

# WHAT DID QUEENSLANDERS THINK OF HUMAN RIGHTS IN 2021? AN ATTITUDINAL SURVEY

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*This article presents the results of a survey conducted in Queensland from 18 July to 2 August 2021, which gave insights on attitudes to human rights in Queensland, the adequacy of Queensland's human rights performance, and the level of knowledge and support for the new Human Rights Act 2019 (Qld) ('the Act'). We discuss the results from the survey and their implications for human rights in Queensland and the Act itself. Overall, we found strong support for human rights, limited knowledge but overall optimism about the Act and its likely impact, reasonable but fluctuating confidence in the adequacy of human rights protection in Queensland, and instructive demographic differences in the responses.*

## I INTRODUCTION

This article presents the results of a survey conducted in Queensland from 18 July to 2 August 2021, which gave insights on attitudes to human rights in Queensland, the adequacy of Queensland's human rights performance, and the level of knowledge and support for the new *Human Rights Act* 2019 (Qld) ('the Act'). The survey was timed to gauge such attitudes 18 months after the introduction of the Act, and to establish a baseline to assess attitudes over time, as the Act becomes a more familiar part of the Queensland legal landscape. In this article, we discuss the results from the survey and their implications for human rights in Queensland and the Act itself. Overall, we found strong support for human rights, limited knowledge but overall optimism about the Act and its likely impact, reasonable but fluctuating confidence in the adequacy of human rights protection in Queensland, and instructive demographic differences in the responses.

We begin our analysis with discussion of the background to the Act, including discussion of its impetus and the debate preceding its passage, and a brief overview of its content and the way it works. We then discuss public opinion and human rights generally, the dearth of research in this area, and why analysis of community attitudes towards human rights is important. We then turn to our empirical analysis, first by explaining the survey's methodology, and extraneous

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events at the time of the survey which might have affected responses. We then outline the results, focusing, in turn, on responses regarding the importance and relevance of human rights in general, and on responses regarding the adequacy of human rights protection in Queensland in both general and particular contexts (eg, in regional and remote areas, and in certain institutional contexts). Attention then turns to responses regarding perceptions of the areas where protection of human rights is most needed, and of the groups in the greatest need of better protection. The next set of responses relates to the rights perceived to be the most important, and perceived examples of human rights abuses in Queensland's past. Finally, we gauged levels of knowledge and perceptions of the *Act* itself, as well as public sentiment over preferred methods of enforcing human rights. With all responses, we analyse similarities and differences between responses in certain demographic groups, such as between men and women, and between groups categorised according to level of education and wealth. We conclude by addressing the implications of the survey for human rights policy in Queensland, including the future trajectory of the *Act* and its implementation. Finally, the survey itself is included as an Appendix to the article.

## II BACKGROUND: THE PASSAGE OF THE ACT

Queensland is the third jurisdiction in Australia to adopt a human rights charter. The *Act* was enacted in 2019 and came into force on 1 January 2020. Queensland followed the Australian Capital Territory ('ACT'), which adopted the *Human Rights Act 2004* (ACT), and Victoria, which adopted the *Charter of Human Rights and Responsibilities 2006* (Vic). A number of proposals for human rights statutes then followed at both State and federal levels, without success.<sup>1</sup> Ultimately, there was a 14-year gap before the third sub-national statute was adopted. It was, perhaps, surprising that the third 'cab off the rank' should be Queensland, which is often perceived to be the most conservative Australian jurisdiction.<sup>2</sup>

The impetus for the *Act* was heavily influenced by Queensland's political history, although it also drew on the experience of reform in the ACT and Victoria in this area.<sup>3</sup> The Queensland legislation was seen by its political proponents in

<sup>1</sup> See, eg, Commonwealth, *National Human Rights Consultation Report 2009* (Report, September 2009); Tasmanian Law Reform Institute, *A Charter of Rights for Tasmania* (Report No 10, October 2007).

<sup>2</sup> See further, Paul Smith, 'Queensland's Political Culture' in Allen Patience (ed), *The Bjelke-Petersen Premiership 1968-1983: Issues in Public Policy* (Longman Cheshire, 1985) 17. See, however, Jon Piccini, 'The Greens' Election Wins Are Not So Surprising When You Look at Queensland's Political History', *The Conversation* (online, 31 May 2022) <<https://theconversation.com/the-greens-election-wins-are-not-so-surprising-when-you-look-at-queenslands-political-history-184049>>, commenting on the great success of the Greens in Queensland in the May 2022 federal election.

<sup>3</sup> Explanatory Notes, *Human Rights Bill 2018* (Qld) 2.

the Australian Labor Party ('ALP') in Queensland as a remedial response to the perceived excesses of the previous Campbell Newman government (2011–15), as well as the final vestiges of the Bjelke-Petersen era (1968–87).<sup>4</sup> There was an increasingly settled view within the Queensland ALP that the Bjelke-Petersen era had been a time of violations of human rights on a scale that other Australian jurisdictions had not experienced, and which affected Queensland's reputation as a modern state. As Raymond Evans stated in his history of Queensland, Bjelke-Petersen's time in power:

was a period when democratic principles were trammelled to privilege the interests of a select and powerful minority; the electorate was further malapportioned and manipulated; ... the state's enforcement arm [was] perilously compromised into direct political accord with executive demands; freedom of expression [was] sacrificed to oppressive censorship; minority rights [were] branded a risible intrusion and civil liberties the dangerous ploy of extremists. Viewed from another perspective, it was also a time when many Queenslanders began gradually to learn, by bitter experience, what democratic principles, such as the separation of powers, majority rule, ... an uncorrupted police or judiciary, and respect for freedom of speech, minority justice and basic civil rights really meant.<sup>5</sup>

When in Opposition, the Queensland ALP considered Newman to be a 'Joh Bjelke-Petersen 2.0' figure, due to extreme legislation and policy measures that were passed during this time, in particular the *Vicious Lawless Association Disestablishment Act 2013* ('VLAD') which targeted motorcycle gangs.<sup>6</sup> As the VLAD Bill was going through Parliament, independent MP Peter Wellington expressed his deep concern about the ability to protect rights in a unicameral parliament. When the ALP formed a minority government in January 2015, it required the support of Mr Wellington, and the new Premier, Annastacia Palaszczuk, gave him a written assurance that her government would seek advice from the Department of Justice and Attorney-General about a possible Bill of Rights for Queensland in exchange for his support.<sup>7</sup>

As Michael Cope, President of the Queensland Council for Civil Liberties, stated in 2015: 'The behaviour of the Newman government demonstrates clearly

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<sup>4</sup> See further Christopher Crawford, 'Civil Liberties, Bjelke-Petersen & A Bill of Rights: Lessons for Queensland' (2009) 21(1) *Bond Law Review* 1, 23.

<sup>5</sup> Raymond Evans, *A History of Queensland* (Cambridge University Press, 2007) 221.

<sup>6</sup> Brian Costar, 'Campbell Newman and the Ghost of Joh Bjelke-Petersen', *Inside Story* (online, 30 January 2015) <[insidestory.org.au/campbell-newman-and-the-ghost-of-joh-bjelke-petersen/](http://insidestory.org.au/campbell-newman-and-the-ghost-of-joh-bjelke-petersen/)>.

<sup>7</sup> Queensland, *Parliamentary Debates*, 19 April 2016, 991 (Peter Wellington). See further Matthew Killoran, 'Queensland Election 2015: Peter Wellington to Push For Bill of Rights', *Courier Mail* (online, 10 February 2015) <<https://www.couriermail.com.au/news/queensland-state-election-2015/queensland-election-2015-peter-wellington-to-push-for-bill-of-rights/news-story/0b4add992f5fc15c4879087a98271f5f>>.

the need to reform the protection of basic rights and liberties in this state.’<sup>8</sup> He further stated that it would provide restraint on politicians who ‘everywhere and everyday ... use the pretext of some new or not so new threat to justify depriving citizens of rights and liberties which have been won at great cost and after centuries of struggle’.<sup>9</sup>

The new Queensland Human Rights Commission (‘QHRC’)<sup>10</sup> included in its first Annual Report a ‘Human Rights History of Queensland’, which underlined the specific contribution a historic view of human rights breaches made to the passage of the legislation:

The timelines have been produced here to: acknowledge the human rights abuses and failings of the past; reinforce the need for the *Human Rights Act*; be a reminder that these are fragile freedoms; and that the lives of people are enhanced when human rights are respected.<sup>11</sup>

The 2016 preliminary inquiry into an Act,<sup>12</sup> and the 2018 inquiry on the Bill,<sup>13</sup> received a very large number of submissions from the public — 492 submissions in 2016, and 284 in 2018, mostly in support of human rights legislation. There was also a well-organised community campaign that raised 28,000 signatures on a petition to support the Bill.<sup>14</sup> The passage of the legislation through the committee system did not refer to evidence about community attitudes to human rights beyond those represented by the formal submissions to the two inquiries. Many submissions from welfare organisations to the inquiry referred to the idea that human rights are not equally distributed in Queensland, based on data that shows inequality generally worsens with regional placement, and is particularly evident in issues surrounding poverty, youth suicide, health and access to water.<sup>15</sup> Based on the experience in Victoria and ACT, people with disabilities, those facing

<sup>8</sup> Joshua Robertson, ‘Human Rights Act “To Head Off Newman Excess” Supported by Queensland Labor’, *The Guardian* (online, 30 August 2015) <<https://www.theguardian.com/australia-news/2015/aug/31/human-rights-act-to-head-off-newman-excess-supported-by-queensland-labor>>.

<sup>9</sup> Ibid.

<sup>10</sup> The Queensland Human Rights Commission (‘QHRC’) is created by Division 1 of the *Human Rights Act 2019* (Qld) (the ‘Act’), with various powers and functions conferred by ss 61 and 62.

<sup>11</sup> QHRC, *Putting People First: The First Annual Report on the Operation of Queensland's Human Rights Act 2019–20* (Report, 2020) 23.

<sup>12</sup> Legal Affairs and Community Safety Committee, Parliament of Queensland, *Inquiry into a Possible Human Rights Act for Queensland* (Report No 30, June 2016) <<https://documents.parliament.qld.gov.au/tableoffice/tabledpapers/2016/5516t1030.pdf>>.

<sup>13</sup> Legal Affairs and Community Safety Committee, Parliament of Queensland, *Human Rights Bill 2018* (Report No 26, February 2019) <<https://documents.parliament.qld.gov.au/TableOffice/TabledPapers/2019/5619T7.pdf>>.

<sup>14</sup> Emma Phillips and Aimee McVeigh, ‘The Grassroots Campaign for a Human Rights Act in Queensland: A Case Study of Modern Australian Law Reform’ (2020) 45(1) *Alternative Law Journal* 31.

<sup>15</sup> Legal Affairs and Community Safety Committee (n 13) 118–20. See further Matthew Tonts and Ann-Claire Larsen, ‘Rural Disadvantage in Australia: A Human Rights Perspective’ (2002) 87(2) *Geography* 132.

homelessness and Aboriginal and Torres Strait Islander people seemed likely to benefit most from the Act.<sup>16</sup>

The parliamentary discourse surrounding the passage of the legislation was colourful and over in a matter of four hours due to the unicameral nature of the Queensland Parliament. Dr Robinson (Oodgeroo – LNP) touted the Bill as ‘political correctness gone mad’ and regarded its adoption as ‘mindlessly following the Labor left of the ACT and Victoria on a race to the socialist bottom’.<sup>17</sup> A common theme among those opposed to the Bill was that it was not needed. For example, Mr Hunt (Nicklin – LNP) described it as ‘a bill desperately searching for a reason to exist’.<sup>18</sup> Assertions were made on both sides regarding public opinion, as outlined below.

### III ABOUT THE ACT

The Act protects 23 fundamental human rights and requires each arm of government to act compatibly with those human rights.<sup>19</sup> Rights can be limited under the Act, but only where it is reasonable and justifiable.<sup>20</sup> Under the dialogue model, also utilised in the ACT and Victoria, the executive must attach a statement of human rights compatibility to new bills, which ensures that human rights are taken into account by the bureaucracy in drafting legislation.<sup>21</sup> Parliament can scrutinise bills for human rights compliance before they are enacted.<sup>22</sup> Courts and tribunals must, as far as possible, interpret legislation in a way that is compatible with human rights.<sup>23</sup> If this is impossible, the Supreme Court of Queensland may make a Declaration of Incompatibility with regard to the relevant law.<sup>24</sup> Such a Declaration does not affect the validity of the relevant law and does not compel amendment of the relevant law.<sup>25</sup> Rather, the Act requires the relevant Minister and a portfolio committee of the Legislative Assembly to respond in writing within certain time periods.<sup>26</sup>

Under s 58, it is unlawful for public entities, such as state government departments, local councils, state schools, the police, and non-government

<sup>16</sup> Legal Affairs and Community Safety Committee (n 12) 11–18.

<sup>17</sup> Queensland, *Parliamentary Debates*, 27 February 2019, 439, 458 (Mark Robinson).

<sup>18</sup> *Ibid* 448 (Martin Hunt).

<sup>19</sup> Legal Aid Queensland, *Human Rights Act 2019* (Web Page, 28 October 2021) <<https://www.legalaid.qld.gov.au/Find-legal-information/Personal-rights-and-safety/Human-Rights-Act-2019>>.

*Human Rights Act 2019* (Qld) s 13.

<sup>21</sup> *Ibid* s 38. Section 38 requires the statement of compatibility to be tabled by the member of Parliament introducing a Bill, who will normally be a government minister, except in the case of a private member’s bill.

<sup>22</sup> *Ibid* ss 39–40.

<sup>23</sup> *Ibid* s 48.

<sup>24</sup> *Ibid* s 53.

<sup>25</sup> *Ibid* s 54.

<sup>26</sup> *Ibid* ss 56–7.

organisations and businesses performing a public function, to act or make a decision that is incompatible with the human rights in the *Act*. Legal proceedings may be brought under s 59 against a public entity for failure to comply with its s 58 duties. However, s 59 constrains the right of legal action. In particular, a s 58 action may only arise ‘where there is an assertion of unlawfulness separately from a claim under s 58’,<sup>27</sup> a so-called ‘piggyback’ provision in s 59(1).<sup>28</sup>

Any person in Queensland can make a complaint to the QHRC under the *Act*, so long as certain prerequisites are satisfied.<sup>29</sup> The QHRC uses conciliation to resolve admissible complaints.<sup>30</sup> Unlike a court, the QHRC is not empowered to make legally binding decisions. This complaints system, which has no equivalent in the ACT or Victoria, provides a cheap and (hopefully) quick way to potentially bring about the resolution of human rights disputes. The QHRC has other roles, too, including promotion of the *Act*, education of the public about human rights, provision of advice to the Attorney-General, and reviews of laws, governmental practices and processes in relation to their human rights compatibility.<sup>31</sup>

#### IV PUBLIC OPINION AND HUMAN RIGHTS

Politicians and media commentators have often made claims about public attitudes to rights, including during the passage of the *Act*. With regard to public opinion, those in favour of the Bill referred to the strong support from stakeholders and the public in consultations over the Bill.<sup>32</sup> Those against the Bill referred to apathy and/or opposition towards the Bill from the public. For example, Mr O’Connor (Bonney – LNP) stated:

I have had only two people from my area contact me about this issue — only two. It is clearly not a priority for the people I represent. The two that I did receive were both in opposition to the bill.<sup>33</sup>

Mr Bennett (Burnett – LNP) went so far as to call for a referendum prior to the passage of the *Act*.<sup>34</sup> In contrast, Mr Bailey (Millar – ALP) stated: ‘For a long time

<sup>27</sup> Louis Schetzer, ‘Queensland’s Human Rights Act: Perhaps Not Such a Great Leap Forward?’ (2020) 45(1) *Alternative Law Journal* 12.

<sup>28</sup> Furthermore, damages are not available for breach of s 58 (see s 59(3)).

<sup>29</sup> *Human Rights Act 2019* (Qld) div 2. See further, Queensland Human Rights Commission, ‘Lodge Your Complaint Online’, *Complaints* (Web Page, 15 September 2021) <<https://www.qhrc.qld.gov.au/complaints/lodge-your-complaint-online>>.

<sup>30</sup> *Human Rights Act 2019* (Qld) div 4.

<sup>31</sup> *Ibid* ss 61–2.

<sup>32</sup> Queensland, *Parliamentary Debates*, 26 February 2019, 353 (Yvette D’ath). See also Queensland, *Parliamentary Debates*, 27 February 2019, 453 (Kim Richards), 461 (Coralee O’Rourke), 474 (Yvette D’ath).

<sup>33</sup> Queensland, *Parliamentary Debates*, 27 February 2019, 440 (Samuel O’Connor). See also at 443 (Powell).

<sup>34</sup> *Ibid* 465 (Stephen Bennett).

there have been calls in our community to enshrine in law the human rights of Queenslanders.<sup>35</sup>

In reality, there was little evidence in the inquiries leading up to the passage of the *Act* as to the views of the general public of Queensland on the need for the *Act*, or on any other relevant attitudes towards human rights in general or certain issues in particular. We seek to fill a gap in this evidence base. The *Human Rights Act 2019* itself provides, in s 3, that its main objects are:

(a) to protect and promote human rights; and (b) to help build a culture in the Queensland public sector that respects and promotes human rights; and (c) *to help promote a dialogue about the nature, meaning and scope of human rights*.<sup>36</sup>

That dialogue surely must include the members of the community who are the proposed beneficiaries of the *Act*. Moreover, the objects of the *Act* are specified in s 4 to achieve, among other things:

(j) providing for the Queensland Human Rights Commission to carry out particular functions under this *Act*, including, *for example, to promote an understanding and acceptance of human rights and this Act in Queensland*.<sup>37</sup>

Much of the literature on human rights surveys concerns their role in measuring human rights abuses and associated challenges in that respect.<sup>38</sup> As noted in an article from 2009, there is little research on public attitudes to human rights.<sup>39</sup> This remains the case, although such research is growing, as was evident in a 2017 special issue of the *Journal of Human Rights* on the matter.<sup>40</sup>

An understanding of ‘mass attitudes about human rights’ should, at the least, facilitate ‘the implementation of [relevant] legal principles’.<sup>41</sup> It can also inform the work of human rights civil society organisations, since an understanding of community attitudes is important to the ethics of representation when organisations claim to advocate on behalf of rights holders.<sup>42</sup> Furthermore, the sustainability of efforts to protect and improve human rights depends in part on public support and on an understanding of that support.<sup>43</sup>

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<sup>35</sup> Ibid 463 (Mark Bailey).

<sup>36</sup> Emphasis added.

<sup>37</sup> Emphasis added.

<sup>38</sup> See, eg, Robert J Goldstein, ‘The Limitations of Using Quantitative Data in Studying Human Rights Abuses’ (1986) 8(4) *Human Rights Quarterly* 607, 608.

<sup>39</sup> Shareen Hertel, Lyle Scruggs and C Patrick Heidkamp, ‘Human Rights and Public Opinion: From Attitudes to Action’ (2009) 124(3) *Political Science Quarterly* 443, 443.

<sup>40</sup> ‘Public Opinion Polling & Human Rights’ (2017) 16(3) *Journal of Human Rights* 257–387.

<sup>41</sup> Hertel, Scruggs and Heidkamp (n39) 446.

<sup>42</sup> James Ron, ‘Introduction to Special Issue on “Public Opinion Polling & Human Rights”’ (2017) 16(3) *Journal of Human Rights* 257, 257.

<sup>43</sup> Ibid 258. See also Dona–Gene Barton, Courtley Hillebrecht and Sergio C Wals, ‘A Neglected Nexus: Human Rights and Public Perceptions’ (2017) 16(3) *Journal of Human Rights* 293, 294. See further

Indeed, community support for human rights may operate in a feedback loop, which often provides the parameters for the rate of progress in new areas of rights protection for marginalised groups.

In November 2008, the Rudd Government established a National Human Rights Consultation Committee ('NHRCC'), chaired by Father Frank Brennan, to undertake consultation and report by 30 September 2009 on human rights protection at the national level. The Committee received over 35,000 submissions. While the submissions were overwhelmingly in favour of federal legislative protection of human rights, they only revealed the sentiment among those who made the effort to make submissions, rather than the broader public. The NHRCC also commissioned Colmar Brunton Social Research to run focus groups and a national telephone survey of 1,200 people to allow the Committee to 'gain an appreciation of the level of interest in and knowledge of and attitudes about human rights and their protection among a random sample of Australians who had not attended the community roundtables or made a submission'.<sup>44</sup> Despite its very different methodology and age, as well as the fact that it covered the nation rather than only Queensland, the Colmar Brunton report delivered some results that have interesting synergies with our own, which are reported below.

The existing reviews of the ACT<sup>45</sup> and Victorian human rights legislation<sup>46</sup> give insight into the impact on the parliament, the executive, the public service and the legal sector, but shed little light on the deeper process of socialisation that the operation of a human rights charter may catalyse in the broader community.

However, the 2015 Charter Review in Victoria was partly informed by community forums and a 2011 online RMIT survey about human rights.<sup>47</sup> That survey received over 2,000 responses, about half from Victorians and the rest from other people in Australia. The methodology and questions asked were quite different to our survey. Overall, that survey revealed strong support for human rights with little difference between responses from inside and outside Victoria.<sup>48</sup> However, there was little knowledge of the Victorian Charter within Victoria.<sup>49</sup>

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Matthew Carlson and Ola Listhaug, 'Citizens' Perceptions of Human Rights Practices: An Analysis of 55 Countries' (2007) 44(4) *Journal of Peace Research* 465; J Christopher Cohrs et al, 'Determinants of Human Rights Attitudes and Behavior: A Comparison and Integration of Psychological Perspectives' (2007) 28(4) *Political Psychology* 441.

<sup>44</sup> Commonwealth (n1) 264. See Appendix B for the report, referred to here as the 'Colmar Brunton Report'.

<sup>45</sup> ACT Human Rights and Discrimination Commissioner, 'Look Who's Talking: A Snapshot of Ten Years of Dialogue Under the Human Rights Act 2004' (Report, 2014).

<sup>46</sup> Michael Brett Young, 'From Commitment to Culture: 2015 Review of the Charter of Human Rights and Responsibilities Act 2006' (Report, September 2015).

<sup>47</sup> Ibid 45.

<sup>48</sup> Mike Salvaris et al, Submission No 276 to Scrutiny of Acts and Regulations Committee, *Inquiry into Charter of Human Rights and Responsibilities Act 2006* (September 2011) app 1.

<sup>49</sup> Ibid [4.2].



There have been national surveys on Australian attitudes to human rights<sup>50</sup> and particular human rights issues (for example, sex discrimination, sexual harassment, children's rights, people with disabilities).<sup>51</sup> However, there have been no such surveys in Queensland.

Two surveys were conducted in close proximity to our own. The Human Rights Law Centre conducted a survey of 1,038 adults in Australia in June 2021, focusing on whether Australia should have a federal Charter of Rights. That survey revealed strong support for the adoption of such a Charter.<sup>52</sup> The data broken down by State revealed no significant differences between responses from Queensland and those from other States.<sup>53</sup>

A survey of 1,601 people by Amnesty International, known as its 'Human Rights Barometer Report' of 2021 for Australia, was conducted between 24 February and 8 March 2021. It also revealed strong support for a national Charter of Rights, and contains other insights regarding the perceived importance of certain rights and the groups most in need of human rights protection. The methodology and questions were, however, framed quite differently to our survey, so we will not be referring to it below for comparative purposes.<sup>54</sup>

Under the *Human Rights Act 2019*, the Attorney-General must conduct an independent review of the operation of the *Act* after 1 July 2023 (s 95) and again after 1 July 2027 (s 97). In our view, the efficacy of the *Act* should include reference to community expectations of human rights protection in Queensland and how these change over time. Below, we describe the survey as a baseline as it is too early to draw firm conclusions about the link between the passage of the *Act* and any changes in community attitudes.

## V METHODOLOGY

The questionnaire was formulated over late 2020 and early 2021 with welcome input from staff at the QHRC and academic colleagues. It is contained in an annex to this article. Ethics approval was attained to run the survey for adults. The

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<sup>50</sup> Thomas Hinton, 'Different Attitudes Towards Human Rights in Australia as of June 2018', *Statista* (Web Page, July 2018) <<https://www.statista.com/statistics/893813/australia-attitudes-towards-human-rights/>>.

<sup>51</sup> Australian Human Rights Commission, *Our Work* (Web Page) <<https://humanrights.gov.au/our-work>>.

<sup>52</sup> The results are referred to in Finn McHugh, 'COVID-19 Prompts Dramatic Spike in Support for a National Human Rights Charter', *Canberra Times* (online, 9 September 2021) <<https://www.canberratimes.com.au/story/7421653/more-australians-want-rights-defined-by-law-since-covid-19/>>.

<sup>53</sup> This conclusion is extrapolated from the raw statistical data, shared with us via email from Daney Faddoul of the Human Rights Law Centre on 11 October 2021 (on file with the authors).

<sup>54</sup> Amnesty International, *Amnesty International Australia 2021 Human Rights Barometer* (Report, August 2021). For example, our survey offered more options regarding groups most in need of rights protection.

survey was then distributed via email to data company Core Data's proprietary database of Queenslanders aged 18 and above. Core Data explains its survey methodology as follows:

A total of 1,000 respondents completed the questionnaire, providing reliable and statistically robust insights on Queenslanders aged 18 and above. Particular care was taken to ensure a high degree of representativeness of the sample against the Queensland population of residents aged 18 and above in terms of age, gender and household income.<sup>55</sup>

## VI A NOTE ON THE TIME PERIOD

It is worth noting relevant context during the time period in which the survey was conducted — 18 July to 2 August 2021 — which potentially influenced responses. The most prominent human rights issue in the country concerned management of the COVID-19 virus. Queensland experienced minor COVID-19 outbreaks in the time period, until the 'Indooroopilly schools' cluster began on 29 July, leading to a lockdown of 11 local government areas in South East Queensland from 31 July until 8 August 2021.<sup>56</sup> However, that lockdown only arose at the very end of the survey period, so its impact on the survey results was probably minor.

During the survey period, parts of New South Wales ('NSW') and Victoria were in lockdown due to COVID-19 outbreaks, with steadily increasing case numbers in NSW. Queensland's border shut to Victoria during its July lockdown and shut to all of NSW on 22 July.<sup>57</sup>

Over the preceding years, numerous sickening stories were published of lethal violence against women in Australia, including Queensland, with one story falling within the survey period, concerning the discovery of a woman's body in a box in Brisbane.<sup>58</sup> Furthermore, three people were charged with murder after a violent brawl in Ipswich on 28 July.<sup>59</sup>

<sup>55</sup> Email from Core Data employee to Professor Sarah Joseph, 8 November 2021 (on file with the authors). Responses were also encouraged by Core Data with reminder emails, and an entry into a prize draw (eg, gift cards) for respondents, while cookies and internal data were used to reduce potential duplicate and invalid responses.

<sup>56</sup> Rachel Riga, 'Queensland Records Nine Locally Acquired COVID-19 Cases as Delta Cluster Centred on Brisbane Schools Grows', *ABC News* (online, 2 August 2021) <<https://www.abc.net.au/news/2021-08-01/qld-covid-lockdown-delta-school-cluster-grows-cases-recorded/100340052>>.

<sup>57</sup> Rebecca Masters, 'Queensland Closes Border to NSW in Order to Ease Restrictions', *9 News* (online, 22 July 2021) <<https://www.9news.com.au/national/coronavirus-queensland-border-closing-to-nsw-but-some-restrictions-lifting/96639bdc-30d2-4383-8508-6570a65d1b7e>>.

<sup>58</sup> Lia Walsh, 'Woman's Body Found in Box in Brisbane Riverside Apartment Was There "More Than a Week", Police Say', *ABC News* (online, 20 July 2021) <<https://www.abc.net.au/news/2021-07-20/qld-police-homicide-body-of-woman-found-in-box-hamilton/100306258>>.

<sup>59</sup> 9News Staff, 'Boy, 16, Among Three Charged with Murder Over Violent Ipswich Street Brawl', *9News* (online, 28 July 2021) <<https://www.9news.com.au/national/ipswich-brawl-man-shot-dead-several-others-in-hospital/718f921a-602a-4803-a436-2bd3e7a068f2>>.

Although of a much longer duration than the particular reporting period of July, the *Courier Mail* and other Queensland media outlets had provided extensive coverage of the Tiahleigh Palmer case over a six-year period. Tiahleigh, who was 12 years old at the time, was murdered by her foster father Rick Thorburn in 2015 after he discovered his teenage son Trent had had sex with her and feared she was pregnant. Thorburn was sentenced in June 2021 after a long series of investigations and a trial before the final guilty plea,<sup>60</sup> as well as a coronial inquest.<sup>61</sup> This case may have influenced the high responses regarding the importance of human rights for children in the child protection system, discussed below.

## VII RESULTS

We will report the results of questions grouped in themes, rather than in strict chronological order. We are reporting on responses to most but not all questions, and are not reporting on all demographic group data. Certain demographic breakdowns were not included as relevant groups were too small, such as groups split according to different religions and countries of origin. Some responses concerned matters that did not inform the present article.<sup>62</sup> Other omissions are acknowledged and explained below.

### A Human Rights — General

1. The protection of human rights and dignity is important.
2. Human rights are relevant to me.

These two questions related to the importance of human rights generally and personally. Overall, 91.3 per cent of respondents agreed that ‘the protection of human rights and dignity is important’. 84.4 per cent agreed that human rights were personally relevant.<sup>63</sup> These numbers are higher than those reported in the Colmar Brunton Report on its national telephone survey in 2009, where ‘75% of respondents considered human rights to be important or very important’.<sup>64</sup>

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<sup>60</sup> Allyson Horn, ‘Tiahleigh Palmer Murder: Foster Father Rick Thorburn to be Sentenced for Killing Schoolgirl’, *ABC News* (online, 25 May 2018) <<https://www.abc.net.au/news/2018-05-25/tiahleigh-palmer-murder-foster-father-rick-thorburn-sentenced/9789984>>.

<sup>61</sup> Jane Bently, *Inquest Into the Death of Tiahleigh Alyssa-Rose Palmer* (Coroners Findings, 18 June 2021).

<sup>62</sup> This was the case, for example, with the responses to questions regarding the media, which will inform other research.

<sup>63</sup> Note that many questions had a 1–5 scale. For ease of analysis, we have grouped the responses as 1–2 (negative responses); 3 (neutral), and 4–5 (positive responses).

<sup>64</sup> Colmar Brunton Report (n 44) 2. It seems the numbers were higher in the focus groups convened by Colmar Brunton.

The responses to the first two questions did not differ meaningfully between residents of Brisbane (43 per cent of respondents) and residents of the regions (57 per cent of respondents), or between men (44.6 per cent of respondents) and women (54.8 per cent of respondents).<sup>65</sup> A similar trend was evident in comparing those who did not speak English as a first language, who we are referring to as 'culturally and linguistically diverse' ('CALD' — 8.4 per cent of respondents), and those who did ('non-CALD' — 91.6 per cent of respondents).

Aboriginal and Torres Strait Islander peoples constituted only 2.7 per cent of respondents, though 1 per cent of people preferred not to say whether they identified as First Nations or not. In the 2021 census, 4.6 per cent of Queensland's population identified as Indigenous.<sup>66</sup> The survey's percentage is lower, perhaps manifesting difficulties of reach into remote indigenous communities. As the importance of the *Act* for Indigenous people was specifically highlighted in parliamentary debate,<sup>67</sup> we are including the answers segmented by Indigenous or non-Indigenous despite the small sample size of the former. Indigenous peoples were marginally more likely to agree than non-Indigenous people that the protection of human rights and dignity was important (96.3 per cent compared to 91.1 per cent), and that human rights were personally relevant (88.9 per cent compared to 84.5 per cent).

Respondents were skewed towards older people with the breakdown as follows: ages 18–24 (7.6 per cent), 25–34 (18.3 per cent), 35–44 (17.5 per cent), 45–54 (20.9 per cent), 55–64 (15.7 per cent), and 65+ (20 per cent). It is more difficult to get younger people to respond to online surveys.<sup>68</sup> All age groups, apart from those aged under 18 who were not surveyed, agreed that the protection of human rights and dignity was important. Those over 55 years old, however, were less likely to believe that human rights were of personal relevance (77.7 per cent for those aged 55–65, dropping to 75.5 per cent for those aged over 65). All younger groups recorded at least 84% acknowledging the personal relevance of human rights.

Responses were disaggregated according to educational level as follows: primary or part of high school (9.3 per cent) (a group we will refer to as 'did not complete high school'),<sup>69</sup> high school (14.6 per cent), diploma or certification qualification (28.5 per cent), undergraduate (25.9 per cent), and postgraduate (21.4 per cent). Three people (0.03 per cent) preferred not to specify. There was little difference in perception of the importance of the protection of human rights

<sup>65</sup> Four respondents recorded a gender of 'other' (0.4 per cent) and two 'prefer[ed] not to say' (0.2 per cent). As these samples are so small, their results are not included.

<sup>66</sup> Australian Bureau of Statistics, *Census 2021*, <<https://www.abs.gov.au/census/find-census-data/quickstats/2021/3>> (Queensland 2021 Census All Persons)>.

<sup>67</sup> See Queensland, *Parliamentary Debates*, 27 February 2019, 442 (Jacklyn Trad), 463 (Mark Bailey).

<sup>68</sup> This was confirmed in an email exchange between Sarah Joseph and Core Data's CEO on 8 November 2021.

<sup>69</sup> We have combined the groupings of primary education, and part of high school, as the numbers with only a primary education were very small (8 people or 0.08 per cent of respondents).

and dignity according to level of education. A higher level of education corresponded with a higher level of perception of the personal importance of human rights, with a marked difference between the second highest level of education, an undergraduate education (with 83.4 per cent finding human rights personally relevant), and the highest level surveyed, those with a postgraduate qualification (with 93.5 per cent finding human rights to be personally relevant).

Regarding wealth, the separate categories were as follows: Mass Market (households earning \$75,000 or less per annum; 59 per cent of respondents); Mass Affluent (households earning \$75,001 to \$150,000 per annum; 27.8 per cent); Core Affluent (households earning \$150,001 to \$250,000 per annum; 9.4 per cent), and High Net Worth ('HNW', households earning \$250,001 and above per annum; 3.8 per cent). There was a significant dip in perceptions of the importance of human rights and dignity amongst HNW respondents, with only 84 per cent agreeing with the statement (compared to the average of 91.5%). Regarding the personal relevance of human rights, the trend reversed, with the Mass Market delivering the lowest affirmative percentage of 81.5 per cent. It seems somewhat confounding that groups would split on these two issues, as one might think that belief in the importance of rights would correspond with belief in their personal relevance. Having said that, the overall 'yes' response to both questions was very high in all groups.

## **B Human Rights in Queensland**

The next set of questions relate specifically to the adequacy of protection of human rights in Queensland.

### **3. Human rights are well protected in Queensland.**

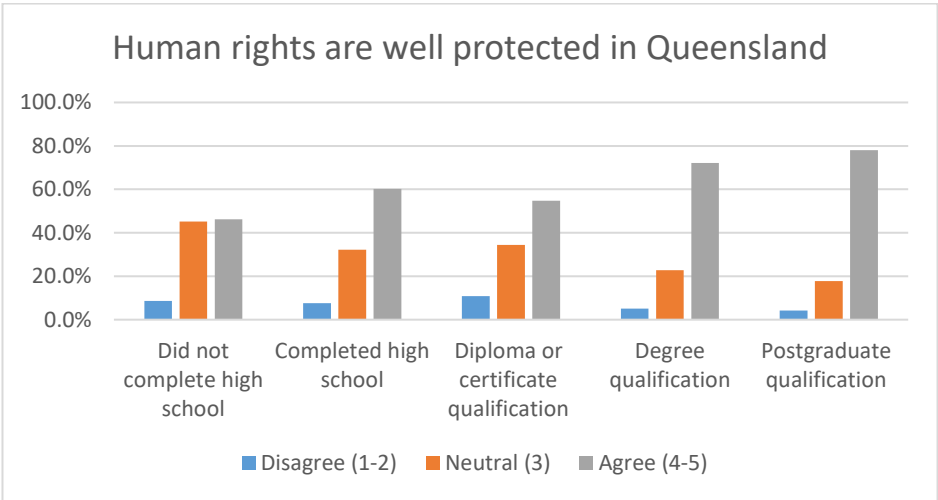
Overall, 64.2 per cent agreed that human rights were well protected in Queensland. Only 7.2 per cent disagreed with that statement, with 28.6 per cent recording a neutral response. There was very little difference in the responses between those in Brisbane and those outside the capital city (62.6 per cent compared to 65.4 per cent agreeing with the statement).

Women were much less likely than men to believe that human rights were well protected in Queensland, with only 58 per cent agreeing, compared to 72 per cent of men. A bigger divide arose between Indigenous and non-Indigenous people (48.1 per cent compared to 64.8 per cent), with 11.1 per cent of Indigenous people disagreeing with the statement. The divide according to language was less: 64.8 per cent of non-CALD respondents agreed that human rights were well protected in the State, compared to 57.1 per cent of CALD respondents.

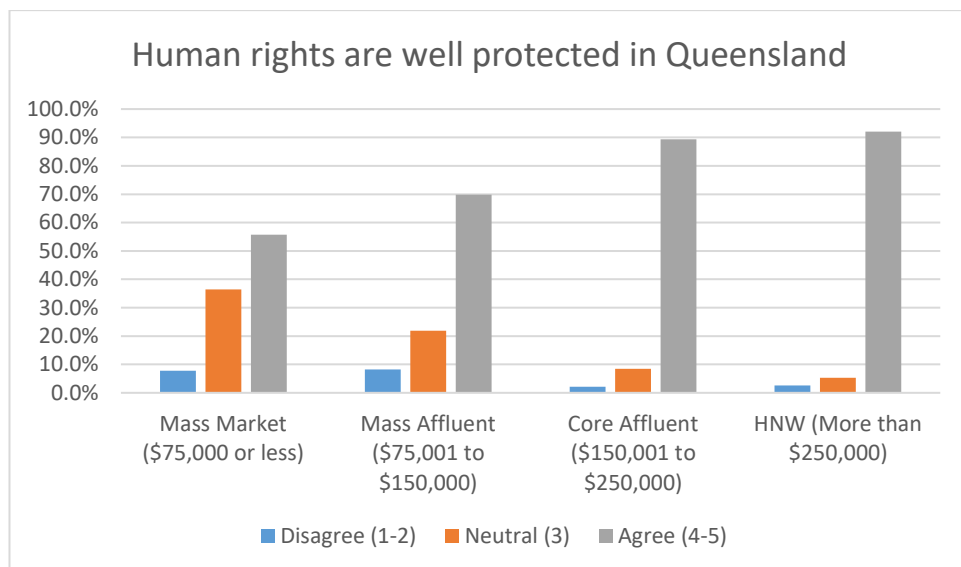
Less than 60 per cent of the older age groups (ages 55–64 and over 65) agreed that Queensland protected human rights well, but the most sceptical

group in that regard was the youngest surveyed group — respondents aged 18–24 — at 56.6 per cent.

Lower levels of education generally correlated with a lower level of satisfaction with the way human rights are protected in Queensland, although it may be noted that slightly fewer of those with a diploma (54.7 per cent) agreed with the Question 3 (‘Q3’) statement compared to those who had completed high school (60.3 per cent). While 78 per cent of those with a postgraduate degree were satisfied with human rights protection in Queensland, only 46.2 per cent of those who had not completed high school agreed. Within that latter cohort, the majority of those who did not agree were neutral (45.2 per cent) rather than in active disagreement (8.6 per cent).



There was also a large difference, according to wealth sector, regarding perceptions of how well Queensland protects human rights. While HNW (92.1 per cent) and Core Affluent (89.4 per cent) groups overwhelmingly agreed that Queensland protects rights well, only 69.8 per cent of the Mass Affluent group felt that way, dropping to only 55.8 per cent for the Mass Market group. Again, the lack of positive responses largely translated to neutral responses rather than negative responses.



The results for Q3 seem to confirm that members of groups who are perceived as being more vulnerable to human rights abuses are likely to be less satisfied with the adequacy of existing human rights protections in Queensland. Women, Indigenous peoples, CALD, the young and the old, the less educated, and the less wealthy have a worse view of the adequacy of human rights protection in Queensland compared to men, non-Indigenous people, non-CALD, people aged over 25 and middle aged, and those with more education and wealth. It is arguably surprising that there was such little difference in responses between those in Brisbane and those outside Brisbane, given the many parliamentary submissions that highlighted worse human rights outcomes in the regions.<sup>70</sup> The starkest differences in Q3 arose regarding traditional class divides, education and wealth.

8. Does Queensland protect human rights well for people in regional and remote areas of Queensland?

Overall, respondents were less certain as to whether Queensland protected rights well in regional and remote areas, compared to their responses over Queensland's general human rights performance (Q3). Only 42.2 per cent answered 'yes' to Question 8 ('Q8'), while 17.4 per cent answered 'no' and 40.4 per cent were 'unsure'.

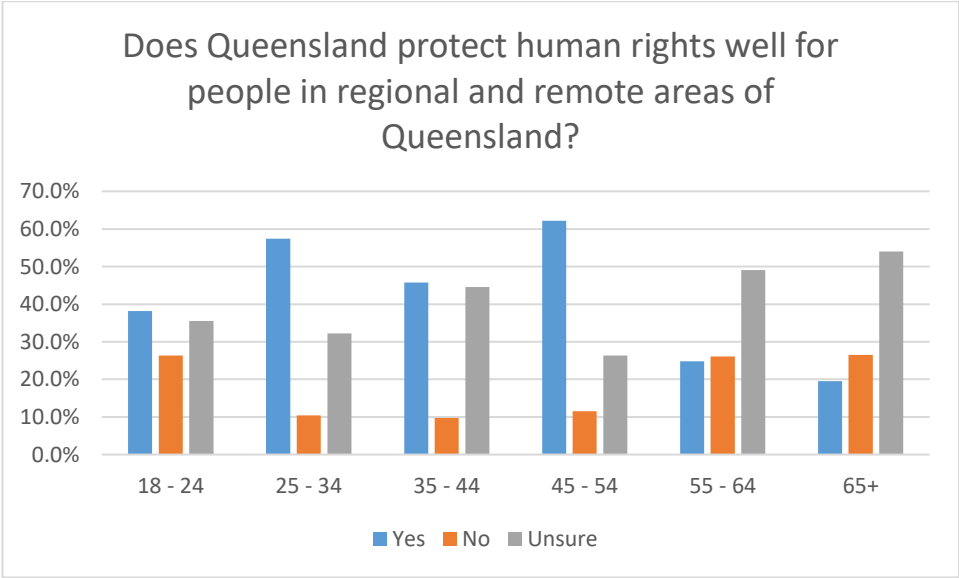
The difference in responses between Brisbane residents and answers from outside the capital city was not large. A tiny percentage more of people outside Brisbane (42.6 per cent compared to 41.6 per cent) thought that Queensland protected human rights well in regional and remote areas. However, 20.4 per cent

<sup>70</sup> Above, text to n 15.

of those outside Brisbane felt rights in regional and remote areas were not well protected, compared to 13.5 per cent in Brisbane. There was, perhaps unsurprisingly, a greater percentage of people unsure in Brisbane (44.9 per cent) compared to those outside the capital (37 per cent).

There was a large difference in the answer to Q8 between men and women, with 51.8 per cent of the former and only 34.5 per cent of the latter believing human rights in regional or remote areas were well protected. The female ‘no’ vote was not much higher (18.1 per cent compared to 16.6 per cent), so women were much more likely to be unsure (47.4 per cent compared to 31.6 per cent). A similar trend was evident between Indigenous and non-Indigenous peoples (respectively, 25.9 per cent to 42.9 per cent ‘yes’; 22.2 per cent to 17 per cent ‘no’; 51.9 per cent to 40.1 per cent ‘unsure’), and between non-CALD and CALD (respectively, 42.8 per cent to 35.7 per cent ‘yes’; 17.1 per cent to 20.2 per cent ‘no’; 40.1 per cent to 44 per cent ‘unsure’).

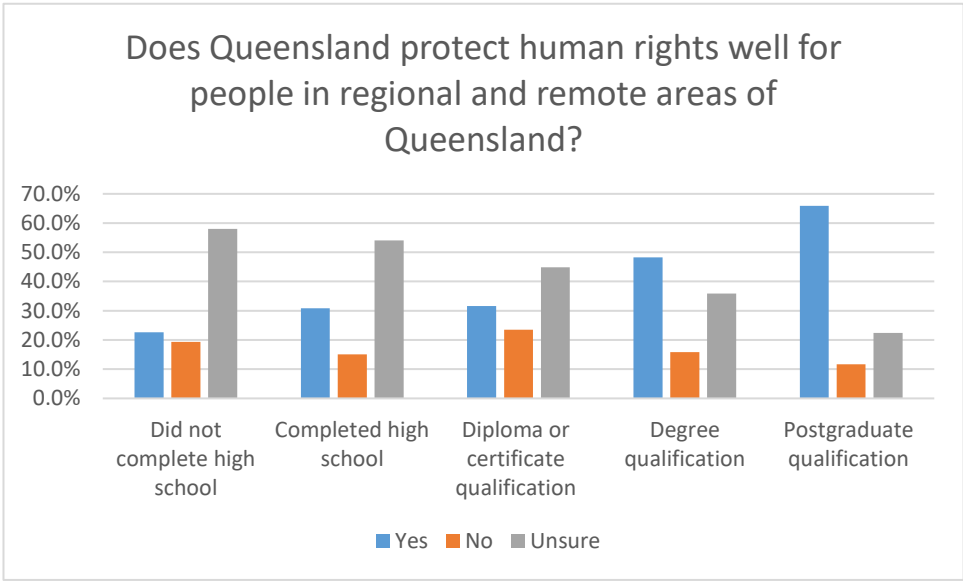
The responses disaggregated by age were as follows. The middle age groups, ranging from ages 25 to 54, were quite positive about Queensland’s regional or remote human rights performance, and the youngest and oldest much less so. Those aged over 55 had a more negative view of that performance than positive, even taking into account the large percentages of ‘unsure’ answers amongst the oldest groups.



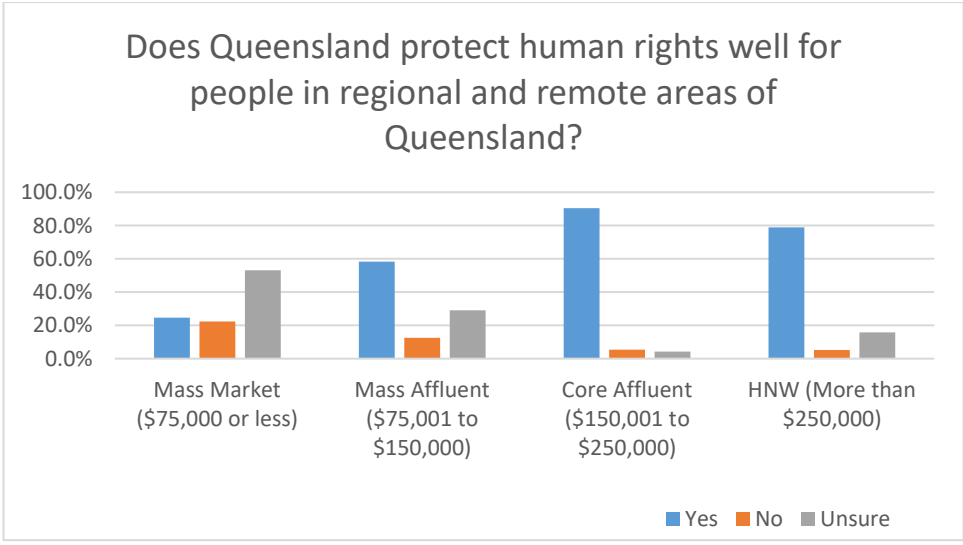
A large divide was also evident regarding levels of education. Those with higher levels of education were more certain and in fact overwhelmingly positive in their responses. Those with lower levels of education were more positive than negative,



but much less so. This split reflects that which arose regarding answers to the more general Q3.



A similar trend was more pronounced according to wealth sector. While, overall, HNW (78.9 per cent), and especially Core Affluent (90.4 per cent), felt Queensland protected rights well in regional and remote areas, Mass Affluent was less positive (58.3 per cent), and Mass Market much less so (24.6 per cent).



Views regarding Queensland's human rights performance in regional and remote areas of the State were similar, demographically, to the answers regarding Queensland's general human rights performance (Q3), although the differences were more pronounced, particularly between groups segregated by age, education and wealth. The fact of regional or capital city residence, on the other hand, did not greatly affect positive responses, although residents of regional Queensland were more negative and certain (as opposed to unsure) in their responses.

18. To what extent do you think Queensland respects human rights in times of emergency? (cyclones, floods, fires, pandemics)?

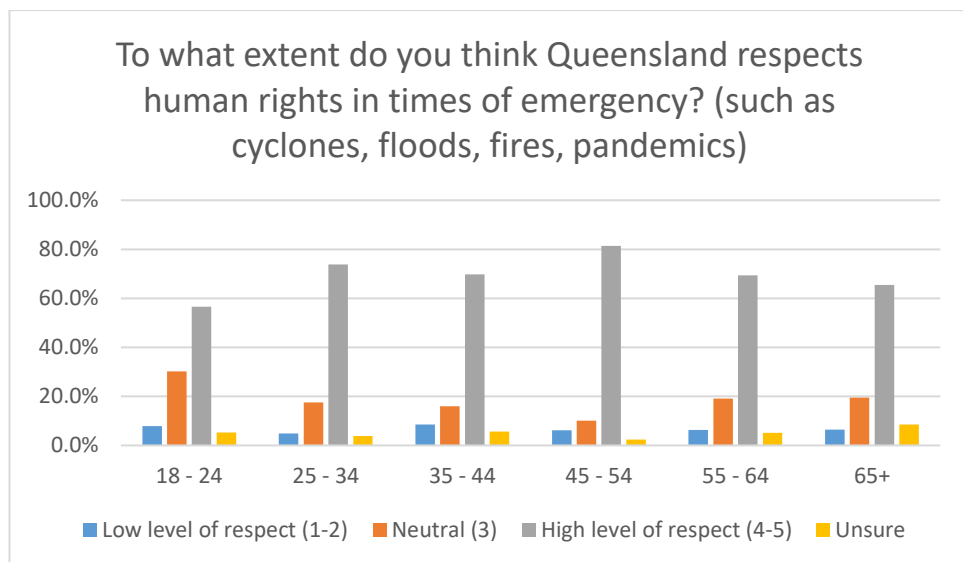
Queensland suffers from a large number of natural disasters and crises compared to most other parts of Australia.<sup>71</sup> 71 per cent of respondents felt that Queensland respects rights well in times of emergency. Only 6.6 per cent felt there was a low level of respect; 17.3 were neutral and 5.1 per cent were unsure. The answers from Brisbane and outside Brisbane to Question 18 ('Q18') were very similar. The main difference was a higher 'neutral' response outside Brisbane (19.1 per cent compared to 14.9 per cent) and a lower unsure response (3.9 per cent compared to 6.7 per cent). Similarly, there were few differences between the non-CALD and CALD groups.

Women were less likely to find a high level of respect (67.2 per cent) than men (76.2 per cent) and, instead, were more likely to be neutral (20.1 per cent compared to 13.7 per cent), with only small differences in the most negative 'low level' response (6.9 per cent compared to 6.1 per cent) and in 'unsure' responses (5.8 per cent compared to 4 per cent). Indigenous people were significantly less likely than non-Indigenous people to deliver a positive response (59.3 per cent compared to 71.8 per cent) and had a much higher level of 'unsure' responses (18.5 per cent compared to 4.5 per cent).

The age-disaggregated responses were as follows. Positive responses outnumbered negative responses. The youngest respondents, at 56.6 per cent, were less likely than older groups to find rights to be respected in emergencies. This may reflect their lesser enthusiasm for Queensland's COVID-19 response, discussed below.

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<sup>71</sup> Queensland Government, *Resilient Queensland in Action* (Progress Report, February 2020) 3.



Regarding education, the least educated were the most negative, and those with the highest recorded educational level (postgraduate) were the most satisfied with Queensland's human rights performance in emergencies. Regarding wealth, greater positivity tended to correlate with higher levels of wealth, but the most positive group was the Core Affluent group rather than HNW.

As with Q3 and Q8, the more traditionally vulnerable groups (eg, women compared to men, less wealthy respondents compared to more wealthy respondents) were less likely to have a positive view of Queensland's human rights record in respect of emergencies. Again, little difference was perceived between answers from Brisbane and those from outside Brisbane.

4. To what extent do you think your human rights have been protected during the COVID-19 emergency in Queensland?
5. To what extent do you think human rights of the whole community have been protected during the COVID-19 emergency in Queensland?

Queensland's response to COVID-19, by the time of the survey, had been characterised by relatively swift action to lock down to contain outbreaks. These actions were largely successful, so lockdowns, while numerous, were short.<sup>72</sup> Density limits and mask mandates applied reasonably regularly. The most

<sup>72</sup> Lily Nothling, 'Disease Expert Says Quick Response Helped Queensland Avoid High COVID-19 Caseload', *ABC News* (online, 12 August 2021) <<https://www.abc.net.au/news/2021-08-12/queensland-coronavirus-delta-dodged-no-more-lockdown/100368922>>. The exception was the first lockdown which applied across the country, and across much of the world, from March to May 2020.

constant restrictions were applied to borders to restrict interstate and international travel. The COVID-19 infection and fatality rates in Queensland were very low. Vaccination was proceeding slowly at the time of the survey.<sup>73</sup>

The overall responses to Question 19 ('Q19') and Question 20 ('Q20') were similar. 64.3 per cent of respondents felt that their rights were well protected during the COVID-19 emergency, compared to 61.8 per cent who felt that way regarding the rights of the whole community. Hence, the average respondent felt that their own rights had been more respected than those of others. 13.9 per cent felt that their rights had not been protected, compared to 13.8 per cent for the rights of the community. 16.9 per cent were neutral about their own rights, compared to 19.6 per cent for the rights of the whole community, while 4.9 per cent (Q19) and 4.8 per cent (Q20) were unsure.

The differences between respondents in Brisbane and outside Brisbane were minimal. So too were the differences between the non-CALD and CALD groups.

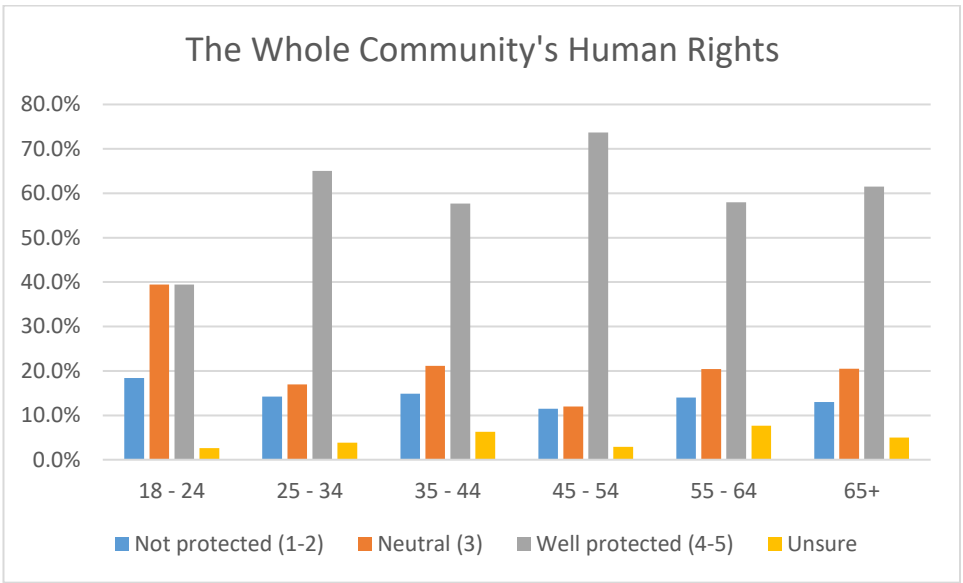
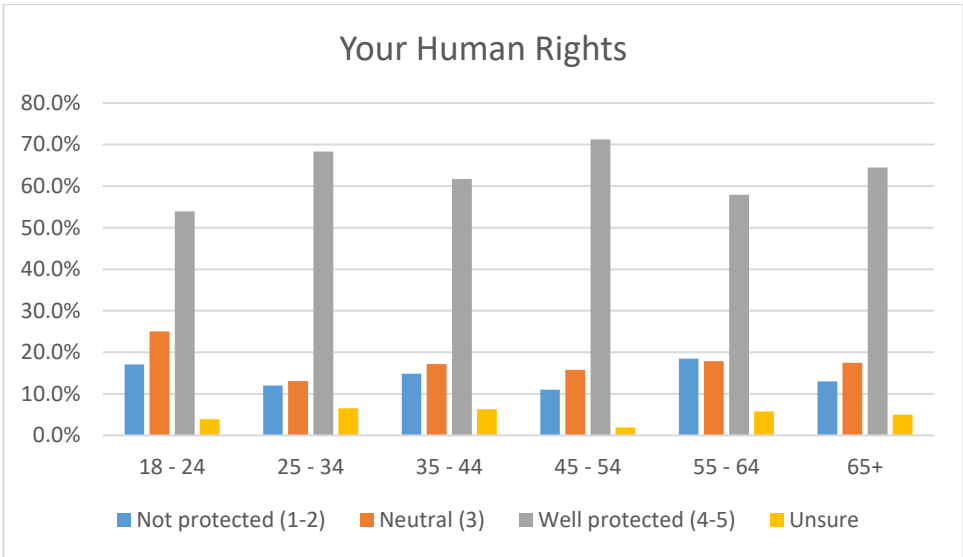
Women were much more likely than men to find their own rights and those of the community to be 'not protected'. Strangely, the numbers of 'not protected' responses were identical for Q19 and Q20 for both women and men (16.8 per cent for women compared to 10.1 per cent for men). Men were more likely than women to find their own rights protected (71.5 per cent compared to 58.8 per cent) as well as those of the community (70.2 per cent compared to 55.1 per cent).

Indigenous peoples were less likely than non-Indigenous peoples to answer that either their own rights were respected in the COVID-19 emergency (51.9 per cent compared to 64.9 per cent), or those of the general community (48.1 per cent compared to 62.5 per cent). There was a greater level of unsurety in Indigenous responses to both questions (18.5 per cent to Q19 compared to 4.5 per cent non-Indigenous; 19.5 per cent for Q20 compared to 4.4 per cent non-Indigenous). While there was only a small difference in negative answers regarding protection of one's own rights (14.8 per cent Indigenous compared to 13.6 per cent non-Indigenous), there was a larger difference regarding protection of the community's rights (18.5 per cent Indigenous compared to 13.4 per cent non-Indigenous).

The youngest respondents were the least satisfied with the human rights aspects of Queensland's COVID response. Only 53.9 per cent of those aged 18–24 felt that their own rights were respected and only 39.5 per cent of that group felt that the community's rights were respected. The pattern in age responses was not linear, with the most positive groups being those aged 25–34, 45–54, and 65 and over, while those aged in between were notably more negative in their responses to both Q19 and Q20.

73

Emilie Gramenz and Dominic Cansdale, 'New Mass Vaccination Hub to Open in Brisbane as Premier Pushes to "Sort" Border', *ABC News* (online, 29 August 2021) <<https://www.abc.net.au/news/2021-08-29/covid-qlld-latest-cases-update-community-coronavirus/100414634>>.



Regarding the education-segregated responses, there was a consistent correlation between higher levels of satisfaction with Queensland’s human rights performance in combating COVID-19, and higher levels of educational qualification, though overall all groups felt that rights were protected.

Regarding wealth, there is an almost linear correlation between positive responses and levels of wealth, except that HNW were less satisfied with the

respect evident for their own rights (81.6 per cent) than the next wealthiest group, Core Affluent (89.5 per cent). In contrast, only 57.1 per cent of the least wealthy group felt that their rights were well respected in Queensland's pandemic response. While most groups, including those disaggregated by factors other than wealth, felt that their own rights were respected more than those of the community, that was not the case with the HNW group. Their positive response regarding their own rights (81.6 per cent) is significantly lower than their positive response regarding the community's rights (89.5 per cent).

In States with major COVID-19 outbreaks, namely NSW and especially Victoria at the time of the survey, there was evidence that the less wealthy (who are more likely to be the less educated) were the most likely to contract the virus and suffer poor outcomes.<sup>74</sup> However, such an observation is less relevant in Queensland, where there were fewer cases of COVID-19. Nevertheless, the less wealthy and educated were significantly less satisfied with the human rights compatibility of Queensland's COVID-19 response.

The greater dissatisfaction by young people seems explicable. Young people are the least likely to suffer severe outcomes from COVID-19 infections, yet Queensland's approach very much favoured COVID-19 elimination over the enjoyment of normal societal freedoms. Younger people were more likely to lose their jobs, or work in industries such as hospitality which were impacted by space limits and mask requirements, and are possibly the cohort most interested in interstate and international travel opportunities.<sup>75</sup>

Similarly, evidence shows that women have been and are being impacted disproportionately by the economic and social consequences of the COVID-19 outbreak, increasing women's vulnerabilities regarding family violence, femicide, and socio-economic participation. While Queensland, at the time of the survey, was largely spared from the worst economic effects of the COVID-19 Pandemic, the economic impacts were gendered.<sup>76</sup> This might explain the greater dissatisfaction expressed by women compared to men.

*12. To what extent do you feel human rights and dignity are respected in the following settings in Queensland?*

Question 12 ('Q12') gauged levels of confidence in the human rights performance of the following public entities in Queensland: health services, schools, TAFE and universities, prisons, police, aged care, the public service, and

<sup>74</sup> Stephanie Dalzell, 'Poorer Australians Four Times More Likely to Die from a COVID-19 Infection', ABC News (online, 10 September 2021) <<https://www.abc.net.au/news/2021-09-10/poorer-australians-four-times-more-likely-to-die-of-covid-19/100448564>>.

<sup>75</sup> Australian Institute of Health and Welfare, 'Australia's Youth: COVID-19 and the Impact on Young People', (Web Article, 25 June 2021) <<https://www.aihw.gov.au/reports/children-youth/covid-19-and-young-people>>.

<sup>76</sup> Australian Bureau of Statistics, 'Labour Force, Australia Methodology' (Web Page, 20 May 2021) <<https://www.abs.gov.au/methodologies/labour-force-australia-methodology/apr-2021>>. See further Leonora Risse and Angela Jackson, 'A Gender Lens on the Workforce Impacts of the COVID-19 Pandemic in Australia' (2021) 24(2) *Australian Journal of Labour Economics* 111.

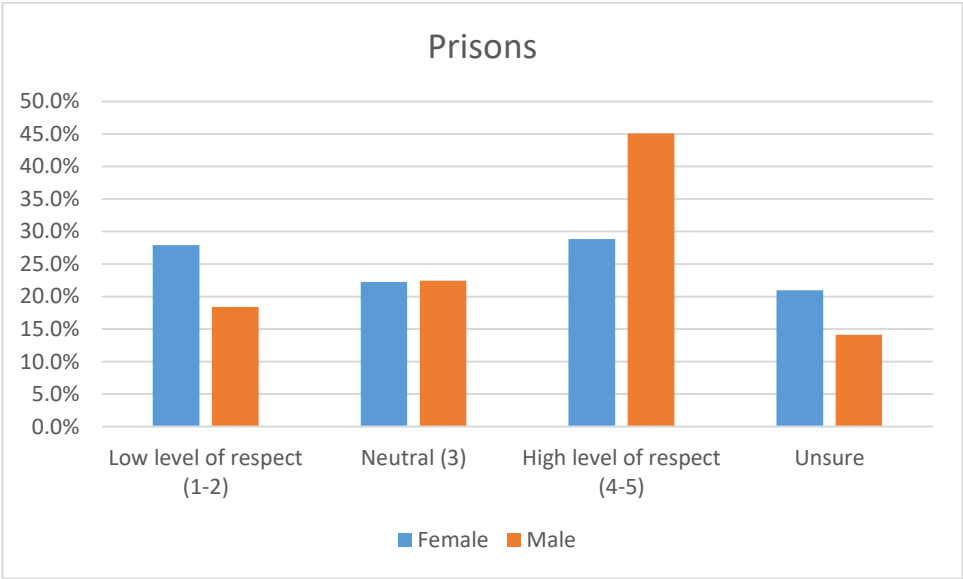
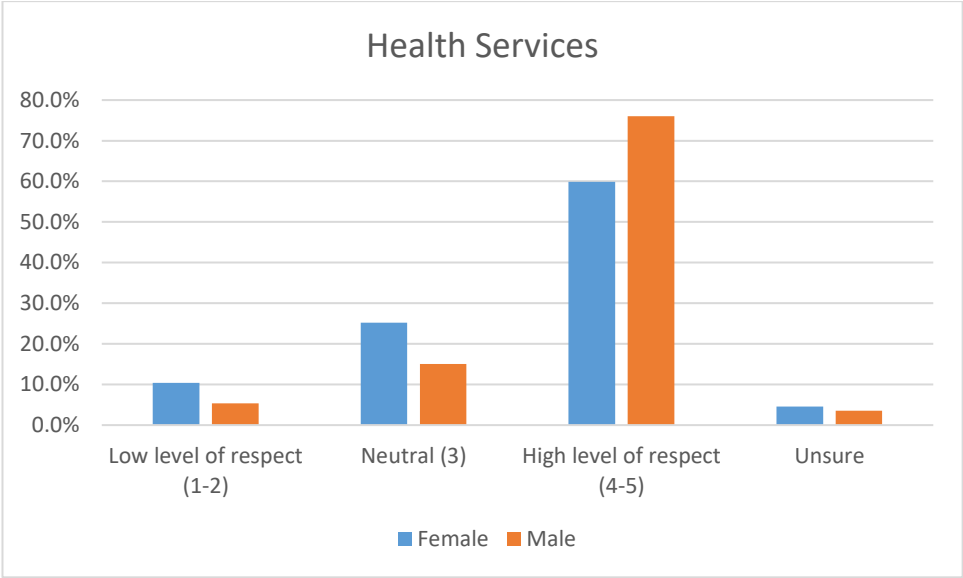
the following private entities in Queensland: employers, businesses, shopping centres and religious institutions. The potential answers were: high levels of respect, low levels of respect, neutral, and unsure. We will only report here on incidences of the first two responses.

The 'high' performers in the public sector were Queensland health services (67 per cent high, 8.3 per cent low), schools (64.7 per cent high, 8.2 per cent low), tertiary education providers (62.1 per cent high, 5.9 per cent low). The responses regarding the police (56 per cent high, 15.8 per cent low), public service (53.5 per cent high, 13.1 per cent low) and councils (54.2 per cent high, 13.9 per cent) were significantly less positive than the 'top' groups. The most negative responses concerned aged care (40.1 per cent high, 26.8 per cent low) and prisons (36 per cent high, 23.7 per cent low).

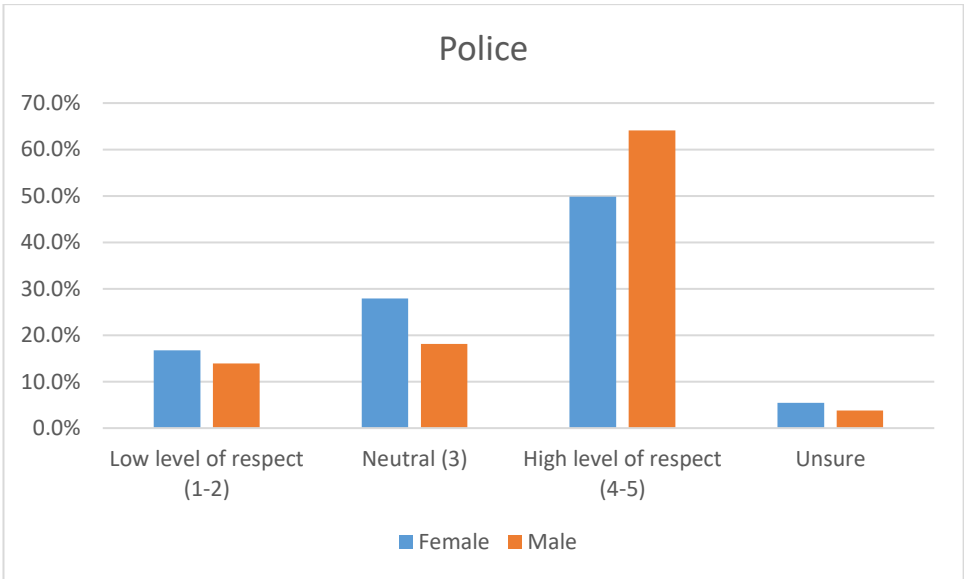
The responses regarding the private sector were fairly similar for employers (51.1 per cent high, 10.7 per cent low), businesses (52 per cent high, 10.2 per cent low), and shopping centres (56.9 per cent high, 10.3 per cent low), and less positive for religious institutions (49.7 per cent high, 18.3 per cent low).

There were few differences in the responses to Q12 between people from Brisbane and those outside Brisbane. Overall, Brisbane respondents were slightly more negative with regard to all of the assessed institutions. Similarly, there were few differences between the non-CALD and CALD groups — the largest difference concerned prisons where non-CALD were more likely to find both high (36.8 per cent compared to 27.4 per cent) and low levels of respect (24.2 per cent compared to 17.9 per cent), with the CALD group recording a large percentage of 'unsure' responses (35.7 per cent compared to 16.4 per cent).

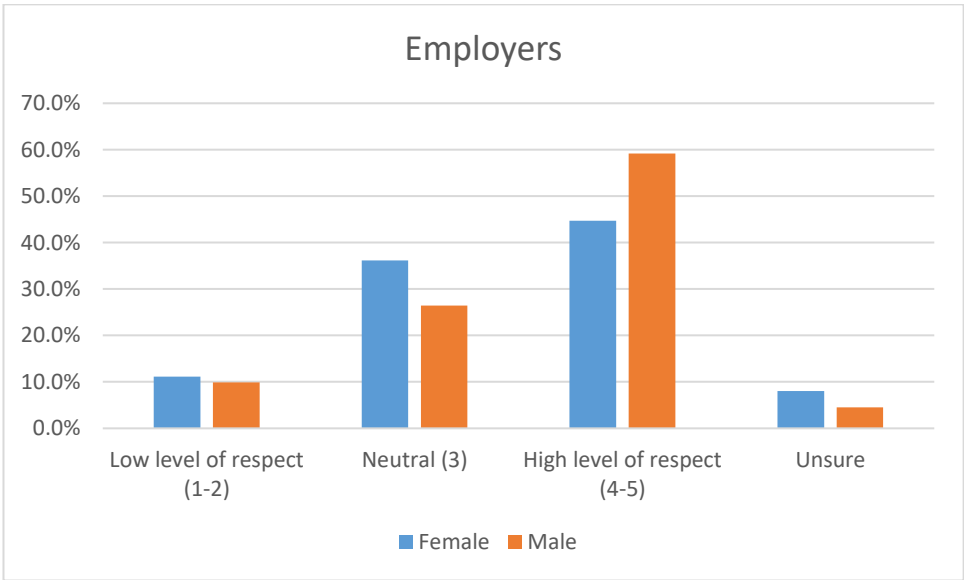
Women were much more negative in their assessments of all institutions than men, as can be seen in the following graphs, which display the largest differences between the sexes.

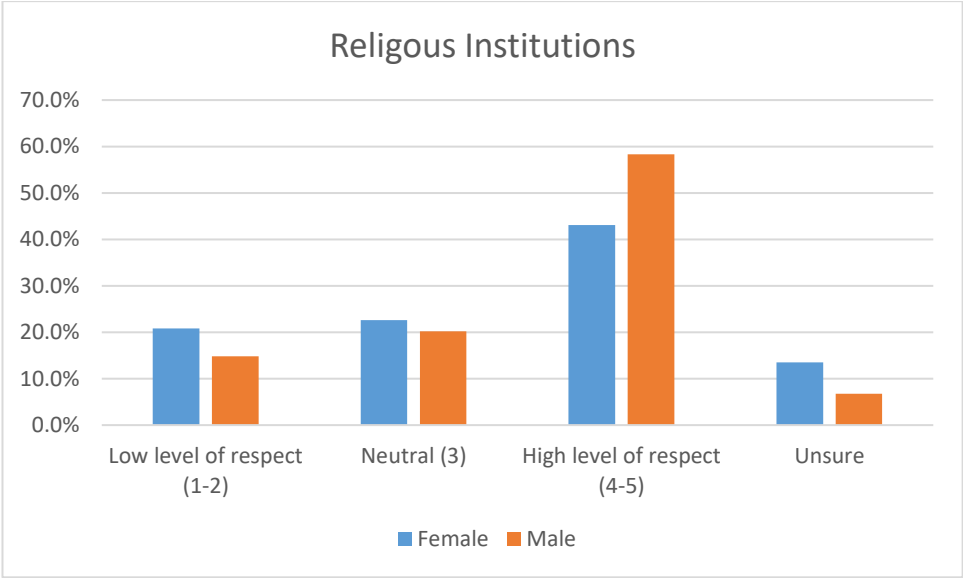




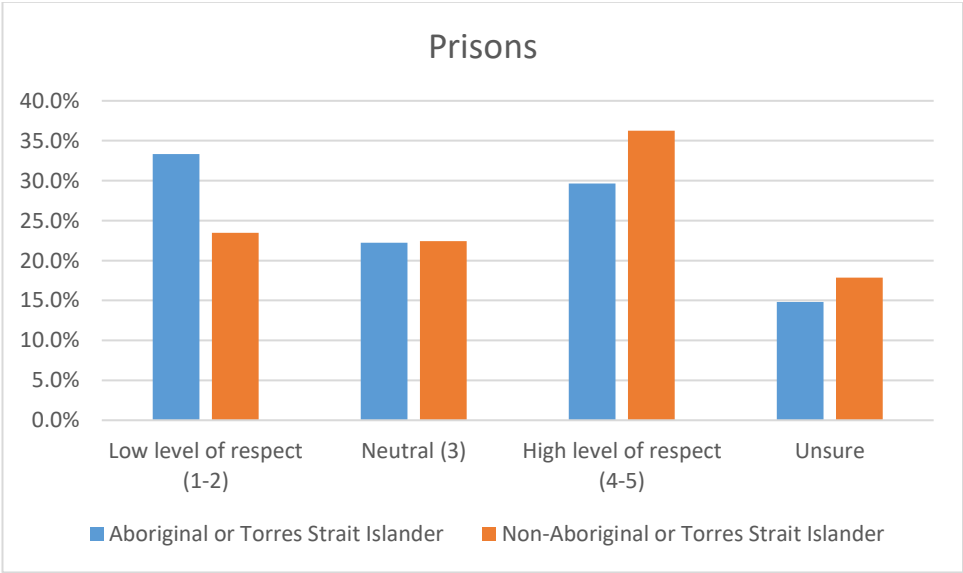


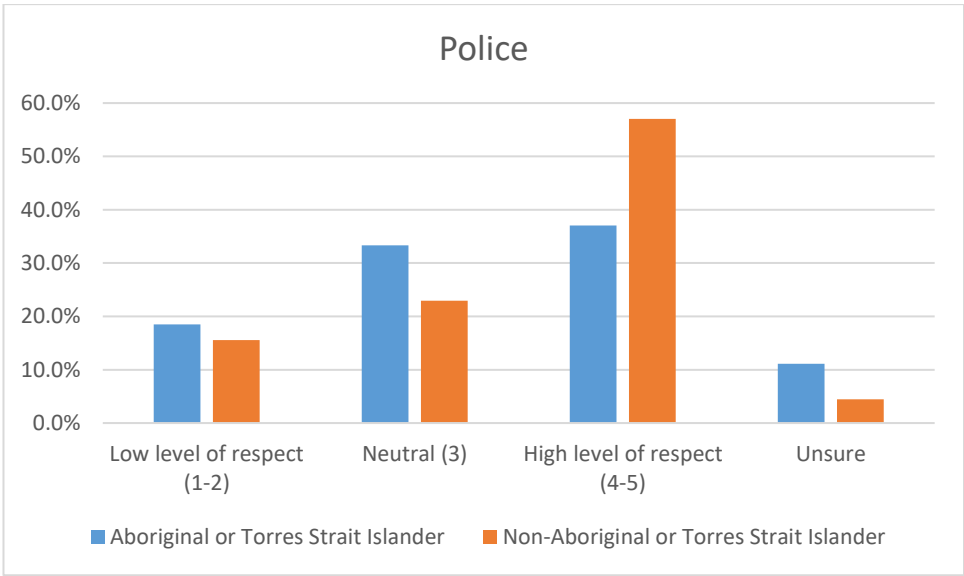
Similar gaps arose concerning the ‘high level of respect’ response in the private sector, with the biggest differences arising regarding employers and religious institutions:





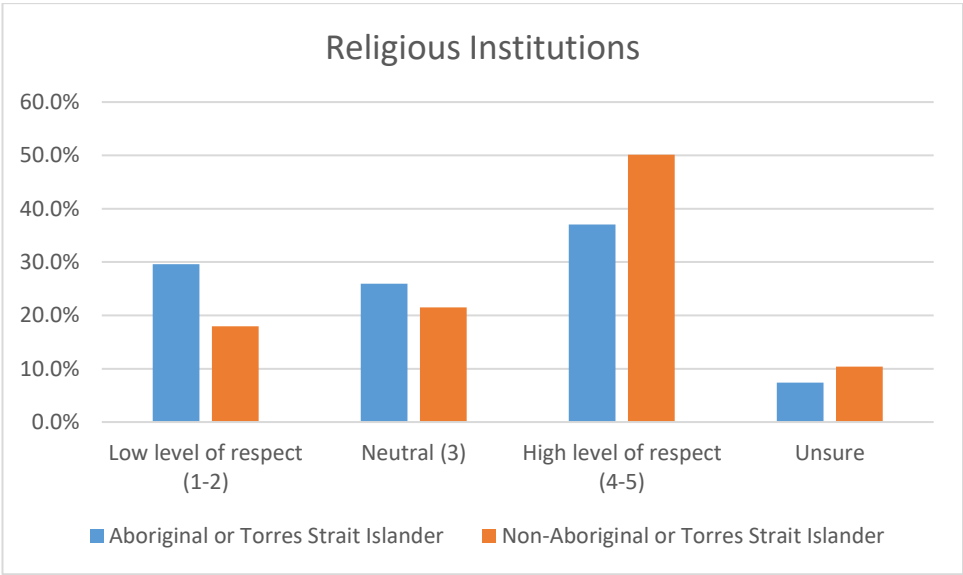
Indigenous people were generally less likely to record positive responses compared to non-Indigenous people, although this was not consistent. Indigenous people recorded more ‘high level of respect’ responses for the public service and councils, but they also recorded more ‘low levels of respect’ for councils. The most marked differences concerned prison and the police, as seen in the following graphs:



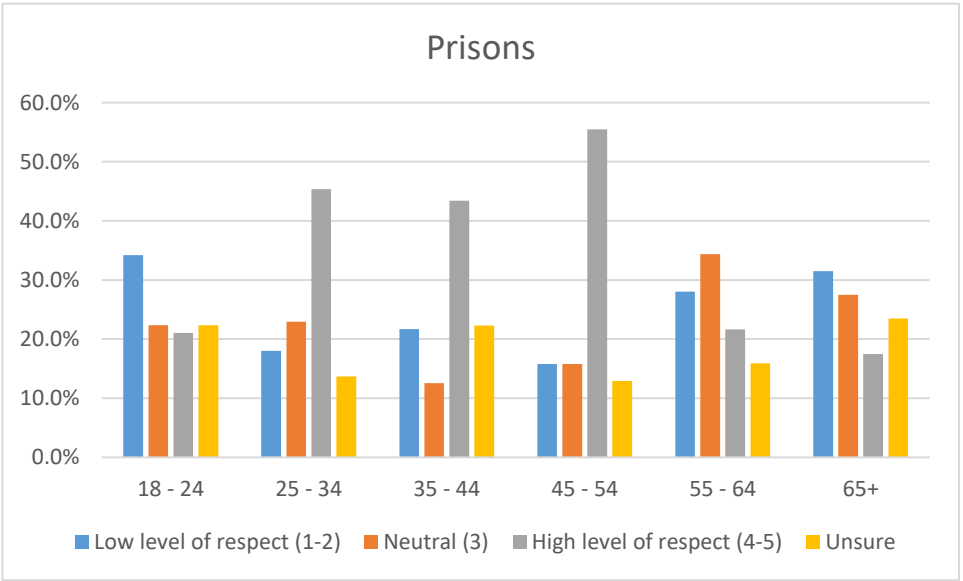


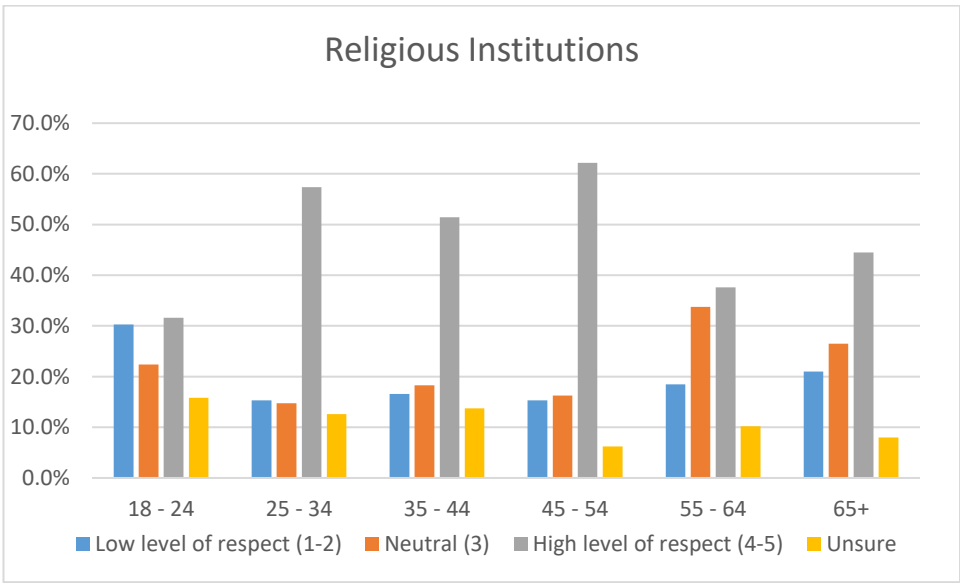
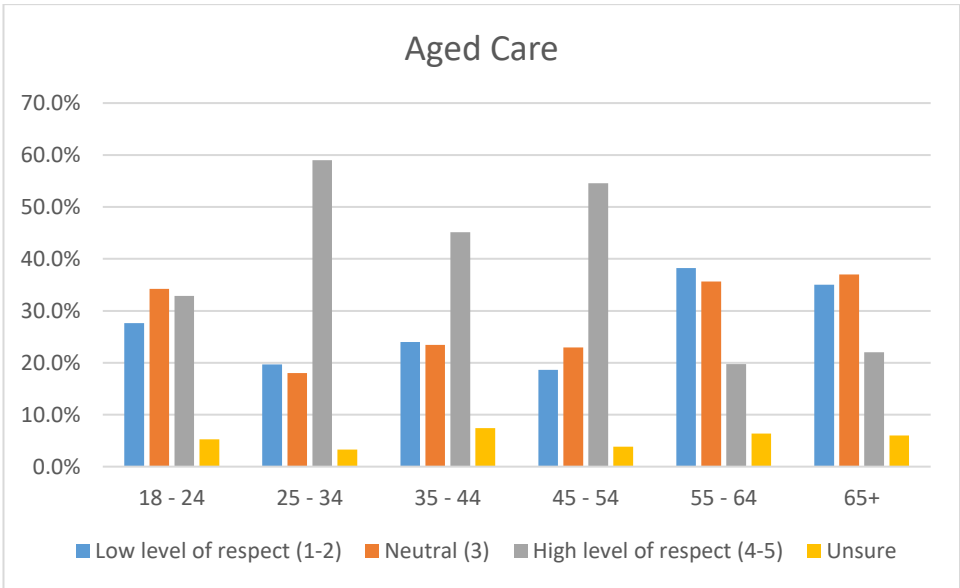
Regarding the private sector, the most marked differences arose regarding shopping centres and religious institutions:



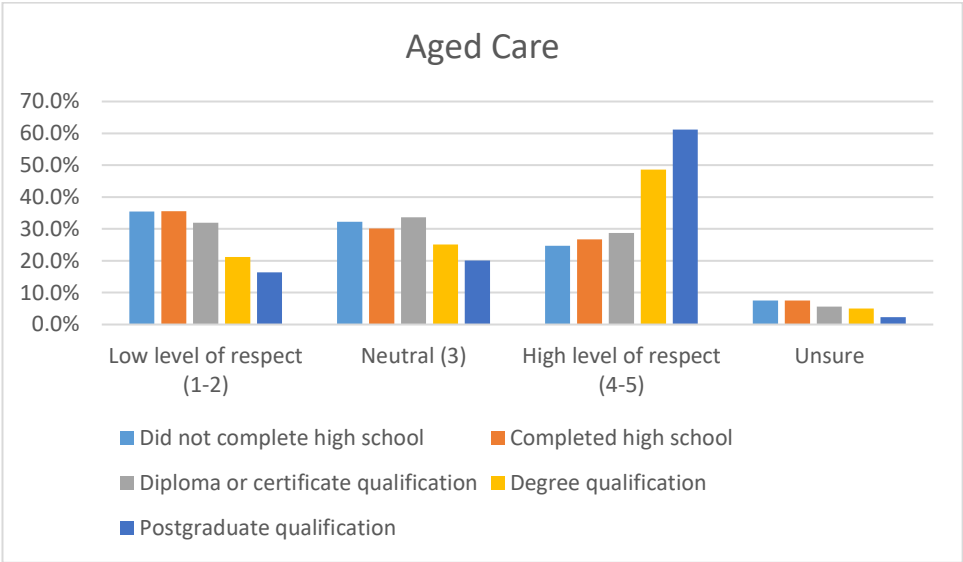
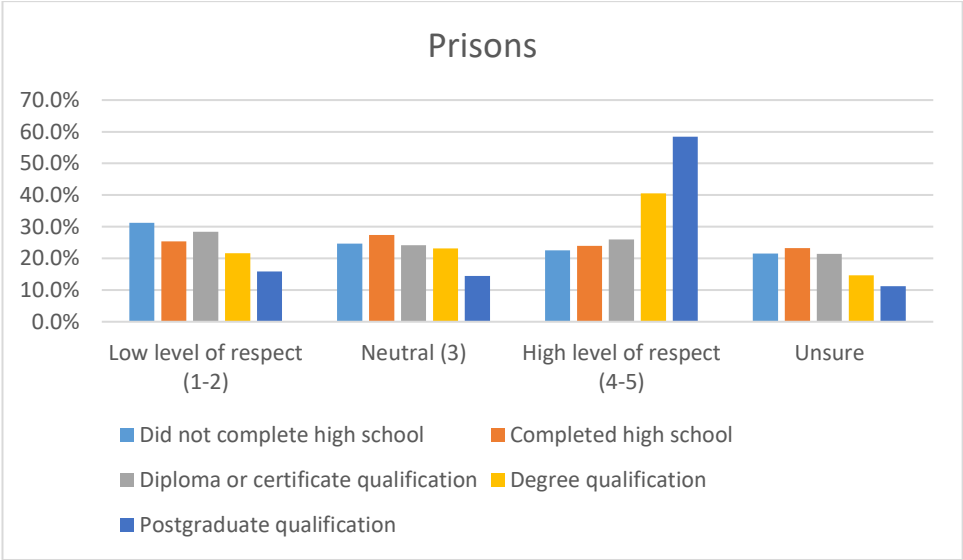


The most positive age groups were, consistently across both public and private institutions, those aged 25–54. The least positive were those aged 18–24 and those aged over 55. The most marked differences are represented in the graphs below, concerning prisons, aged care and, in the private sector, religious institutions.

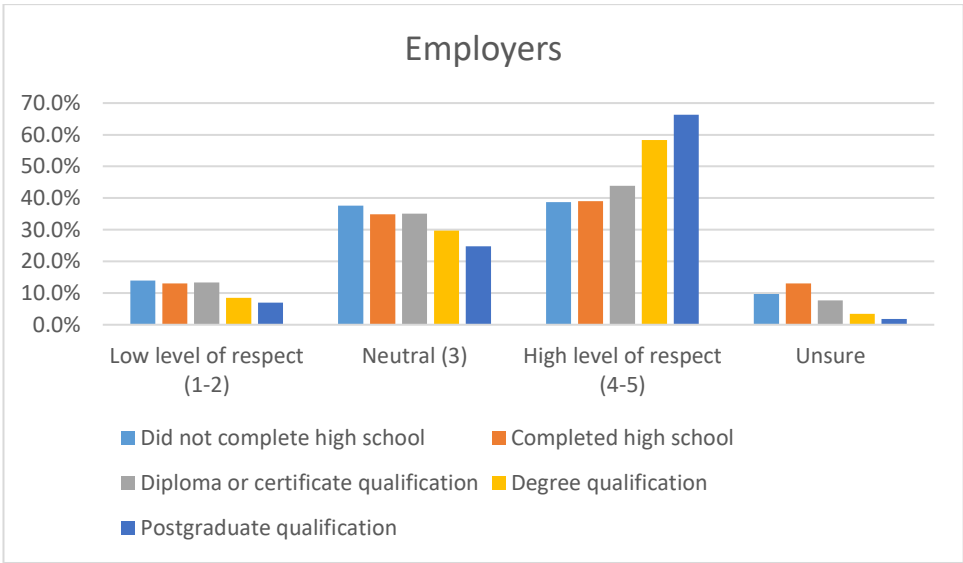




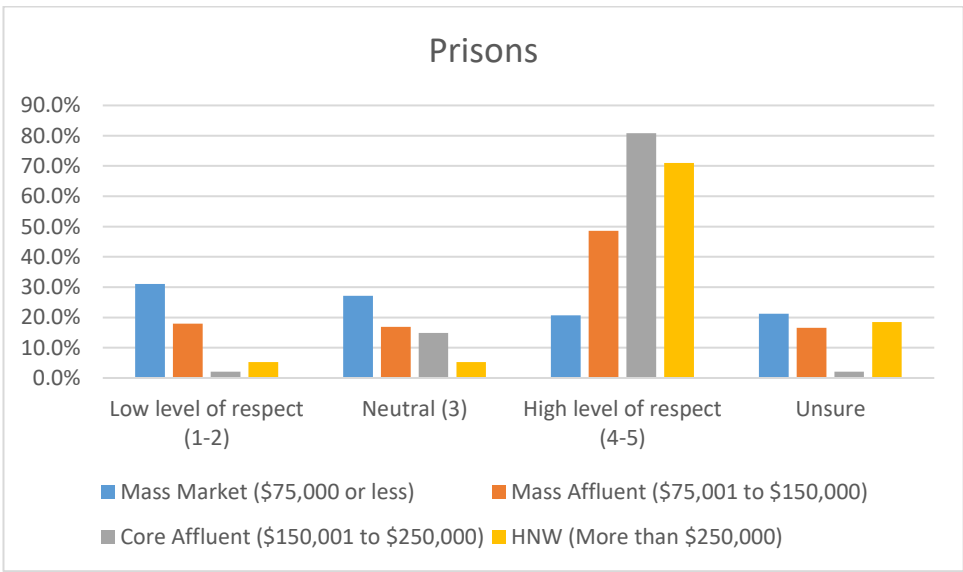
Regarding educational levels, those with the highest educational credentials tended to be more likely to respond ‘high’ than those with lower educational credentials. Some of the starkest distinctions in response arose regarding prisons and aged care.

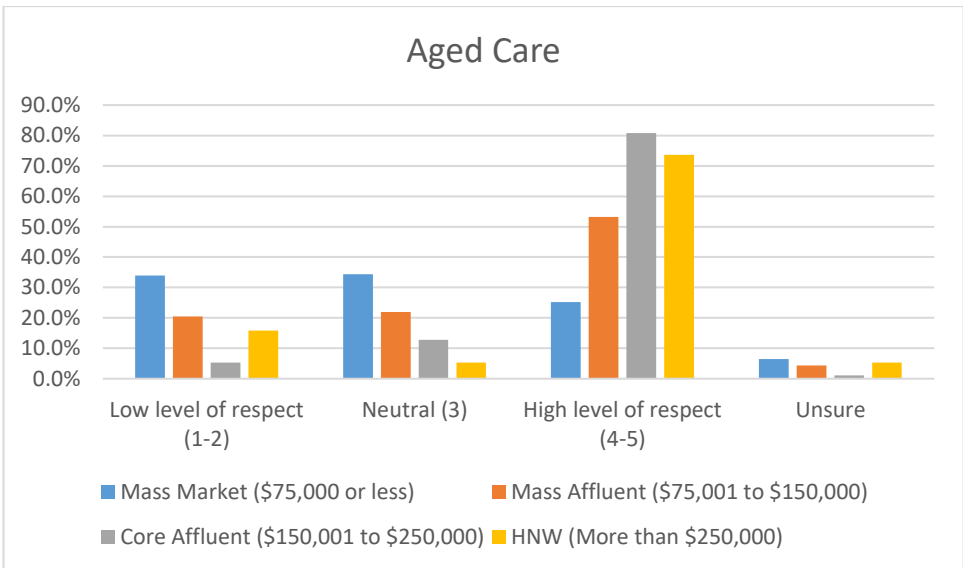


Regarding the private sector, this graph concerning employers was largely reflective of the responses to all private sector institutions disaggregated by education:



The trend in responses according to wealth sector tended to be more positive according to greater levels of wealth. However, the second wealthiest group, Core Affluent, was consistently more positive than the wealthiest group, HNW. The most dramatic differences again concerned prisons and aged care:





Regarding private sector institutions, the Mass Market group did not reach 50 per cent ‘high’ for any institution, and was in fact below 40 per cent for all of them apart from shopping centres (46.6 per cent high). The Mass Affluent group generally recorded around 60 per cent ‘high’ for all private sector institutions, while ‘high’ responses in the wealthier groups were above 75 per cent for all, apart from only 63.2 per cent of HNW believing religious institutions had high levels of respect for human rights.

The answers to Q12 segregated by group reveal that those in the most vulnerable groups generally expressed less satisfaction with the human rights performance of both public and private sector institutions in Queensland, compared to the less vulnerable groups. The low comparative results for aged care, prisons, and religious institutions concern institutions that have been heavily criticised in recent years for their human rights performance. Aged care and religious institutions have been prominently critiqued by both federal and state royal commissions,<sup>77</sup> while prisons have long been a target of human rights criticism and advocacy.<sup>78</sup> One seemingly anomalous result is the greater satisfaction of men with prisons than women, given the greater likelihood of male than female imprisonment.<sup>79</sup> One hypothesis may be that women could be less satisfied with prison environments as visitors and people whose family members

<sup>77</sup> See, eg, Royal Commission into Aged Care Quality and Safety, *Final Report: Care, Dignity and Respect* (Report, 1 March 2021); Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report* (Report, 15 December 2017).

<sup>78</sup> See, eg, Australian Human Rights Commission, ‘Australia Ratifies Major Anti-Torture Treaty OPCAT’, *Prisoners* (Web Page) <<https://humanrights.gov.au/extended-area-work/prisoners>>.

<sup>79</sup> Australian Bureau of Statistics, *Prisoners in Australia 2021* (Catalogue No 4517.0, 9 December 2021).



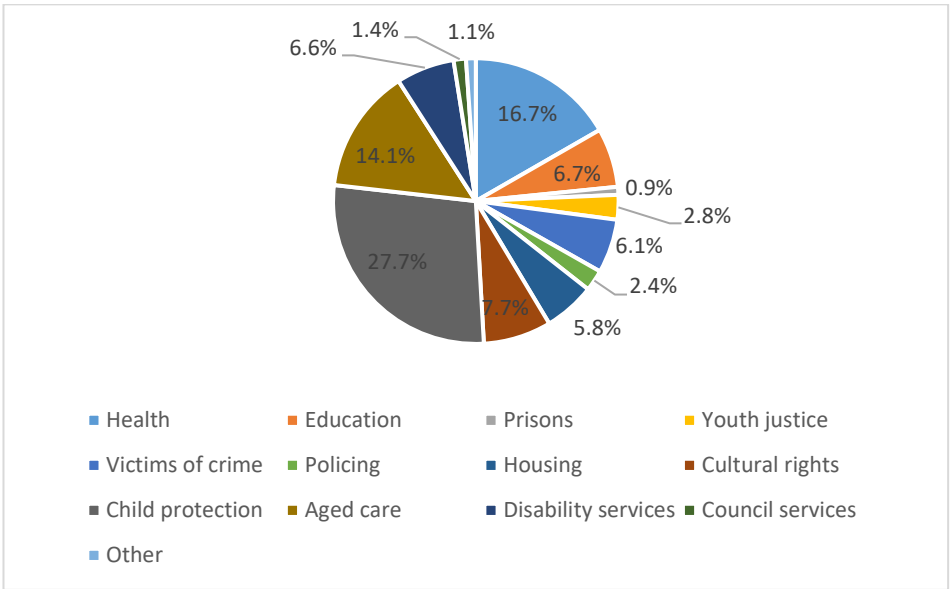
have gone to prison than men as actual inmates, but further research is required on this issue.

**C Where are Human Rights Most Needed?**

- 11. What are the three most important areas where protection of human rights is most needed?
- 21. Please indicate the top 5 groups you think are in need of greater protection.

These two questions related to the areas, and people, which respondents thought should be prioritised in terms of human rights protection. For each answer, we focus here only on the top choice, rather than, respectively, the top three or five choices.

Regarding areas to be prioritised in Question 11 ('Q11'), three answers (combined) commanded over 50 per cent of 'first option' responses: child protection (27.7 per cent), health (16.7 per cent), and aged care (14.1 per cent). It was quite a drop to the fourth placed 'cultural rights' (7.7 per cent), education (6.7 per cent), disability services (6.6 per cent), victims of crime (6.1 per cent) and housing (5.8 per cent). Very few respondents ranked issues relating to criminal justice highly, aside from the rights of victims, with low numbers listing youth justice (2.8 per cent), policing (2.4 per cent), council services 1.4 per cent and prisons (0.9 per cent). 'Other' captured 1/1 per cent of responses.

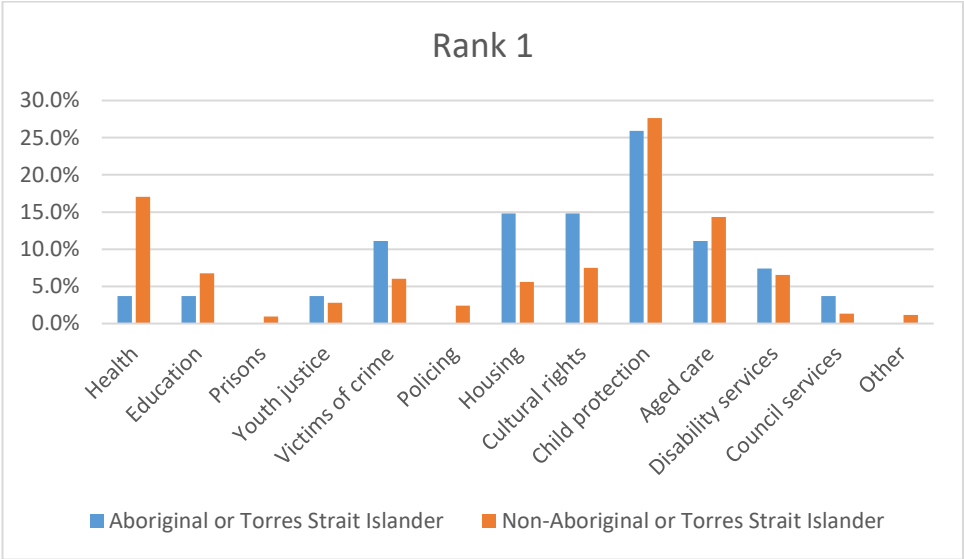


As will be seen with the next question covered (Question 21 (‘Q21’)), the concern with the welfare of children and the elderly is consistent and dominant. The concern with health as a human rights priority is predictable in a pandemic. In contrast, again, as will be seen with regard to Q21, there is little concern with those in the criminal justice system as perpetrators (or alleged perpetrators), including youth offenders. The low ranking of youth offenders is interesting, given the high correlation between youth offenders and children in the child protection system.<sup>80</sup>

The ranking of priority areas in Q11 did not differ much according to location in or outside Brisbane. Those outside the capital city ranked aged care (15.3 per cent) above health (14.6 per cent), but Brisbane residents ranked them the other way (19.5 per cent health; 12.6 per cent aged care).

Women prioritised child protection (32.8 per cent) at a much higher rate than men (21.7 per cent), though both ranked it as their highest priority area. Men ranked aged care (16.4 per cent) higher than health (14.6 per cent), but women ranked these areas more starkly the other way (18.6 per cent health compared to 12.4 per cent aged care). Men were much more likely to prioritise policing (4.3 per cent) compared to women (0.9 per cent), which might reflect the greater likelihood of their bring engaged by the police.

The priority concerns of Indigenous people were quite different to non-Indigenous people, aside from both groups ranking child protection first, as seen in the following graph:



<sup>80</sup> Susan Baidawi and Rosemary Sheehan, ‘“Crossover Kids”: Offending by Child Protection-Involved Youth’ (2019) 582 *Trends and Issues in Crime and Criminal Justice* 1.

Indigenous people ranked housing and cultural rights equal second (14.8 per cent) and ranked victims of crime equal to aged care (11.1 per cent). Indigenous peoples were much less likely to choose health as their first priority (3.7 per cent compared to 17 per cent), although many Indigenous peoples chose health as their second priority (15.4 per cent). The concern of Indigenous people with cultural rights is understandable, as is their greater concern with housing issues and issues related to victims of crime, given statistics regarding the greater vulnerability of Indigenous people to inadequate housing and homelessness, and of exposure to crime.<sup>81</sup>

While both the non-CALD and CALD groups reflected the same top three priority areas as the general population, CALD were much more likely to choose health as their first priority (26.2 per cent compared to 15.8 per cent). Indeed, a combined 58.3 per cent of CALD chose child protection and health as their first priority. While aged care was still the third ranked 'first' priority amongst CALD, it was only 9.5 per cent of CALD compared to 14.5 per cent of non-CALD, which may reflect the fact that CALD families are more likely to care for elderly parents in the home than non-CALD.<sup>82</sup>

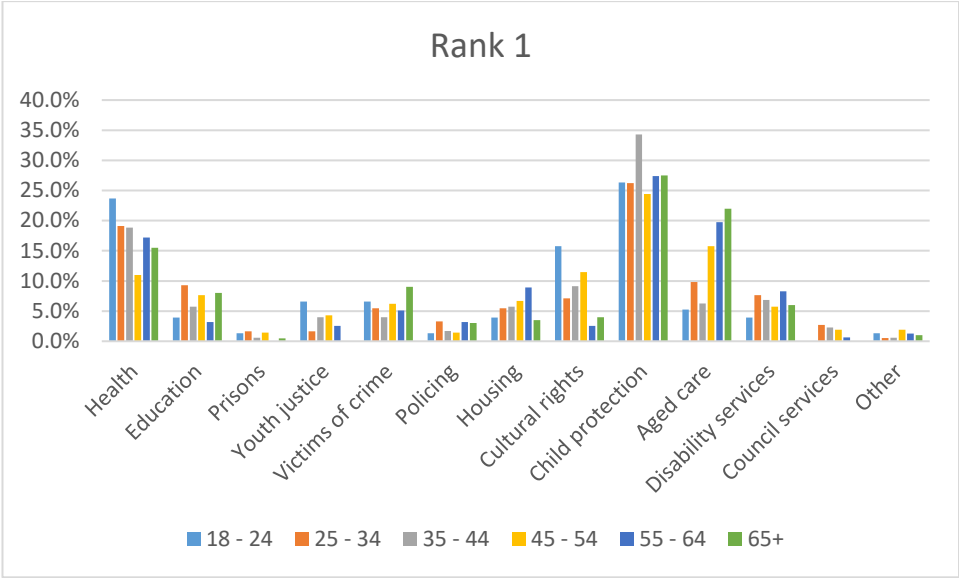
The age stratified responses reveal strong support across all age groups for prioritising child protection. As can be seen below, younger people prioritised health more than older people, and older people understandably prioritised aged care much more than younger people. There was strong support amongst the youngest age group for prioritisation of cultural rights (15.8 per cent), perhaps reflecting greater awareness of Indigenous issues.<sup>83</sup> That age group also demonstrated some reasonable prioritisation of youth justice (6.6%), which plummeted to 1.6% for the next youngest age group (25–34).

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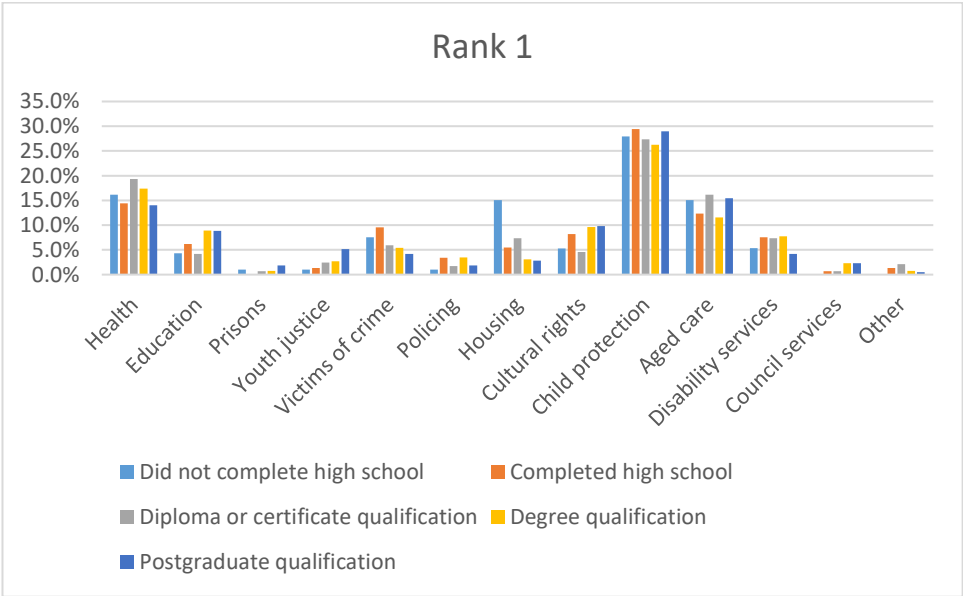
<sup>81</sup> See, eg, Australian Institute of Health and Welfare, *Homelessness Among Indigenous Australians* (Report No 133, 16 July 2014); Australian Bureau of Statistics, *Recorded Crime – Victims, Australia, 2017* (Catalogue No 4510.0, 28 June 2018).

<sup>82</sup> See, eg, Meihan Lo and Cherry Russell, 'Family Care: An Exploratory Study of Experience and Expectations Among Older Chinese Immigrants in Australia' (2007) 25(1) *Contemporary Nurse* 31; Luma Simms, 'Caring for Our Own: An Immigrant's View of Elder Care', *Institute for Family Studies* (Article, 31 July 2020) <<https://ifstudies.org/blog/caring-for-our-own-an-immigrants-view-of-elder-care>>.

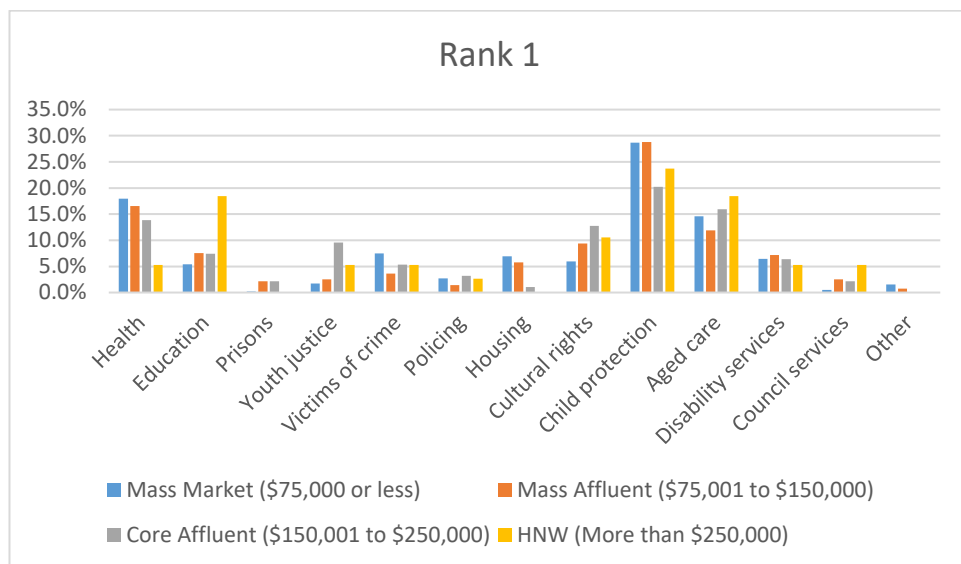
<sup>83</sup> Matthew Gray and William Sanders, *Australian Public Opinion on Indigenous Issues: Injustice, Disadvantage and Support for Recognition* (Report No 17, March 2015) 7–8.



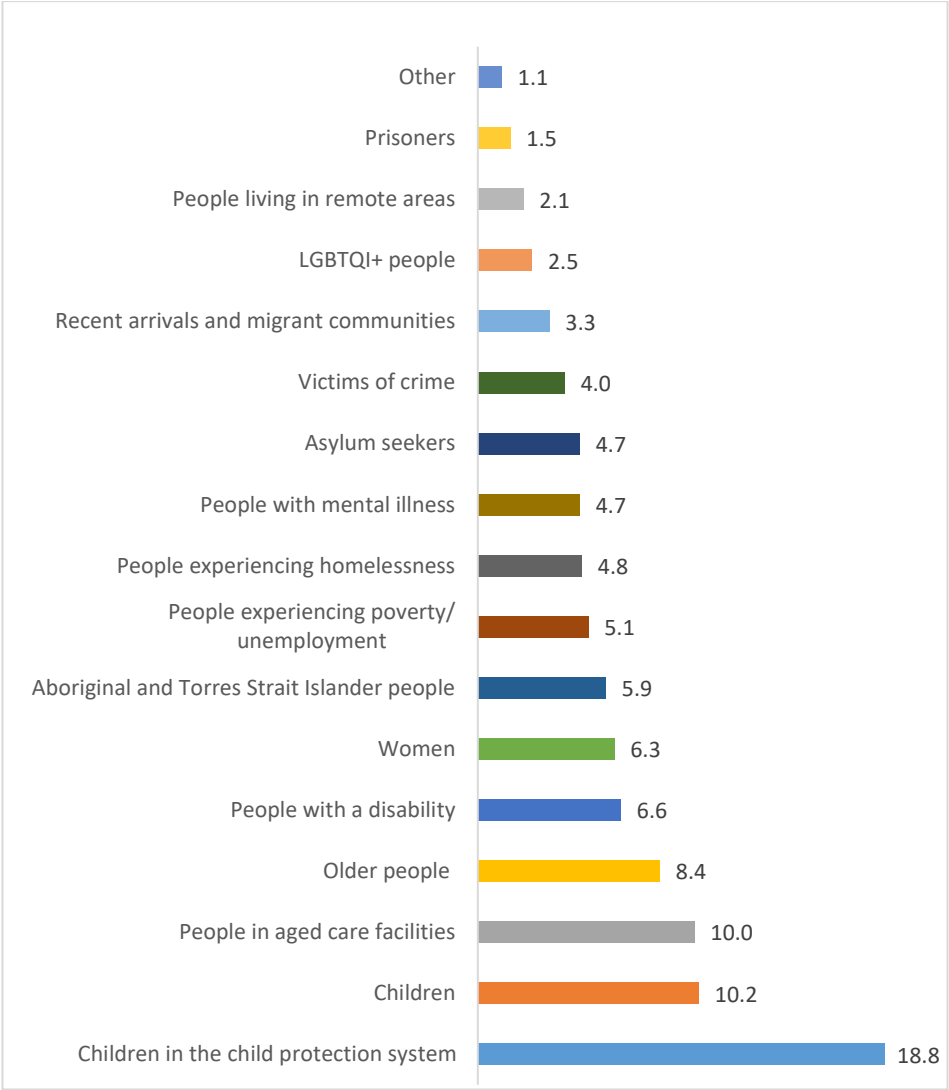
The education-stratified data again reveals strong support for the top three issues. Those who have not completed high school are significantly more likely to prioritise housing compared to others (15.1 per cent) compared to the next highest ranking of 7.4 per cent from those with a diploma or certificate qualification.



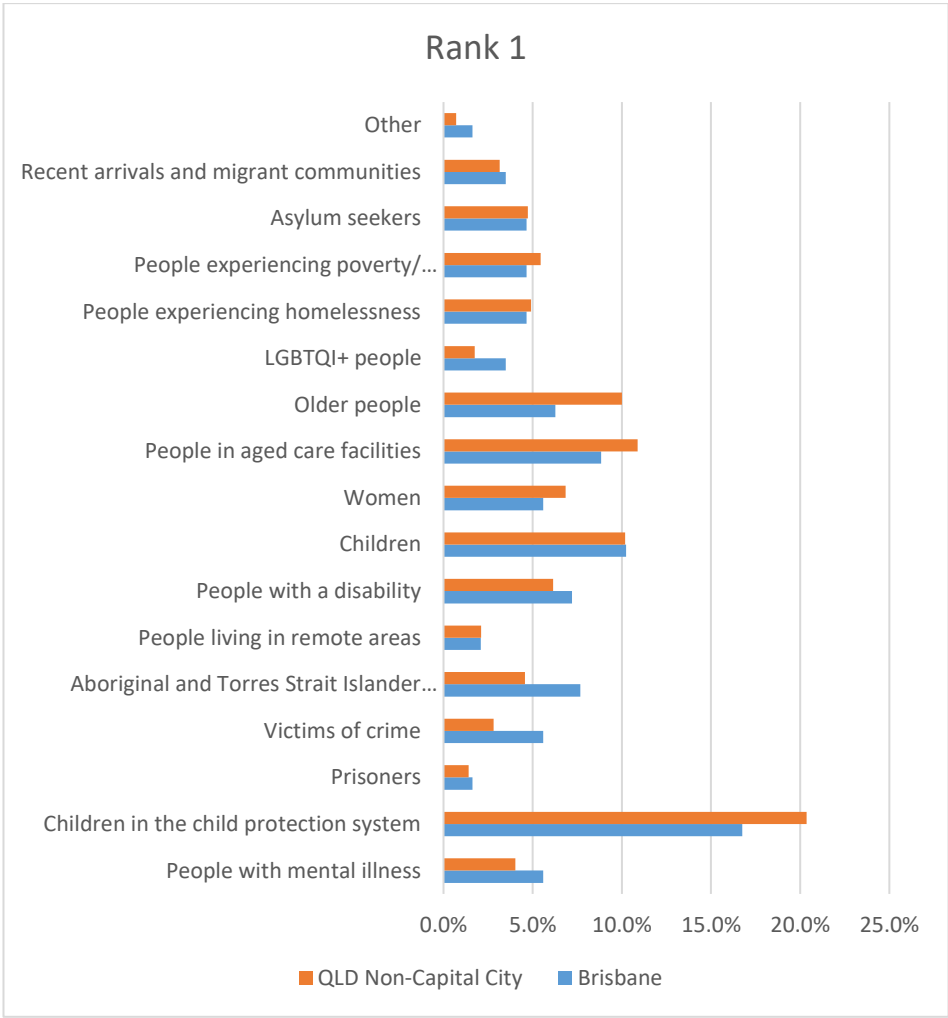
There was strong support for the top three issues amongst all wealth sectors, except that HNW were much less likely to rank health as their first priority (5.3 per cent compared to the next lowest, 13.8 per cent from Core Affluent), and much more likely to rank education, which ranked equal second for HNW alongside aged care at 18.4 per cent. No other wealth group ranked education higher than 7.6 per cent. The idiosyncratic HNW answers may reflect very different life experiences within that group.



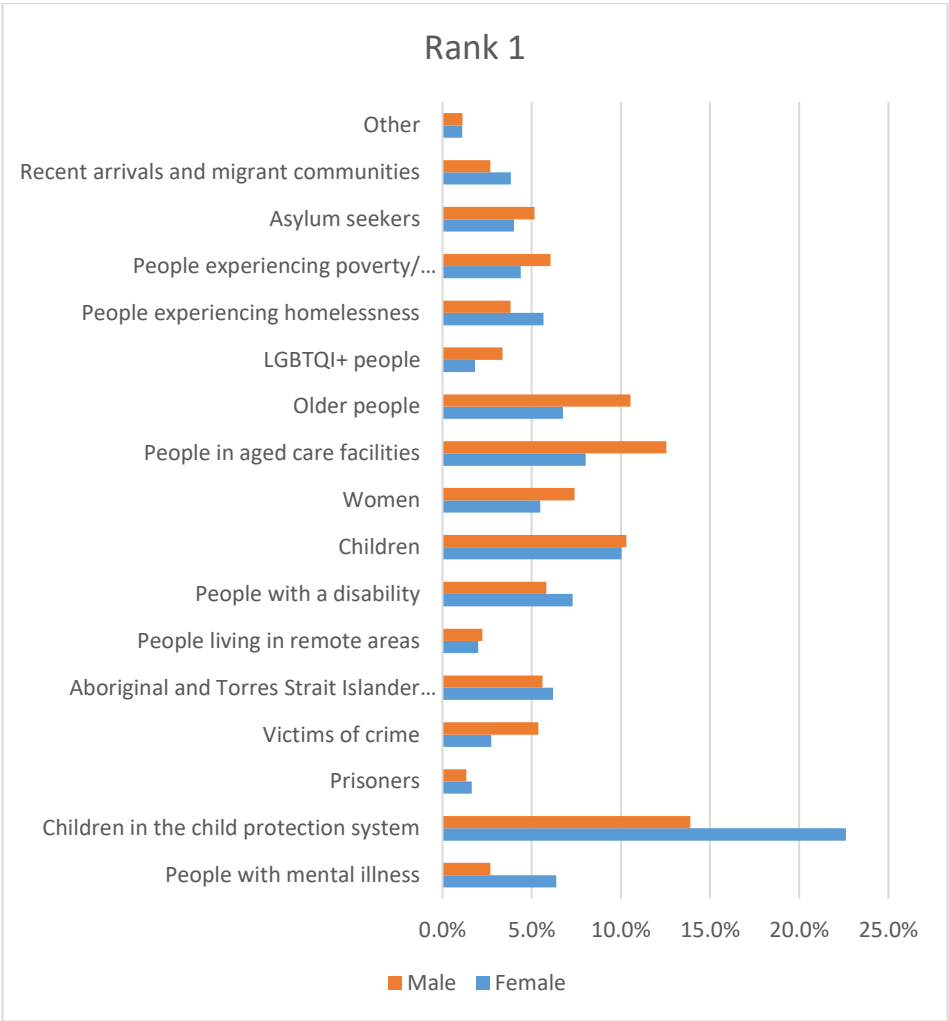
Regarding Q21, children were singled out as the group in greatest need of rights protection. 18.8 per cent ranked 'children in the child protection system' first, and a further 10.2 per cent ranked 'children' first. The next two most commonly ranked 'prioritised persons' were 'people in aged care facilities' (10 per cent) and 'older people' (8.4 per cent). From there, the rankings were as follows: people with a disability (6.6 per cent), women (6.3 per cent), Indigenous peoples (5.9 per cent), people experiencing poverty (5.1 per cent), people experiencing homelessness (4.8 per cent), asylum seekers and people with mental illness (both 4.7 per cent), victims of crime (4 per cent), migrant communities (3.3 per cent), LGBTQI+ people (2.5 per cent), people living in remote areas (2.1 per cent), and last of all, prisoners (1.5 per cent). 'Other' captured 1/1 per cent of responses.



People outside Brisbane were more likely to prioritise children in the child protection system, and both categories of older people, than people in Brisbane, as seen in the following graph. People in Brisbane were much more likely to prioritise Indigenous people (7.7 per cent to 4.6 per cent) and victims of crime (5.6 per cent to 2.8 per cent). There was no difference between the Brisbane and non-Brisbane groups regarding the prioritisation of people living in remote areas (2.1 per cent for both groups).



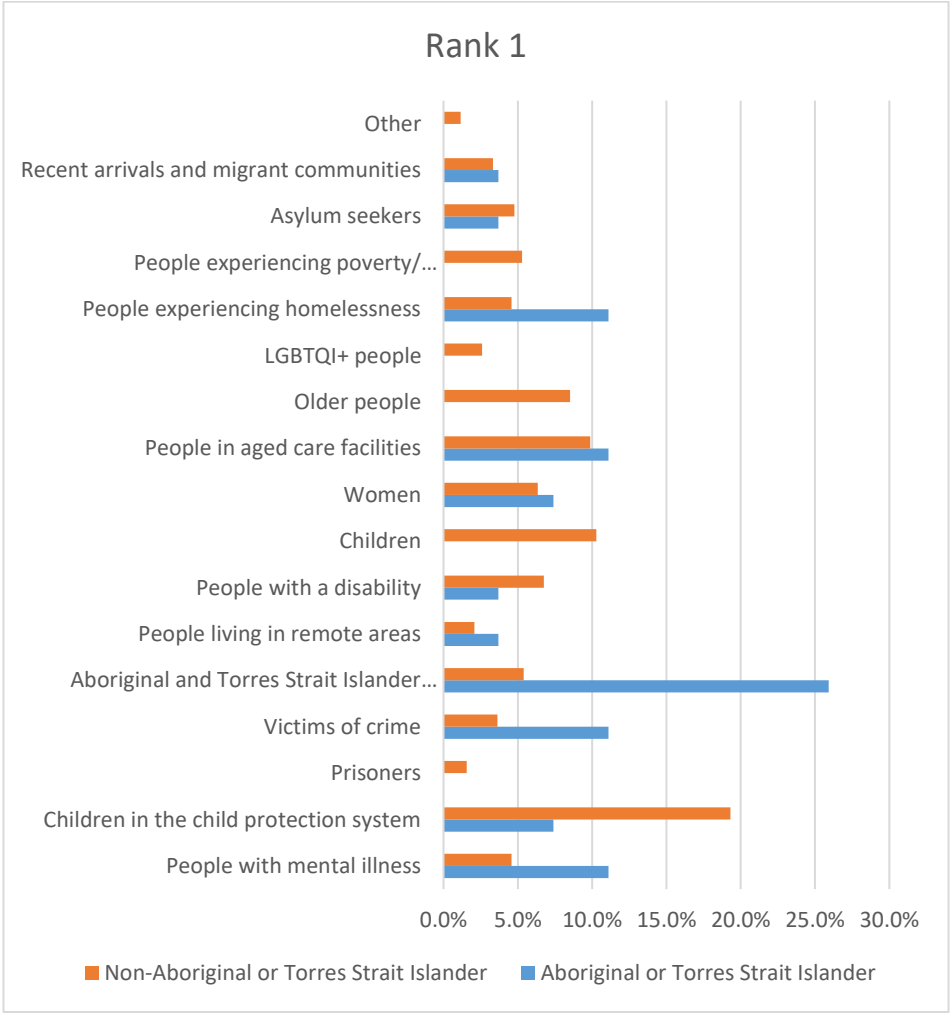
Women were much more likely to prioritise children in the child protection system than men (22.6 per cent compared to 13.9 per cent). Men were, perhaps counter-intuitively, more likely to prioritise women (7.4 per cent to 5.5 per cent) and, despite their shorter life expectancy, both categories of older people.



The top ranked ‘prioritised persons’ for Indigenous people were very different to non-Indigenous people. Indigenous people had much higher rankings for Indigenous people (25.9 per cent to 5.4 per cent), people with mental illness (11.1 per cent to 4.6 per cent), victims of crime (11.1 per cent to 3.6 per cent), and people experiencing homelessness (11.1 per cent to 4.6 per cent). Neither category of child attracted many responses from Indigenous people, with 7.4 per cent ranking children in the child protection system first, and none ranking children generally first. While people in aged care facilities were equal second in priority for Indigenous people (at 11.1 per cent alongside the three categories mentioned above), older people generally were not ranked as a first priority by any self-identified Indigenous respondent. The different Indigenous responses again



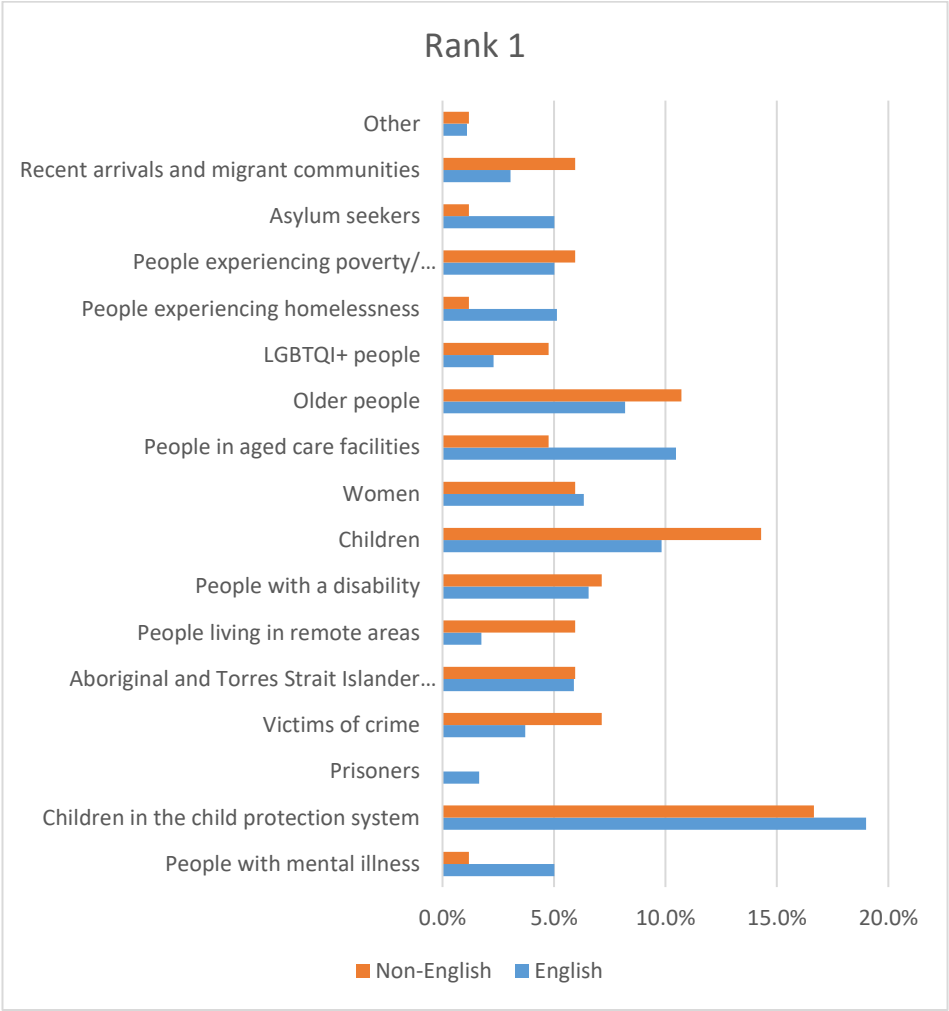
likely reflect greater statistical vulnerability of the Indigenous population to mental illness diagnoses, homelessness and experience of crime.<sup>84</sup>



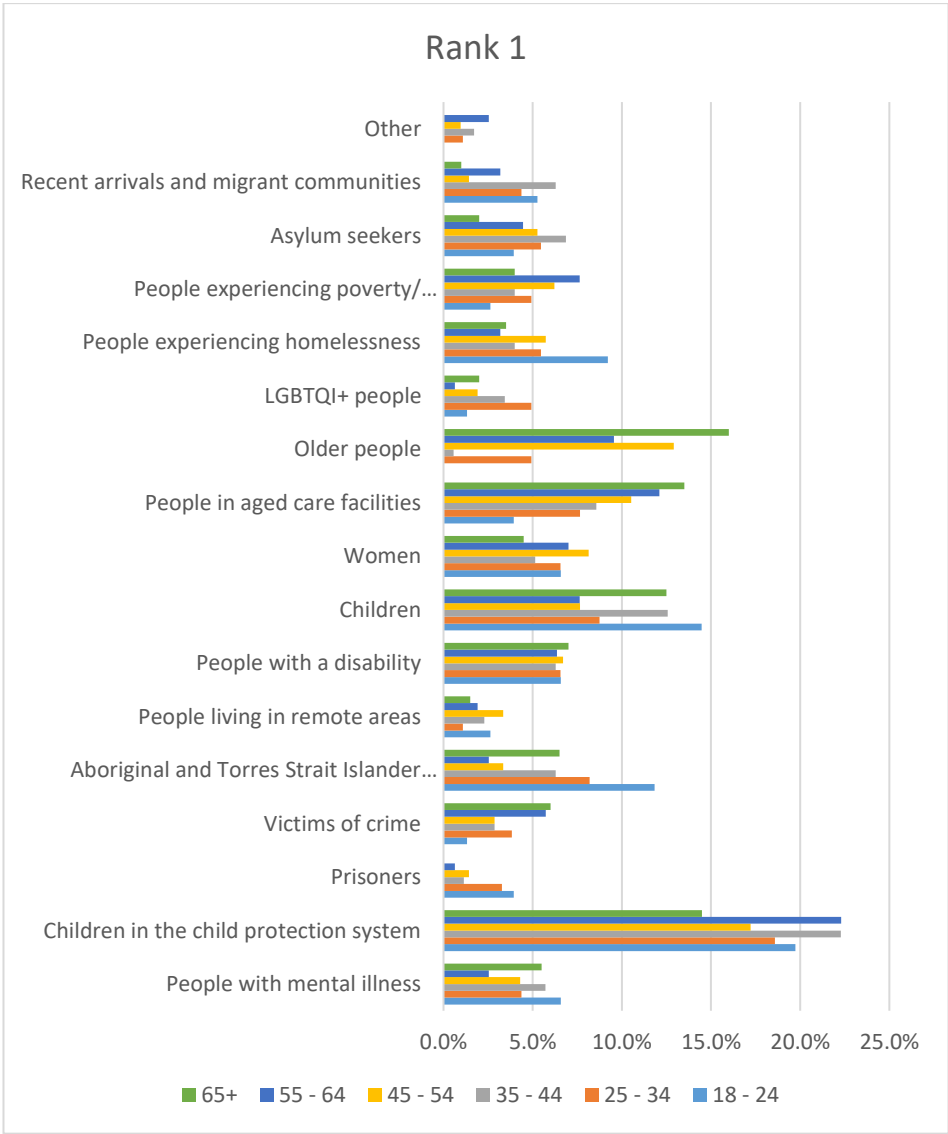
There was much less difference between the non-CALD and CALD groups. While CALD ranked people in aged care homes much lower than non-CALD (4.8 per cent compared to 10.5 per cent), they ranked older people, generally, higher (10.7 per cent to 8.2 per cent). Again, this may reflect the fact that CALD families are more likely to care for parents in their own homes than non-CALD families. The CALD group was more likely to list victims of crime, people in remote areas, LGBTQI+, and migrant communities as the top priority compared to the non-CALD group.

<sup>84</sup> Above n 81.

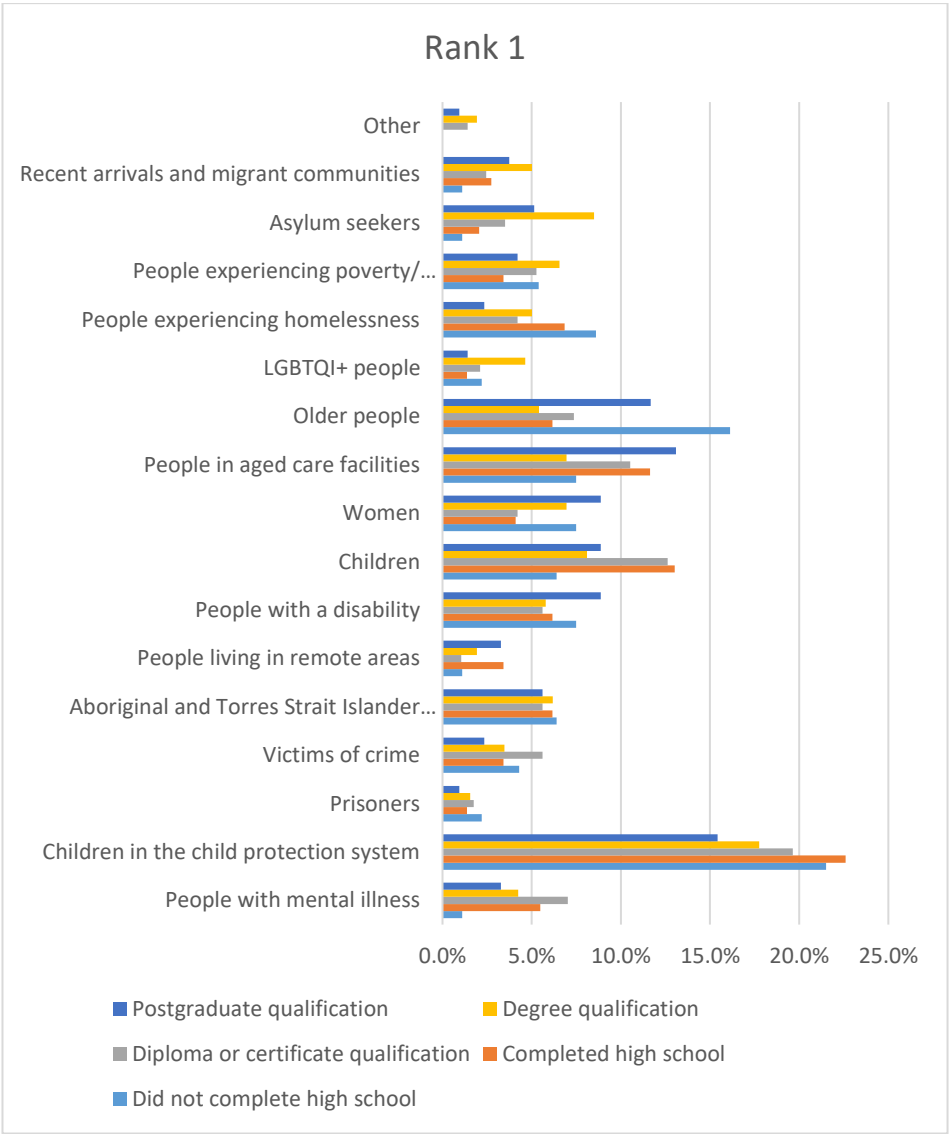
They were much less likely to list people with mental illness, people experiencing homelessness or asylum seekers.



The age stratified data shows all age groups prioritised children, and most age groups prioritised older people next. The youngest group was much more likely to prioritise Indigenous people, people experiencing homelessness and prisoners compared to the older age groups.

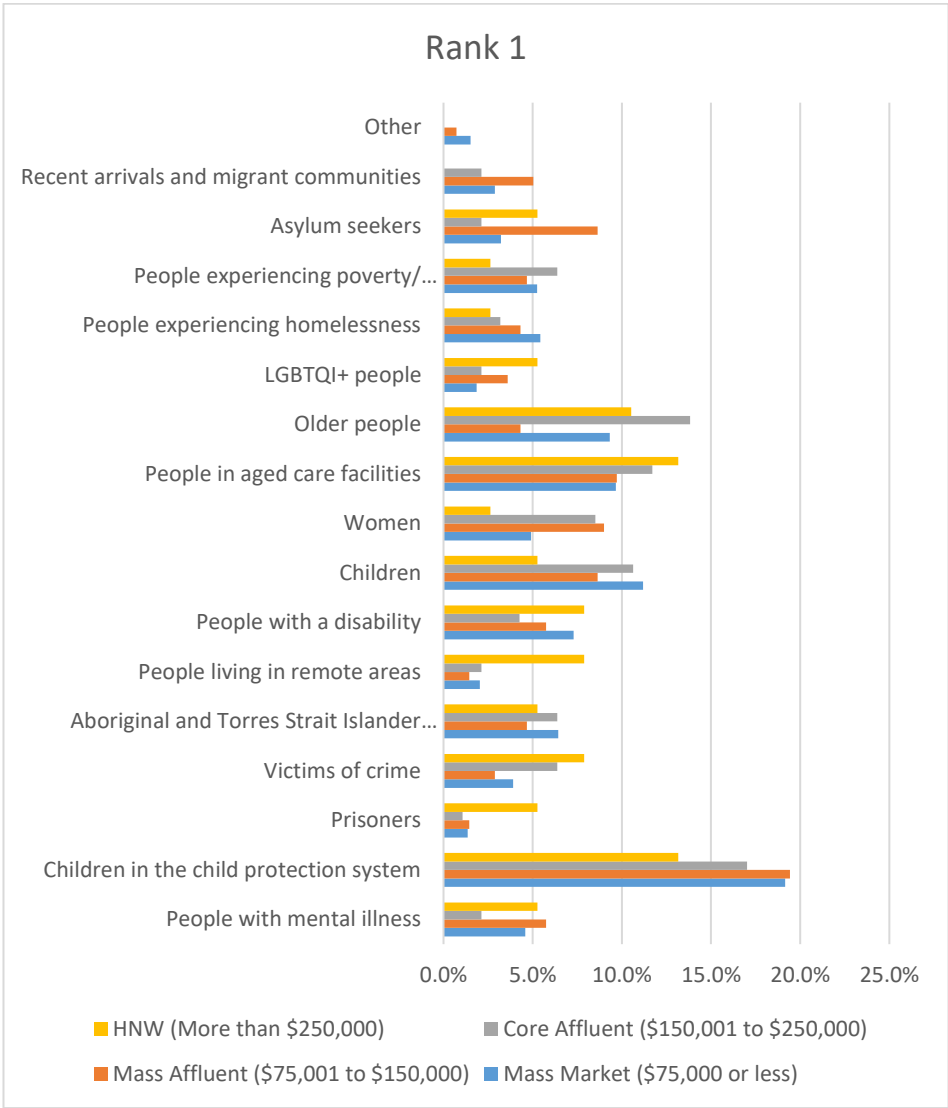


Prioritisation of children is clear across all educational groups, followed by prioritisation of older people in most of those groups.



With the wealth stratified data, there are some notable differences between the HNW group and other groups. HNW were much more likely to rank the following people as a priority than other groups: prisoners (5.3 per cent compared to the next highest being 1.4 per cent among both of the least wealthy groups) and people living in remote areas (7.9 per cent compared to the next highest of 2.1 per cent from the Core Affluent group). The HNW group was much less likely to rank either group of children as the highest priority (13.2 per cent for children in the child protection system, compared to the next lowest of 17 per cent for Core

Affluent; 5.3 per cent for children compared to the next lowest of 8.6 per cent for Mass Affluent). Only 2.6 per cent of the HNW ranked women as the greatest priority, with the other numbers in ascending order being 4.9 per cent (Mass Market), 8.5 per cent (Core Affluent) and 9 per cent (Mass Affluent). The anomalous HNW results may reflect distortions arising from the comparatively small number of HNW respondents. It may also reflect the privileges experienced by children in that group, and different life experiences.



Concern over children and the elderly dominated so much that other vulnerable groups are crowded out, such as women and Indigenous people. We surmise that the great concern for children in care was in part driven by community outrage over the Tiahleigh Palmer case, discussed above. The lack of concern for prisoners was consistent with the answers to Q11. The low responses for women as a first priority were surprising, given the large number of reports across Queensland and Australia in recent years of horrific violence against women, as well as high profile revelations of sexual harassment.

### ***D Free Text Answers (Most Important Human Rights; Queensland's Human Rights History)***

10. What are the human rights that are most important to you?

23. Can you think of examples in Queensland's past when human rights have not been respected?

These two questions permitted free text answers. In analysing the responses, we coded each answer within ten categories. The ten categories were determined by their frequency in encompassing the responses given. The tallies for each of the ten categories for both Question 10 ('Q10') and Question 23 ('Q23') were then worked out by our colleagues, data analysts at Griffith University's Relational Insights Data Lab.<sup>85</sup>

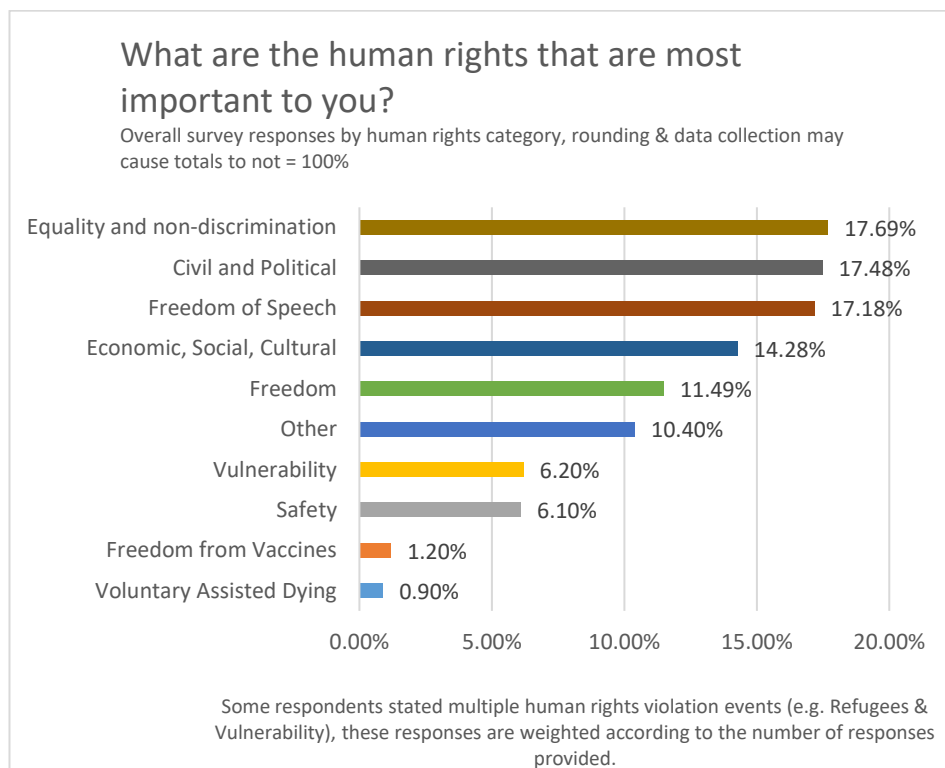
As some survey respondents find free text answers off-putting, these questions were not mandatory. Numerous people did not therefore respond, or wrote answers such as 'not sure' or 'don't know'. Such answers are excluded from the analysis. Contrastingly, some people wrote down more than one answer. In such cases, their answers are proportionately counted. For example, if one person wrote down two categorizable answers, each of those answers would count as one half of one response.

Overall, 80 per cent of respondents recorded valid answers to Q10. Regarding Q10, the ten coded responses were: equality and discrimination (including responses regarding freedom from racism, sexism, homophobia); freedom of speech; freedom generally; civil and political rights beyond freedom of speech (including for example right to fair trial, privacy, freedom of movement); economic social and cultural rights (including for example rights to housing and health); vulnerability (the need to care for vulnerable groups such as the elderly, children, and those with disability), safety (freedom from violence and crime);

<sup>85</sup>

We must thank, in particular, Tom Verhelst, Rhett Chappell and Dren Cocaj.

issues related to vaccination; issues related to voluntary assisted dying;<sup>86</sup> and 'other'. The overall results are displayed on this graph.



While equality and discrimination attracted the highest number of responses, the combined total for 'freedom of speech' and 'freedom' generally, is 28.67 per cent, and 29.87 per cent if one adds 'freedom from vaccines'. 'Freedom' per se is not a human right, as opposed to freedom of or from something, but the number of responses highlighting 'freedom' per se could not be ignored. The responses highlight a concern with freedom among nearly a quarter of the respondents overall (if one includes those who did not give a valid answer to Q10) before the advent of vaccine mandates across the country, large 'freedom' protests, and a prominent campaign based on 'freedom' from the United Australia Party funded by Clive Palmer. It seems that concern over 'freedom' is not a fringe issue, although it may be noted that the freedom protests and the United Australia Party

<sup>86</sup> In Question 22, respondents were asked for their opinion on the (then) proposal to legalise voluntary assisted dying in Queensland. The answers revealed overwhelming support: 76.3 per cent were in favour, 8.6 per cent against, 8.6 per cent neutral, and 6.5 per cent unsure. Voluntary assisted dying laws will now commence in Queensland from 2023 under the *Voluntary Assisted Dying Act 2021* (Qld).

are very much associated with the anti-vaccination cause, explicit support for which was low in the survey responses.<sup>87</sup>

While the prioritisation of ‘freedom’ tends to denote a preference for government non-interference, the responses regarding vulnerability and safety (a combined 12.3 per cent), and, arguably, economic social and cultural rights and equality or discrimination (a combined 31.97 per cent), tend to favour greater government intervention and action. Hence, the Queensland respondents to Q10 seemed evenly split regarding preferences for greater and lesser government intervention.

It is notable that economic, social and cultural rights attracted so much support, if one accepts that the proper addressing of inequality and vulnerability necessarily entails a boosting of the enjoyment of those rights. This underlines the wisdom of the inclusion of certain economic, social and cultural rights within the *Act*,<sup>88</sup> and adds support to proposals to extend the list of those rights in the *Act*. We note that great support for economic, social, and cultural rights was also evident in the Colmar Brunton Report<sup>89</sup> and the 2011 RMIT survey, despite the continuing lack of such rights within the Victorian Charter.<sup>90</sup>

We note here the largest divergences within group responses. The percentages given are percentages of responses to this free text question, thus excluding those who did not answer or who gave an uncategorisable answer. Men were significantly more concerned than women about freedom of speech (19.6 per cent compared to 13.7 per cent) and civil and political rights (20 per cent compared to 12.2 per cent). Indigenous respondents were much more likely to choose economic social and cultural rights (19 per cent compared to 12.6 per cent), and less than one third as likely to choose civil and political rights (4.8 per cent compared to 15.6 per cent) compared to non-Indigenous respondents.<sup>91</sup> In the age stratified data, the oldest groups were those most likely to choose ‘freedom’, and especially ‘freedom of speech’. Concern with equality and discrimination lessened the greater one’s level of education, while concern with civil and political rights increased. Finally, concerns regarding ‘freedom of speech’ and ‘freedom’ were much higher among the Mass Market group than among the more wealthy groups.

<sup>87</sup> See, eg, Matt Dennien, ‘Conservative and Fringe Links Behind Queensland Anti-Mandate Groups’, *Brisbane Times* (online, 11 December 2021) <<https://www.brisbanetimes.com.au/politics/queensland/conservative-and-fringe-links-behind-qld-anti-mandate-groups-20211208-p59g7k.html>>.

<sup>88</sup> The *Act* includes economic, social and cultural rights in Part 2, Division 3 of the *Act* (a right to education and a right of access to health services). Cultural rights are also protected under ss 27 and 28.

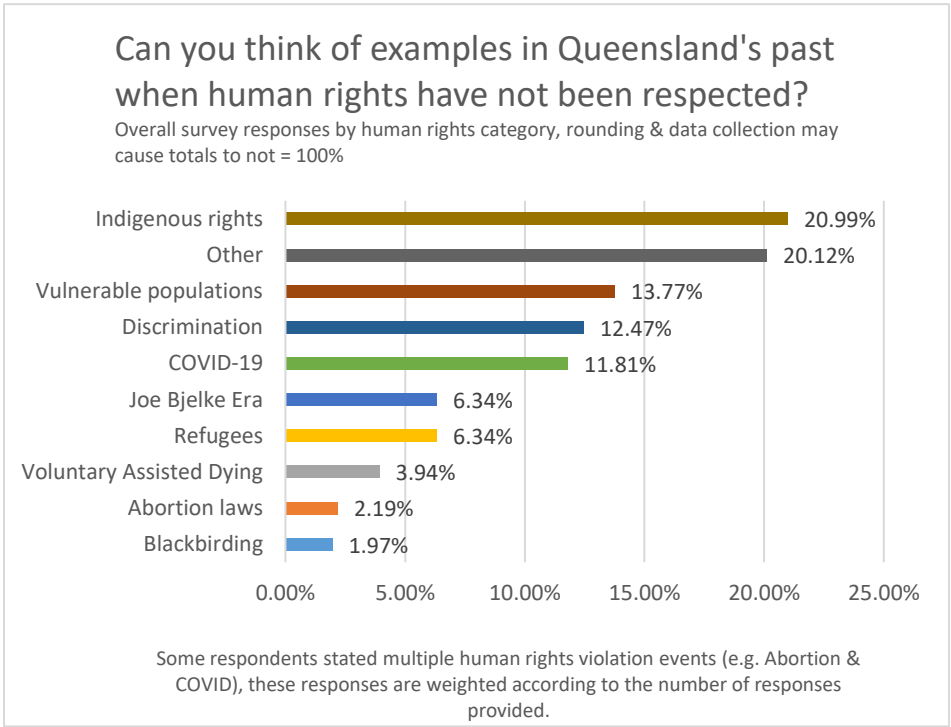
<sup>89</sup> Colmar Brunton Report (n44) 29–30.

<sup>90</sup> Salvaris et al (n 48) [2.3], app 1 table 2. We do not believe that the 2011 survey allowed for free text answers.

<sup>91</sup> Note that group-specific responses may seem disproportionate compared to overall responses because many respondents failed to answer or gave an answer that could not be categorised.



Given the prevalence of Queensland’s history as a justification behind the adoption of the Act, the responses to Question 23 (‘Q23’) are insightful. Just over 85 per cent of respondents gave a valid answer to Q23. The ten coded answers were Indigenous issues (including the Stolen Generations and historical massacres), the treatment of vulnerable populations (in, for example, nursing homes, disability homes, homelessness); discrimination (eg, on the basis of race, sex, LGBTIQI); COVID-related matters; abuses in the Bjelke-Petersen era (especially regarding the right to protest); treatment of refugees (often with a particular focus on the Biloela family);<sup>92</sup> failure to recognise the right to die; refusal to permit abortions; blackbirding;<sup>93</sup> and ‘other events’. The overall results were as follows:



<sup>92</sup> A Sri Lankan refugee family was removed from their home in the Queensland town of Biloela and taken into detention in 2018 by the federal government. The situation prompted a prominent local campaign to free the family and return them to the town. The episode is detailed in Katrina Beavan, ‘Court Victory for Biloela Tamil Family Over Procedural Fairness, Fears of Post-Election Deportation’, ABC News (online, 24 January 2022) <<https://www.abc.net.au/news/2022-01-24/biloela-tamil-family-court-win-procedural-unfairness-alex-hawke/100777272>>. The family were issued with bridging visas and permitted to return to Biloela after the election of the new ALP federal government in May 2022.

<sup>93</sup> Blackbirding involved the kidnapping and trafficking of South Pacific Islanders to work in the Queensland colony in the nineteenth century.

The high number of responses regarding Indigenous issues seems intuitive. So, too, were the number of answers citing concerns over the response to COVID-19, given the unprecedented nature of government responses. The low number of answers regarding the Bjelke-Petersen era is perhaps surprising.

Men were twice as likely to choose the Bjelke-Petersen era than women (8 per cent compared to 3.6 per cent). Counter-intuitively, Indigenous respondents were less likely to choose Indigenous issues than non-Indigenous people (12.4 per cent compared to 20 per cent) and were more likely to choose COVID-19 issues (25 per cent compared to 13 per cent). CALD respondents were almost twice as likely to choose Indigenous issues (33.3 per cent) than non-CALD respondents (18.7 per cent), and much less likely to choose the treatment of vulnerable peoples (3.3 per cent compared to 15 per cent), which may again reflect their lesser likelihood of engaging with nursing homes. As one might expect, younger groups did not cite the Bjelke-Petersen era much.

A surprise with these free text questions was, arguably, the absence of any mention of environmentally-related rights as a favoured important right. Regarding Queensland's history, one person listed the Grantham floods as a historical abuse, presumably referring to the response. The survey preceded the floods of 2022, although the bushfires of 2020–2021 were reasonably recent. As it seems that Queenslanders do care about the environment and climate change,<sup>94</sup> they may not appreciate the real linkages between human rights and environmental matters.<sup>95</sup> A younger respondent group may have been more likely to raise such issues. Certainly, environmental challenges have been raised under the Act.<sup>96</sup>

## E Questions About the Act

4. Did you know that there is a new law protecting human rights in Queensland called the Human Rights Act?
5. Do you think that a Human Rights Act will make a difference in protecting human rights?

<sup>94</sup> Climate Action Beacon, Griffith University, National Climate Action Survey, <<https://www.griffith.edu.au/research/climate-action/national-longitudinal-survey>>.

<sup>95</sup> See, eg, Human Rights Committee, *Billy et al v Australia*, UN Doc CCPR/C/135/D/3624/2019 (22 September 2022), as one example of new international jurisprudence focusing on global warming and human rights.

<sup>96</sup> See Environmental Defenders Office, 'Landmark hearing into Clive Palmer's Galilee Coal Project Legal Challenge Begins' (Media Release, April 20 2020) <<https://www.edo.org.au/2022/04/20/landmark-hearing-into-clive-palmers-galilee-coal-project-legal-challenge-begins/>>.

7. Have you heard of the Queensland Human Rights Commission's free complaint function that a person can access if a government, council or other public entity has breached their rights?

A subset of questions related to the *Act* itself. We have chosen not to report on the responses to Question 6, which asked respondents whether the *Act* is *already* making a difference to human rights in Queensland; we believe the answers to Question 5 ('Q5') are more instructive.<sup>97</sup>

Only 43.4 per cent of respondents had heard of the *Act*, while a smaller number, 37.2 per cent, had heard of the free complaints function of the QHRC. A greater number, 55.4 per cent, felt that the *Act* would make a difference in protecting human rights, which must have included a significant number of people who only heard of the *Act* through the survey.<sup>98</sup> 13.6 per cent felt the *Act* would not make a difference, while 31 per cent were 'unsure'.

While it may seem disappointing that less than half of respondents had heard of the *Act*, it is arguable that the rate of knowledge of a very new statute was reasonably high. The Australian population, including that of Queensland, does not have a strong record of specific knowledge of legal rights protections.<sup>99</sup> Indeed, in the RMIT survey of 2011, conducted four years after the Victorian Charter had entered into force, 69 per cent of Victorian respondents knew nothing or very little about the Charter. Only 22 per cent definitively answered 'yes' to the question of whether Victoria had a Charter.<sup>100</sup>

People outside Brisbane were slightly more likely to have heard of the *Act* (43.9 per cent compared to 42.8 per cent) and the complaints service (38.4 per cent compared to 35.6 per cent), and were slightly more sceptical that it would make a difference (while the 'yes' votes were almost identical, 14.7 per cent of those outside Brisbane recorded a 'no' response compared to 12.1 per cent in Brisbane).

Far fewer women (34.3 per cent) than men (54.9 per cent) had heard of the *Act* or the complaints function (26.8 per cent compared to 50.2 per cent). Women were less likely (47.6 per cent) than men (64.8 per cent) to think the *Act* would make a difference and had a much greater 'unsure' response (39.1 per cent compared to 21.3 per cent).

Indigenous people were slightly less likely than non-Indigenous people to have heard of the *Act* (40.7 per cent compared to 43.6 per cent), though they were

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<sup>97</sup> This is especially so, given a majority had not heard of the *Act* prior to this survey: see directly below.

<sup>98</sup> There was a link in the survey to basic information on the *Act*.

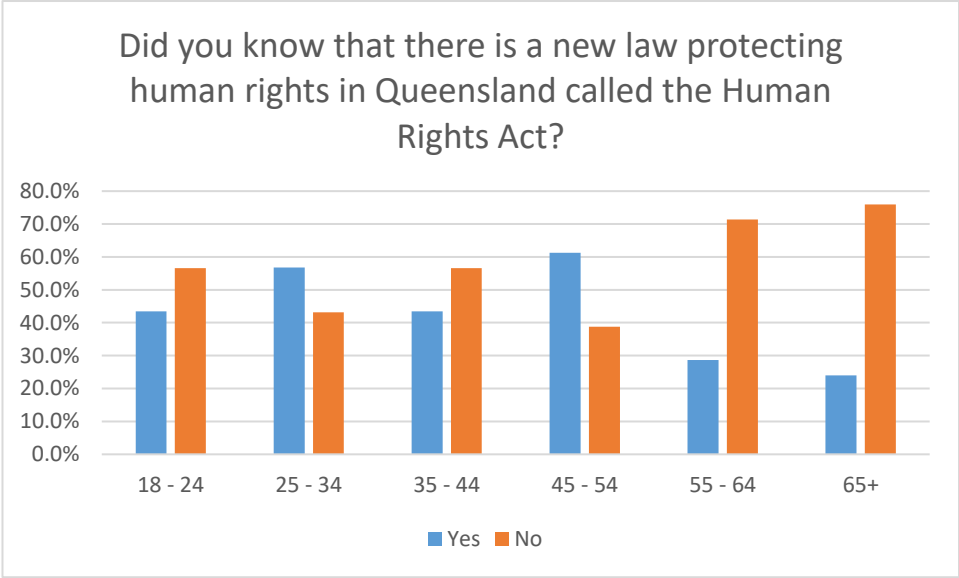
<sup>99</sup> For example, only 7 per cent of those surveyed in a 2020 survey could name the *Privacy Act 1988* (Cth) as the main law that protects privacy in Australia. 58 per cent had heard of the law but did not know its name, while 1 per cent named it incorrectly. 34 per cent could not recall having ever heard of this law, which is over 30 years old: Office of the Australian Information Commissioner, *Australian Community Attitudes to Privacy Survey 2020* (Report, September 2020).

<sup>100</sup> Salvaris et al (n 48) [4.2].

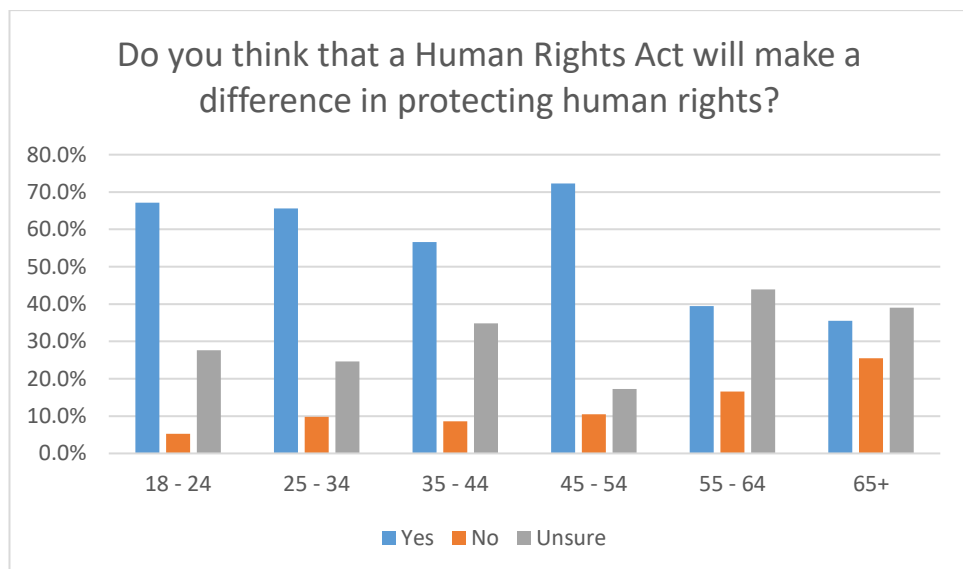
almost equivalent in knowledge of the complaints system (37 per cent compared to 37.4 per cent). Indigenous people were more likely to believe the *Act* would make no difference in protecting rights (22.2 per cent compared to 13.2 per cent).

CALD respondents (29.8 per cent) were much less likely than non-CALD respondents to have heard of the *Act* (44.7 per cent), though it seems that all of the CALD respondents who had heard of the *Act* had heard of the complaints function (29.8 per cent), which was still less than those in the non-CALD group (37.9 per cent). The non-CALD group was slightly more confident than the CALD group that the *Act* would make a difference in protecting human rights (55.7 per cent compared to 52.4 per cent).

The age stratification in answering Question 4 (‘Q4’) was as follows. As can be seen below, the older groups were much less likely to have heard of the *Act*. A similar pattern was evident in responses regarding knowledge of the complaints system.



The older age groups were also far less likely to believe the *Act* would make a difference to human rights protection. Less than 40% of those in the oldest age groups felt that the *Act* would make a difference; there was also considerable uncertainty in those age groups over its likely impact.



There was a linear relationship between levels of education and knowledge of the *Act* and the complaints system. While only 15.1 per cent of those who had not completed high school and 24 per cent of those who had completed high school had heard of the *Act*, 51.7 per cent of those with an undergraduate degree and 70.1 per cent of those with a postgraduate degree had heard of it. Those with more educational qualifications were much more likely than those with fewer qualifications to believe the *Act* would make a difference in protecting human rights (ie, 74.8 per cent of those with a postgraduate degree; 59.8 per cent of those with an undergraduate degree; 47.4 per cent of those with a diploma or certificate; 44.5 per cent of those who had finished high school; and 39.8 per cent of those who did not complete high school).

Similarly, greater wealth tended to correlate with greater knowledge of the *Act*, with the lowest level of knowledge among the Mass Market respondents (26.3 per cent) and highest level with Core Affluent respondents (89.4 per cent), who were just ahead of the HNW respondents (86.8 per cent). The same trend played out with knowledge of the complaints function (19 per cent for Mass Market, 86.2 per cent of Core Affluent who were comfortably ahead of HNW (78.9 per cent)). 97.4 per cent of HNW respondents felt the *Act* would make a difference in human rights protection, sliding down through Core Affluent (90.4 per cent) and Mass Affluent (66.9 per cent) to 41.7 per cent for the Mass Market.

The patterns of greater and lesser knowledge of the *Act*, and the associated complaints system, correspond with traditional patterns of greater and lesser vulnerability to human rights abuse. The lesser knowledge of the *Act* from the CALD group may also signal a need for more communication strategies in non-

English languages. Similarly, confidence in the future effectiveness of the Act was greatest among traditionally less vulnerable groups.

## **F Enforcement of Human Rights**

13. Who do you think should make the final decision over whether a human right has been breached in Queensland?
14. To what extent do you agree/disagree that a person should be allowed to take the government to court about a breach of human rights?

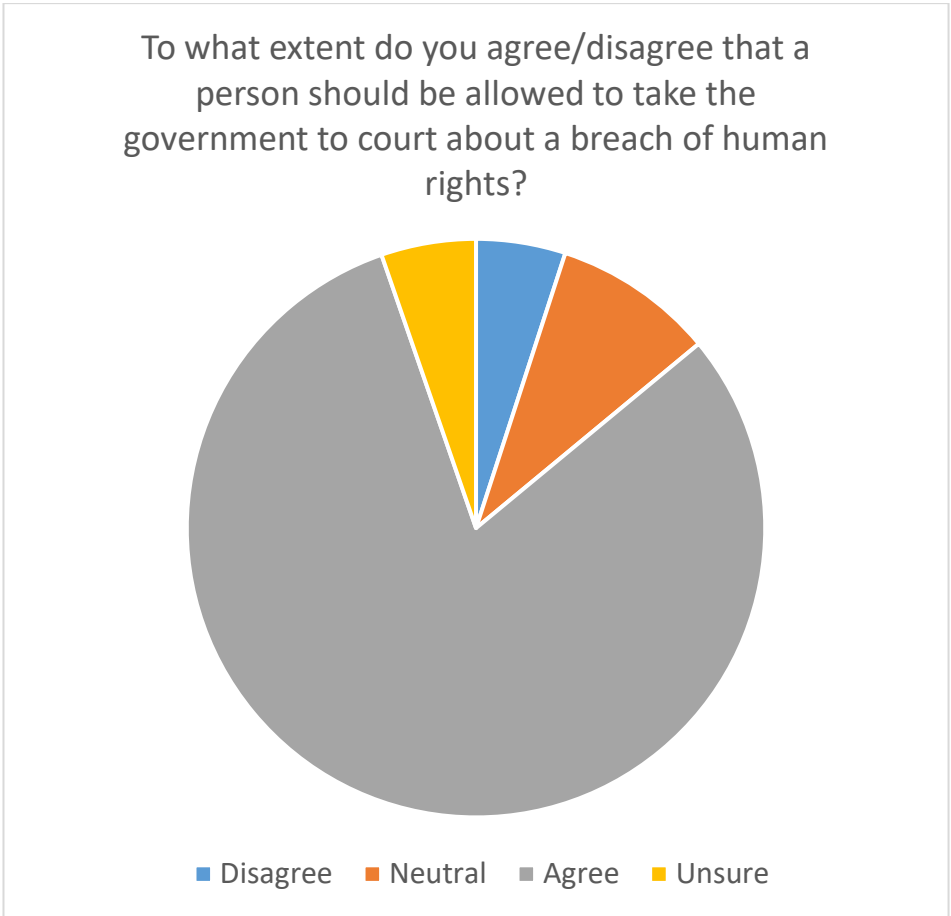
One of the enduring arguments against human rights legislation is that it is said to undermine the sovereignty of Parliament. This is most obviously true of constitutional bills of rights, which do not exist in Australia. Nevertheless, opponents of human rights legislation in Australia still argue that human rights statutes give unelected judges unwarranted powers over matters of social policy, which is better left to Parliament.<sup>101</sup> A further argument, often raised, is that human rights statutes might generate so much litigation as to lead to a 'lawyers' picnic'.<sup>102</sup> So how do Queenslanders feel about decision-making and human rights?

Regarding Question 14 ('Q14'), a whopping 80.7 per cent believe that a person should be allowed to take the government to court over a breach of human rights. Only 5 per cent disagreed, with 9 per cent being neutral and 5.3 per cent unsure.

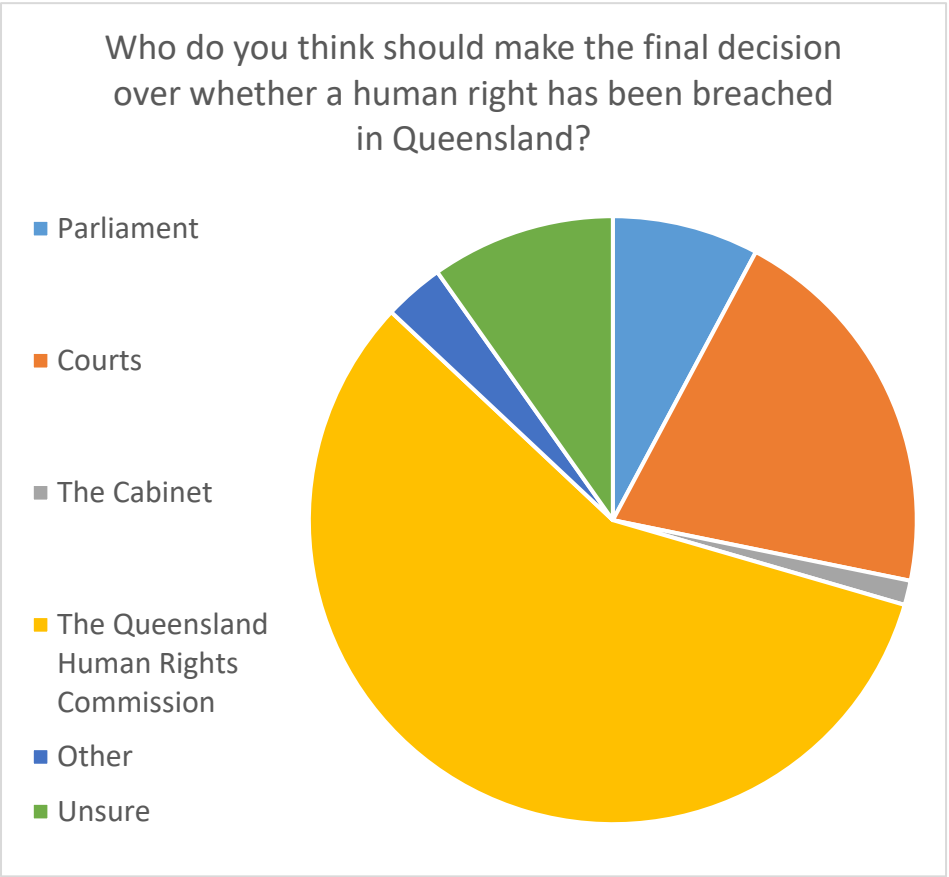
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<sup>101</sup> See, eg, Queensland, *Parliamentary Debates*, 27 February 2019, 445–6 (Lachlan Millar), 452 (Anthony Perrett). See, for a discussion of this issue in relation to the Victorian Charter: Julie Debeljak, 'Parliamentary Sovereignty and Dialogue under the Victorian *Charter of Human Rights and Responsibilities*: Drawing the Line between Judicial Interpretation and Judicial Law-Making' (2007) 33(1) *Monash University Law Review* 9.

<sup>102</sup> 'Countering Claims of a "Lawyers' Picnic" On Human Rights', *Lawyers Weekly* (online, 3 March 2012) <<https://www.lawyersweekly.com.au/partner-features/4680-countering-claims-of-a-lawyers-picnic-on-human-rig>>.



Regarding Question 13 ('Q13'), only 7.8 per cent felt that Parliament should be the final decision-maker over whether a right is breached or not. Fewer chose the Cabinet (1.3 per cent) while 20.4 per cent chose the courts. 3.2 per cent chose an unspecified 'other' and 9.8 per cent were unsure. The majority (57.5 per cent) chose the QHRC, evincing great trust in an organisation many of them had never heard of, and, perhaps, a lay understanding of principles regarding the separation of powers.



There were no significant differences regarding Q14 between Brisbane respondents and respondents outside Brisbane. Regarding Q13, non-Brisbane residents were less likely to choose Parliament than Brisbane residents (5.6 per cent compared to 10.7 per cent) and more likely to choose the QHRC (60.4 per cent compared to 53.7 per cent).

Women were less likely than men to explicitly agree that people should be able to take the government to court (77.6 per cent compared to 84.5 per cent) but they were more neutral and unsure, rather than opposed to the idea. Women were less likely to choose the courts as a preferred final human rights arbiter (17.2 per cent compared to 24.4 per cent) and were much more unsure of who that arbiter should be (13.3 per cent compared to 5.4 per cent).

While there was generally no great difference between Indigenous and non-Indigenous peoples over whether people should be able to take the government to court over human rights breaches for Q14, there were a greater number of neutral answers among Indigenous peoples (14.8 per cent compared to 8.8 per cent).



Indigenous people were more likely to choose Parliament (11.1 per cent compared to 7.8 per cent), and less likely to choose the courts (14.8 per cent compared to 20.5 per cent) or the QHRC (51.9 per cent compared to 57.8 per cent) as the final preferred decision-maker.

The most significant difference in responses to Q13 and Q14 between the non-CALD and CALD groupings was that 8.1 per cent of the non-CALD group named Parliament as the preferred final arbiter of human rights decisions, while only 4.8 per cent of the CALD group did so.

All age groups believed that people should be able to take the government to court over human rights matters, although there was a range from 70.7 per cent in the 55–64 age group up to 89.5 per cent in the 18–24 group. The oldest group was much more likely to favour courts as the final decision-maker on human rights (26 per cent) while the 25–34 year age group was most likely to favour Parliament (23 per cent), and the only group to give more votes to Parliament than the Courts. It was also the only group to fall below 50 per cent in favouring the QHRC.

All groups disaggregated by education agreed that people should be able to take the government to court, ranging from 71.9 per cent for those who had finished high school to 86.4 per cent for those with a postgraduate degree. A higher level of education led to a greater willingness to trust Parliament as the final arbiter, but the highest number (11.7 per cent for those with a postgraduate degree) was still low. There was no clear trend regarding trust in courts (ranging from 13.7 per cent for those who had completed high school to 25.5 per cent for those with an undergraduate degree) and the QHRC (ranging from 52.5 per cent for those with an undergraduate degree to 65.8 per cent for those who had finished high school) as the final arbiter, though the latter was favoured much more by all educational groups than the former.

All wealth sectors agreed people should be able to take governments to court over human rights breaches. The HNW group was lowest at 76.3 per cent, while the next wealthiest sector, Core Affluent, was the highest at 92.6 per cent. Nobody in the two wealthiest sectors explicitly disagreed with the contention. Trust in Parliament as the final arbiter was extremely low in the HNW group (2.6 per cent) and in the least wealthy Mass Market group (3.7 per cent), with the other two groups at 14.7 per cent (Mass Affluent) and 14.9 per cent (Core Affluent). HNW respondents were most likely to trust the courts (26.3 per cent). While the Mass Market had the lowest trust in the courts, it still had a close-to-average rating in that regard (19 per cent). More than half of all respondents in each of the wealth groups favoured the QHRC, ranging from 52.9 per cent in the Mass Affluent group to 60.5 per cent in the HNW group.

Queenslanders are overwhelmingly in favour of the availability of legal redress for human rights claims against government in courts. Most prefer that a final decision on human rights matters be made by courts rather than Parliaments. Having said that, a majority preferred that the QHRC fulfil that role, which would not accord with our system of separation of powers.

## VIII CONCLUSION

Overall, the survey indicates great support in Queensland for the importance of human rights and their personal relevance. There was confidence that rights in Queensland are well protected, including in times of emergency and the COVID-19 pandemic, although people were less sure of that protection with regard to regional and remote areas. All of the institutions that were assessed, in both the public and private sectors, received more positive than negative human rights assessments, but there were large differences (including large numbers of neutral responses). For example, while 67 per cent of respondents felt there were high levels of respect for human rights in Queensland's health sector, only 40.1 per cent felt that way about aged care facilities, and 36 per cent about prisons.

Regarding human rights priorities, it is clear that the rights of children, the elderly, and rights in healthcare dominated the top choices. At the other end of the scale, few respondents favoured prioritisation for those in contact with the criminal justice system apart from victims of crime, despite relatively low assessments of human rights respect in prisons and by the police (compared to other institutions). Regarding demographic disaggregation, the priorities for Indigenous people and the HNW groups were quite different. This may reflect very different life experiences, and also the small numbers of respondents in those groups, which might have led to some distortion in outcomes.

While concern for children and the elderly is welcome, human rights campaigners should seek to raise awareness of the many other human rights issues, including the rights of prisoners. As noted above, the great concern for the rights of children, especially those in care, is not matched by great concern for the those in contact with the youth justice system. The correlation between the two groups should in our view be made clearer to the general public.

With regard to perceptions as to the level of human rights respect and protection in Queensland and within institutions in Queensland, there were great differences between certain demographic groups. Those groups generally perceived as being the most vulnerable to human rights abuses, such as women, Indigenous peoples, CALD, the young and the elderly, the least educated and the least wealthy, were less satisfied with the actual level of respect and protection for human rights in Queensland, generally and in various contexts, and by various institutions, compared to their comparator less vulnerable demographic group (ie men, non-Indigenous people, and so on). Interestingly, given the prominence in the parliamentary debate of assertions regarding regional support for the *Act*, there was little difference in responses between those in Brisbane and those outside Brisbane to almost every question asked.

While just under one half of respondents knew about the *Act*, a majority thought that it would make a difference in the protection of human rights. The

less vulnerable groups were much more confident and optimistic in the latter respect than the more vulnerable groups.

Importantly, those with more education and wealth are markedly more satisfied with existing levels of human rights protection in Queensland than those with less education and wealth. As the former are far more likely to have power as part of, or as influencers of, the government, their greater satisfaction with the status quo means that there is less likelihood that they will lobby for the improvement that seems to be desired by those likely to have less power. This points to a need for the QHRC and civil society to collect data on the lived experience of human rights of different demographic groups to ensure awareness of relevant divergences for decision-makers.

As with other surveys, it is clear that Queenslanders place a high priority on the enjoyment, and therefore implicitly the protection, of economic, social and cultural rights. This bolsters arguments that more of those rights should be included in the *Act*, especially after its first review in 2023. Many Queenslanders are also concerned about ‘freedom’, indicating that it is not a mere fringe issue of concern only to anti-vaccination groups and the United Australia Party. This demonstrates that human rights campaigners must be careful not to position themselves as ‘anti-freedom’ — freedom is an emancipatory ideal that is a core component of human rights, but not the only one: human rights are also informed by concepts such as equality, fraternity and dignity.<sup>103</sup> Finally, it is clear that the links between human rights and environmental issues should be clarified and explained by campaigners if they wish to maximise the impact of the *Act* in combating climate change.

A huge majority felt that people should be able to seek vindication in court for human rights abuses by the government, and most preferred that courts have the final say over rights rather than Parliament. This undermines the common argument against human rights charters based on a perceived need to preserve or maximise parliamentary sovereignty: the public is not as enamoured with parliamentary sovereignty as many parliamentarians. It also indicates that the ‘piggyback’ requirement for s 58 causes of action in s 59(1) should be removed. Having said that, we also note that the most popular pick for the body with the final say on human rights was the QHRC, which would not accord with Westminster constitutional norms regarding the separation of powers.

There remains considerable work to be done by the Attorney-General of Queensland in educating the public about the new law and the mandate of the QHRC and its ground-breaking free public complaints process. However, there is clearly a demand, even with this limited knowledge, demonstrated by the fact that, since the QHRC began operating in January 2020, it has received hundreds

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<sup>103</sup> Susan Harris Rimmer and Sarah Joseph, ‘Why ‘freedom’ is not the only thing worth fighting for’, *The Conversation*, 17 March 2022.

of complaints and is now experiencing delays of up to six months.<sup>104</sup> Hence, proper resourcing of the QHRC is imperative.

Finally, there is a need for ongoing research and public sentiment ‘check-ins’ to gauge attitudes to human rights in Queensland, to ensure that the administration of the *Act* maintains public support and satisfies public expectations, and to uncover areas of misunderstanding. While the *Act* is premised on the notion of dialogue between the arms of government, there are strong reasons to engage constantly in a ‘fourth dialogue ... between duty bearers and rights holders’,<sup>105</sup> with a particular focus on disadvantaged groups.<sup>106</sup>

These 2021 survey results were disseminated to every Director-General in the Queensland Public Service with a full explanation of the process. We intend to run the survey again before the independent review of the *Act*, which is due after 1 July 2023, potentially with additional questions referring to the review requirements (for example, ‘should any additional rights be added to the *Act*’, or new remedies). The context of pandemic restrictions may have influenced the 2021 results, which is something that can be tested by repeating the survey in early 2023.

This investment in public sentiment is particularly important for a dialogue model of human rights legislation, especially after the COVID-19 pandemic — a generationally important event that had a major impact on human rights. The voice of the community as the intended beneficiaries of better human rights protection deserves to be heard.

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<sup>104</sup> Queensland Human Rights Commission, ‘Making a Complaint’, *Complaints* (Web Page) <<https://www.qhrc.qld.gov.au/complaints/making-a-complaint>>.

<sup>105</sup> Salvaris et al (n 48) 15.

<sup>106</sup> Ibid 16.

## APPENDIX: SURVEY QUESTIONS

To what extent do you agree/disagree with these statements.

1. The protection of human rights and dignity is important.

1      2      3      4      5

(1-5 scale, where 1 is 'strongly disagree' and 5 is 'strongly agree')

2. Human rights are relevant to me.

1      2      3      4      5

(1-5 scale, where 1 is 'strongly disagree' and 5 is 'strongly agree')

3. Human rights are well protected in Queensland.

1      2      3      4      5

(1-5 scale, where 1 is 'strongly disagree' and 5 is 'strongly agree')

4. Did you know that there is a new law protecting human rights in Queensland called the Human Rights Act?

Yes

No

5. Do you think that a Human Rights Act will make a difference in protecting human rights?

Yes

No

Unsure

6. Do you think that the Human Rights Act is already making a difference in protecting human rights?

Yes

No

Unsure

7. Have you heard of the Queensland Human Rights Commission's free complaint function that a person can access if a government, council or other public entity has breached their rights?

Yes

No

8. Does Queensland protect human rights well for people in regional and remote areas of Queensland?

Yes

No

Unsure

9. Can you think of three human rights that you think might be protected in Queensland?

*Non-mandatory free text question*

10. What are the human rights that are most important to you?

*Non-mandatory free text question*

11. What are the three most important areas where protection of human rights is most needed? (please rank your top three where 1 is the most important. You may rank fewer than three if you prefer.)

- Health
- Education
- Prisons
- Youth justice
- Victims of crime
- Policing
- Housing
- Cultural rights
- Child protection
- Aged Care
- Disability services
- Council services
- Other \_\_\_\_\_

12. To what extent do you feel human rights and dignity are respected in Queensland in the following settings?

**a. Health services**

1    2    3    4    5    unsure

(1-5 scale, where 1 is very low level of respect and 5 is very high level of respect)

**b. Schools**

1    2    3    4    5    unsure

(1-5 scale, where 1 is very low level of respect and 5 is very high level of respect)

**c. TAFE and universities**

1    2    3    4    5    unsure

(1-5 scale, where 1 is very low level of respect and 5 is very high level of respect)

**d. Prisons**

1    2    3    4    5    unsure

(1–5 scale, where 1 is very low level of respect and 5 is very high level of respect)

**e. Police**

1    2    3    4    5    unsure

(1–5 scale, where 1 is very low level of respect and 5 is very high level of respect)

**f. Aged care**

1    2    3    4    5    unsure

(1–5 scale, where 1 is very low level of respect and 5 is very high level of respect)

**g. Public service**

1    2    3    4    5    unsure

(1–5 scale, where 1 is very low level of respect and 5 is very high level of respect)

**h. Councils**

1    2    3    4    5    unsure

(1–5 scale, where 1 is very low level of respect and 5 is very high level of respect)

**i. Employers**

1    2    3    4    5    unsure

(1–5 scale, where 1 is very low level of respect and 5 is very high level of respect)

**j. Businesses**

1    2    3    4    5    unsure

(1–5 scale, where 1 is very low level of respect and 5 is very high level of respect)

**k. Shopping Centres**

1    2    3    4    5    unsure

(1–5 scale, where 1 is very low level of respect and 5 is very high level of respect)

**l. Religious Institutions**

1    2    3    4    5    unsure

(1–5 scale, where 1 is very low level of respect and 5 is very high level of respect)

13. Who do you think should make the final decision over whether a human right has been breached in Queensland? Please choose only one of the following

Parliament

Courts

The Cabinet

The Queensland Human Rights Commission

Other \_\_\_\_\_

Unsure

14. To what extent do you agree/disagree that a person should be allowed to take the government to court about a breach of human rights?

1    2    3    4    5    unsure

(1–5 scale, where 1 is strongly disagree and 5 is very strongly agree)

15. How frequently do you follow news and current affairs?

Never

Rarely

several times a week

Daily

16. What is the main source of your news media?

Newspaper

(Please specify which newspapers) \_\_\_\_\_

Online newspaper

(Please specify which websites) \_\_\_\_\_

Television

(Please specify which news programs) \_\_\_\_\_

Radio

(Please specify which radio programs) \_\_\_\_\_

Social Media

(Please specify which platforms) \_\_\_\_\_

Other

(Please specify) \_\_\_\_\_

17. How do you think the media typically reports on human rights issues?

1    2    3    4    5    unsure

(1–5 scale, where 1 is very negatively and 5 is very positively)



18. To what extent do you think Queensland respects human rights in times of emergency? (such as cyclones, floods, fires, pandemics)

1    2    3    4    5    unsure

(1–5 scale, where 1 is very low level of respect and 5 is very high level of respect)

19. To what extent do you think *your* human rights have been protected during the COVID-19 emergency in Queensland?

1    2    3    4    5    unsure

(1–5 scale, where 1 is not protected and 5 is very protected)

20. To what extent do you think human rights of the whole community have been protected during the COVID-19 emergency in Queensland?

1    2    3    4    5    unsure

(1–5 scale, where 1 is not protected and 5 is very protected)

21. What are the five groups that you think are in need of greater protection of human rights? Please rank your top five, where 1 is the greatest. You may rank fewer than 5 if you prefer.

People with a mental illness

Children in the child protection system

Prisoners

Victims of Crime

Aboriginal and Torres Strait Islander peoples

People living in remote areas

People with a disability

Children

Women

People in aged care facilities

Older people

LGBTIQ+ people

People experiencing Homelessness

People experiencing poverty/ unemployment

Asylum seekers

Recent arrivals, migrant communities and culturally and linguistically diverse communities.

Other \_\_\_\_\_

22. What is your opinion of the proposal to permit voluntary assisted dying in Queensland?

Not supportive of proposal

Very supportive of proposal

1    2    3    4    5    unsure

(1–5 scale, where 1 is not supportive and 5 is very supportive)

23. Can you think of examples in Queensland's past when human rights have not been respected?

*Non-mandatory free text question*

**Demographics:**

Questions related to: Country of birth; age range; first language; highest level of education completed; current employment status; religion; household income; Aboriginal or Torres Strait Islander status; LGBTIQ+ identity; gender; postcode.