

Guide to human rights research

There are a range of resources relevant to understanding how the rights protected by the *Human Rights Act 2019* (HR Act) may be engaged by an act, decision or legislation. This short guide is designed to help you understand where to begin in your human rights research.

The rights protected in the HR Act are modelled on rights protected under international human rights law. This means it is useful to understand the scope of relevant rights under international law, as well as consulting case law and other materials which deal specifically with the HR Act in Queensland. It is also helpful to look at how equivalent rights have been interpreted in other Australian jurisdictions – namely, Victoria and the Australian Capital Territory (ACT) – as well as overseas jurisdictions, such as Canada, New Zealand, South Africa and Europe. Courts may consider international law and the judgments of domestic, foreign and international courts and tribunals relevant to a human right when interpreting a provision of the HR Act.

Who is this guide for?

Our *Guide to human rights research* is designed for Queensland public sector employees working in the development of policy and legislation. You will find this resource particularly useful to guide your research when preparing:

- Human Rights Impact Assessments
- Statements of Compatibility
- Human Rights Certificates.

Overview of resources for human rights research

1. Human Rights Act 2019 (Qld)

The starting point for understanding the nature and scope of rights is to look at the text of the [HR Act](#) and the [Explanatory Notes](#). The **Explanatory Notes** identify the international law source of each of the rights protected by the HR Act (see the table on pages 3–5 of the Explanatory Notes).

There is a growing body of **case law** from Queensland courts which provide guidance on the interpretation of the HR Act. The University of Queensland and Caxton Legal Centre publish case notes on Queensland human rights law, which are organised by broad topics. Find more here: [UQ Human Rights Case Law Project](#).



The Queensland Government [Human Rights Portal](#) contains guides and resources about the rights, including a [Guide to the Nature and Scope of the Rights Protected in the Human Rights Act 2019](#).

You may also consider consulting **previous Statements of Compatibility and Human Rights Certificates** to help you identify the rights that may be engaged or limited by a particular kind of measure. Previous Statements of Compatibility and Human Rights Certificates may be located by using the search function on the [Queensland legislation website](#) as follows:

1. Select the 'Advanced' search tab.
2. In the 'select one or more collections' section, select 'other associated docs' and unselect any other boxes.
3. Use the search boxes to refine your search by entering keywords which relate to the particular right and/or policy measure that you are interested in – e.g.:

property rights in All Content using The Exact Phrase
AND fee indexation in All Content using All of the words

If you are interested in human rights analysis for a particular policy measure, but are not sure which rights may be relevant, set up your search as follows:

human rights in Title using The Exact Phrase
AND [insert keywords in relation to your policy measure] in All Content using All of the words or The Exact Phrase [as appropriate, with as many search lines as needed]

2. International human rights law

The rights protected under the HR Act are drawn from key international treaties and instruments. These are:

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

2A. UN Treaty Body General Comments and Communications

There are United Nations (UN) treaty bodies which are tasked with monitoring implementation of the ICCPR and ICESCR. These treaty bodies publish guidance called '**General Comments**' which are useful in defining the scope of rights, as well as clarifying government obligations in relation to the protection of rights. You can find the UN Human Rights Committee's General

Comments on the ICCPR [here](#), and the UN Committee on Economic, Social and Cultural Rights' General Comments on the ICESCR [here](#).

2B. UN Principles and Guidelines

The UN also publishes **guidelines and principles** on particular human rights issues that can provide helpful context for the application of human rights in certain circumstances, such as the [Mandela Rules](#) (on minimum standards for the treatment of prisoners), [Beijing Rules](#) (on minimum standards for juvenile justice), and [Yogyakarta Principles](#) (on sexual orientation and gender identity).

Complaints (known as '**Communications**') can also be made to UN treaty bodies if individuals think their human rights have been violated by a country. The views of the treaty bodies on the merits of these complaints can be a helpful source of information to understand unreasonable limitations on human rights. The [Centre for Civil and Political Rights](#) maintains a database of these cases, searchable by country or by human right/s. There are a limited number of decisions by the Committee on Economic, Social and Cultural Rights on the merits of complaints in relation to the ICESCR, which can be accessed by filtering the [OHCHR jurisprudence database](#) by Committee ('CESCR') and decision type ('decision on merits').

3. Case law and commentary from other human rights jurisdictions

3A. Australian human rights law

The ACT and Victoria both have human rights legislation which is similar to the HR Act:

- the [Charter of Human Rights and Responsibilities Act 2006](#) (Vic)
- the [Human Rights Act 2004](#) (ACT).

Case law and commentary from these jurisdictions provide a useful insight into how human rights have been interpreted in the Australian context. Some places to look for summaries of case law relevant to particular rights include the Victorian Judicial College [Charter of Human Rights Bench Book](#) and the ACT Human Rights Commission's [Human Rights in Detail factsheets](#).

When preparing a Statement of Compatibility, you may wish to consult **Statements of Compatibility** prepared for similar legislative measures in the ACT and Victoria to assist with your own analysis:

- In the ACT, analysis of human rights compatibility is included under the heading 'Human Rights Considerations' in the Explanatory Statements for Bills.
 - To search across Explanatory Notes, select the 'Advanced Search' function on the [ACT Legislation Register](#).

- Select ‘Explanatory Statements’ under Legislation Categories, tick ‘As notified’ for Legislation Version and enter 2004 in the ‘Year(s) notified From Date’ box.
 - Then enter your keywords into the search bar.
- In Victoria, Statements of Compatibility for Bills can be searched through the Advanced Search function on [Hansard](#). In the ‘Activity’ box, select ‘Statement of Compatibility’ and use the search boxes to enter your keywords.

When referring to case law or statements of compatibility from the ACT and Victoria, be mindful that the human rights frameworks in these jurisdictions differ in certain respects from the HR Act. Ensure your own analysis is tailored to the HR Act.

3B. Comparative human rights law – overseas jurisdictions

Comparative human rights law can also be informative when thinking about the scope of protected rights, government obligations and how rights are engaged by government policies and decisions.

Crown Law has an excellent [human rights law resource page](#) which includes a guide to locate legal resources for human rights law and policy research online through the Library, including Australian and international legislation, treaties, conventions, case law and commentary.

The [University of Melbourne](#) also has an excellent resource on human rights law from [Canada](#), [New Zealand](#), [South Africa](#) and the [United Kingdom](#), as well as regional human rights law from [Europe](#).

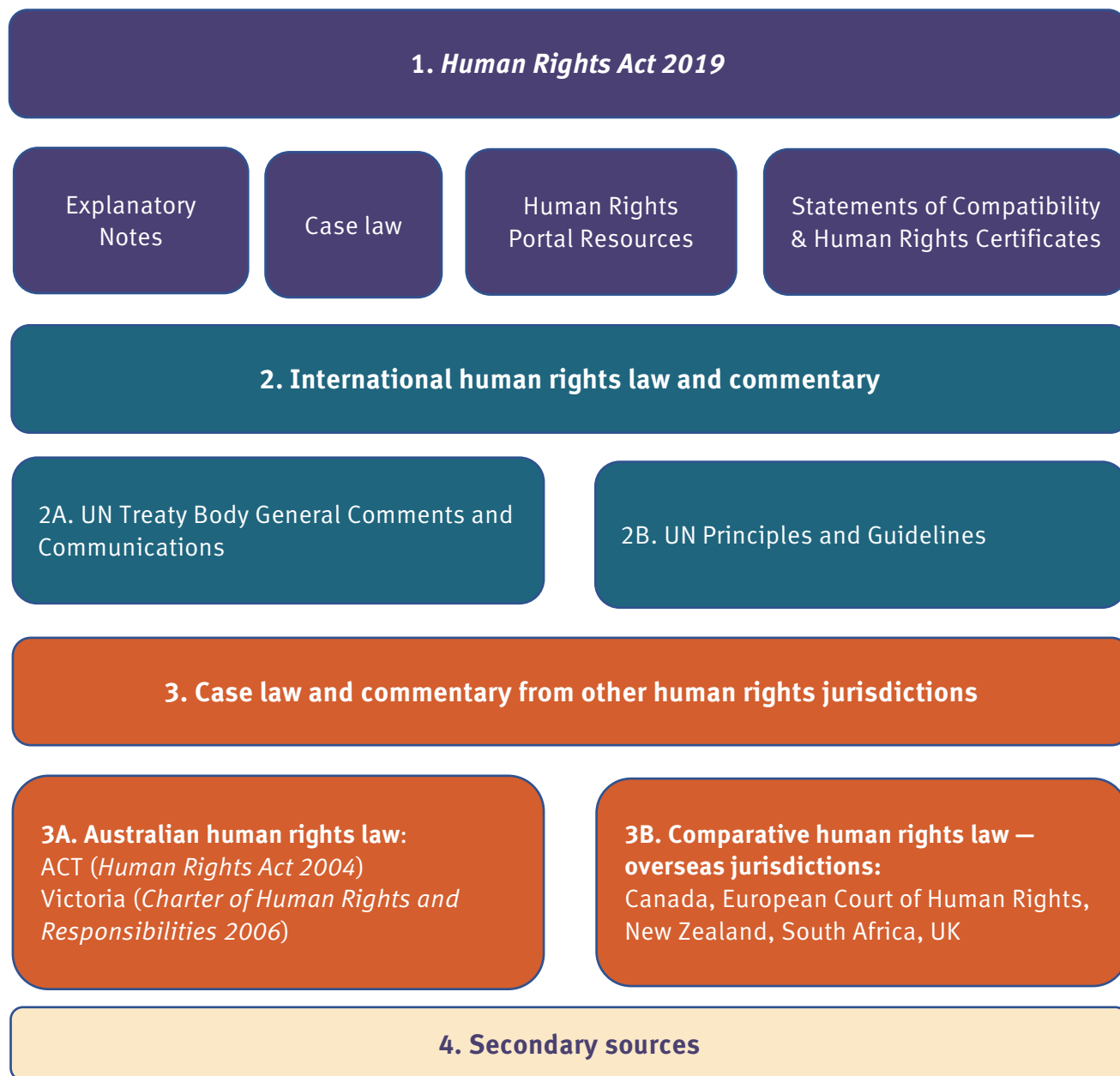
4. Secondary sources

Textbooks and other expert commentary on human rights can also be useful – for example:

- on the HR Act, see:
 - Kylie Evans and Nicholas Petrie, *Annotated Queensland Human Rights Act* (2023)
 - Nicky Jones and Peter Billings, *An Annotated Guide to the Human Rights Act 2019 (Qld)* (2023)
 - *Human Rights Act 2019 (Qld)* in *Carter’s Criminal Law of Qld* (Lexis Advance)
- on international human rights law, see William A. Schabas, *U.N. International Covenant on Civil and Political Rights: Nowak’s CCPR Commentary* (3rd ed., 2019)
- on the Victorian Charter, see Alistair Pound and Kylie Evans, *Annotated Victorian Charter of Rights* (2nd ed., 2018).

You can access these resources through a range of libraries.

Figure 1: Overview of resources for human rights research



Find out more

To learn more about human rights and how they apply to your work, please visit the Human Rights Portal at www.forgov.qld.gov.au/humanrights.