented EHRM, which has significantly improved understanding of how each characteristic protected under the Equality Act is experienced across the domains of life including education, work, living standards, health, justice and personal security, and participation. Australia has reached a moment of human rights reform potential – policy makers should seek to learn from the benefits and deficiencies of the UK model and other global comparators. An evidence-based approach to the reform process could see Australia emerge with a world-class human rights system.

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